



Standard Operating Procedure

Implementation of amendments on conduct and discipline in the model Memorandum of Understanding between the United Nations and Troop Contributing Countries

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STANDARD OPERATING PROCEDURE ON IMPLEMENTATION OF AMENDMENTS ON CONDUCT AND DISCIPLINE IN THE MODEL MEMORANDUM OF UNDERSTANDING

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A. PURPOSE

1. The purpose of this Standard Operating Procedure (SOP) is to provide guidance on the procedures to be followed, at headquarters and in field operations, following amendments to the model Memorandum of Understanding (hereinafter referred to as the revised MoU) between the United Nations and Troop Contributing Countries (TCCs), in respect of alleged misconduct or serious misconduct, as defined under Terms and Definitions in Section E, by members of national contingents assigned to United Nations peacekeeping and other field operations.
 2. The procedures outlined in this SOP shall be followed by Heads of Mission, Heads of Military Components (HOMC), the Department of Peacekeeping Operation (DPKO), the Department of Field Support (DFS) and personnel responsible for conduct and discipline matters at headquarters and in field operations.
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B. SCOPE

3. This Procedure shall apply to allegations of misconduct and serious misconduct committed by members of national contingents and Military Staff Officers, as defined under Terms and Definitions in Section E.
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C. RATIONALE

4. In a report to the General Assembly (A/61/19/Part III, paragraph 3), the Special Committee on Peacekeeping Operations and its Working Group in its 2007 resumed session recommended amendments on conduct and discipline to be incorporated to the text of the existing model Memorandum of Understanding between the United Nations and TCCs. The recommendation of the Special Committee was endorsed by the General Assembly, through A/RES/61/267B of 24 August 2007, and the amendments incorporated into the revised MoU and Chapter 9 of the 2008 edition of the Contingent Owned Equipment manual.¹ The provisions related to conduct and discipline are contained in the revised articles 2, 3 and 7 (*bis* to *sixiens*), Annex F and the new Annex H of the revised MoU.
5. **Jurisdiction:** Members of national contingents, as described in paragraph 2, are subject to their Government's exclusive jurisdiction in respect of any crimes or offences and to their Government's disciplinary jurisdiction in respect of all other acts of misconduct or serious misconduct, as defined under Terms and Definitions in Section E, which are allegedly committed by them while they are assigned to the military component of any United Nations peacekeeping or other field operations.
6. **United Nations Standards of Conduct:** All TCCs have undertaken to ensure that all members of their national contingents comply with the United Nations Standards of Conduct, as set out in Annexure 1 to this SOP and entitled "We are the United Nations Peacekeeping Personnel".
7. **Primary Responsibility of TCCs:** TCCs have the primary responsibility for investigating all alleged acts of misconduct or serious misconduct committed by members of their national contingents.

D. PROCEDURES

8. **Maintenance of Discipline**
 - 8.1 The Commander of a national contingent, or the officer acting in such capacity for a group of Military Staff Officers from the same TCC, is responsible for the discipline and good order of all members of the contingent while assigned to United Nations' peacekeeping or other field operations (hereinafter referred to as missions).
 - 8.2 TCCs have undertaken that the Commander of a national contingent, as defined under Terms and Definitions in Section E, is to be vested with the necessary authority to take all reasonable measures to maintain discipline and good order among all members of the national contingent and is to ensure compliance with the United Nations standards of conduct, mission-specific rules and regulations and the obligations towards national and local laws and regulations in accordance with the status-of-forces agreement (SOFA).

¹ A list of TCCs that have confirmed acceptance that the revised provisions of the MOU be read into existing MOU is on file with CDU/DFS.

- 8.3 The HOMC shall request, on a regular basis, information from all Commanders of national contingents concerning allegations of misconduct or serious misconduct, brought to the attention of the Commander of a national contingent, as well as action taken in response, and, where appropriate, measures taken to maintain discipline and good order and prevent misconduct by members of his/her national contingent, including training undertaken by such members. Information received by the HOMC shall be communicated to the Head of Mission and the mission's Conduct and Discipline Team (CDT).
- 8.4 Force Military Police (FMP) personnel deployed in missions should be considered an asset in the prevention of misconduct by members of national contingents and utilized to that extent, as determined appropriate by the HOMC.

9. Training

- 9.1 TCCs are responsible for the pre-deployment training of members of national contingents on the United Nations Standards of Conduct. The United Nations shall provide TCCs with training materials on the United Nations Standards of Conduct to facilitate pre-deployment training. The Conduct and Discipline Unit in DFS (CDU/DFS) will liaise with the Integrated Training Service in DPKO on pre-deployment training.
- 9.2 To complement pre-deployment training, missions shall conduct adequate and effective induction training and other training, during mission assignment, on United Nations standards of conduct, mission-specific rules and regulations, relevant local laws and regulations and the mandatory training on protection of the host population from Sexual Exploitation and Abuse. The Commander of a national contingent is expected to cooperate with the mission to ensure that all members of the national contingent receive induction and other mandatory training. Missions' CDTs are expected to ensure that these training sessions are carried out, in conjunction with Integrated Mission Training Cells, where they exist.

10. Reception of information concerning alleged misconduct or serious misconduct

- 10.1 Information concerning alleged misconduct or serious misconduct may be received by missions, TCCs, or the United Nations Headquarters in New York (UNHQ). Such information may include, but is not limited to, oral or written complaints from individuals alleging misconduct or serious misconduct by any member of a national contingent currently or formerly deployed in missions, or media and Non-Governmental Organization reports.
- 10.2 In missions, information concerning alleged misconduct or serious misconduct, as received through the reporting procedures and mechanisms established by each mission, will be forwarded to the mission's CDT.
- 10.3 TCCs have undertaken that the Commander of a national contingent is to regularly inform the HOMC of any serious matters involving the discipline and good order of members of his/her national contingent, including, in accordance with their applicable national laws, any action taken for

misconduct or serious misconduct, as defined under Terms and Definitions in Section E. Information received by the HOMC shall be communicated to the Head of Mission and to the mission's CDT.

- 10.4 Information concerning alleged misconduct or serious misconduct received in UNHQ will be referred to CDU/DFS. However, note should be taken that such information may also be reported directly to the Investigations Division of the Office of Internal Oversight Services (OIOS). Information received by CDU/DFS will be conveyed to OIOS, as appropriate, to the Office of Military Affairs in DPKO (OMA/DPKO) and to the concerned mission's CDT.
- 10.5 CDTs will assess information received to determine if such information relates to a possible breach of the obligations (We will always) and prohibitions (We will never) contained in the United Nations Standards of Conduct, as set out in Annexure 1 to this SOP, making such information an allegation. CDTs will then determine if this allegation is to be qualified as an allegation of misconduct or of serious misconduct, as defined under Terms and Definitions in Section E. CDTs should seek the assistance of OIOS and CDU/DFS, as needed, in making such determinations.
- 10.6 CDTs will immediately record all information assessed as allegations of misconduct or serious misconduct in the Misconduct Tracking System (MTS) maintained by DFS.
- 10.7 CDTs will immediately report, via Code Cables addressed to the USG/DFS, with copy to the USG/DPKO and USG/OIOS, all allegations received by the concerned mission that are qualified as misconduct or serious misconduct.

11. Notification of alleged misconduct or serious misconduct

- 11.1 The United Nations is mandated to notify the government of a TCC, without delay, when prima facie grounds exist, as defined under the Terms and Definitions in Section E, to indicate misconduct or serious misconduct by any member of a national contingent. The official notification is to be exercised by way of communications between UNHQ, through DFS, and the Permanent Mission of a concerned TCC.
- 11.2 For allegations of serious misconduct, OIOS will make the determination as to whether prima facie grounds exist or whether additional information is needed to make such a determination. For allegations of misconduct, the determination as to the existence of prima facie grounds will be made by the Heads of Mission, with the assistance of CDTs.
- 11.3 For allegations of misconduct, CDTs may request resources in the concerned mission, notably the FMP, to assist in gathering sufficient additional information to enable a determination as to whether prima facie grounds exist. However, this activity can not amount to an investigation of allegation(s), as detailed in section 13, or overlap with a preliminary fact-finding inquiry, whose objectives are specifically detailed in section 12.3 below. CDTs should seek the assistance of OIOS when guidance on gathering further information is needed.

- 11.4 Following reception of a Code Cable reporting allegations of serious misconduct and a determination, by OIOS, of the existence of prima facie grounds, or Code Cable by missions of the existence of prima facie grounds of possible misconduct, CDU/DFS will prepare the necessary communication to the Permanent Mission of the TCC concerned, in consultation with OIOS, OMA/DPKO, and other relevant units at UNHQ. The ASG/DFS will then immediately notify the Permanent Mission of the concerned TCC. The ASG/DFS will also inform in writing the concerned Head of Mission and OIOS of this notification.
- 11.5 TCCs have undertaken to notify the United Nations, without delay, in the event that a TCC has prima facie grounds indicating that any member of its national contingent has committed an act of serious misconduct, and also to forward the case to the TCC's appropriate national authorities for the purpose of an investigation. When such notification is exchanged between the Permanent Mission of the concerned TCC and UNHQ, the ASG/DFS will in turn, immediately inform in writing the concerned Head of Mission, OIOS and DPKO. When such notification is exchanged between the Commander of a national contingent and the HOMC, this notification shall be communicated to the concerned CDT who shall immediately inform CDU/DFS, via Code Cable.

12. **Safeguarding evidence and Fact-Finding**

- 12.1 **Safeguarding evidence:** In respect of an incident which may give rise to an allegation of misconduct or serious misconduct, nothing in the present SOP should be construed as preventing United Nations personnel from ensuring that evidence, such as blood and semen samples, that could otherwise be lost due to the passage of time, mishandling, improper collection or storage, is properly obtained, kept, recorded and preserved. This includes the making of a photographic record of locations where the incident is alleged to have taken place and the recording of identification details for potential witnesses.
- 12.2 **United Nations mandated fact-finding activities:** Nothing in the present SOP should be construed as preventing the United Nations from conducting fact-finding activities mandated to establish responsibilities for loss of or damages to contingents or United Nations property, or death or personal injury, in accordance with the Policy Directive and Standard Operating Procedure on Boards of Inquiry adopted to that effect (see Reference F).
- 12.3 **Preliminary Fact-Finding Inquiry:** Once a determination has been made that there are prima facie grounds indicating that any member of a national contingent has committed an act of serious misconduct and when the concerned TCC has been notified but does not conduct fact-finding proceedings, OIOS will determine whether there is a need to conduct a preliminary fact-finding inquiry, as defined under Terms and Definitions in Section E and, in accordance with the rules of the United Nations, as detailed below.
- 12.4 Within the United Nations, OIOS has the primary responsibility to carry out the preliminary fact-finding inquiry. However, on referral from OIOS to the Head of Mission, the preliminary fact-finding inquiry may be carried out by appropriate personnel in the concerned mission, notably the FMP. The

preliminary fact-finding inquiry shall include a representative of the concerned TCC, as designated by the Commander of the concerned national contingent.

- 12.5 Where the preliminary fact-finding inquiry is carried out by OIOS, it will forward its completed report to the USG/DFS, with copy to the concerned Head of Mission. Where the preliminary fact-finding inquiry is carried out by personnel in the concerned mission, the Head of Mission shall forward, by pouch, the original of the completed report to the CDU/DFS. CDU/DFS will then share this report with OIOS for their review, as required. The ASG/DFS will forward all reports of preliminary fact-finding inquiries to the Permanent Mission of the concerned TCC. A copy of all reports will also be entered in MTS, by CDTs or CDU/DFS, as appropriate.

13. **Investigation**

- 13.1 In addition to notifying TCCs of all allegations of misconduct and serious misconduct for which prima facie grounds are found to exist, the United Nations will request TCCs to deploy a National Investigations Officer (NIO), to conduct an investigation in high-risk, complex matters and in cases of serious misconduct, and will request that the investigation be conducted in cooperation with OIOS. This request shall be made without prejudice to the sovereign right of the TCC to investigate any misconduct by its contingent members.
- 13.2 **Investigation by TCCs:** From the date that a TCC is notified by the UN that there are prima facie grounds supporting an allegation of serious misconduct involving a member of a national contingent and that a NIO is requested to conduct an investigation, the concerned TCC has ten working days to inform DFS that it will start its own investigation into the matter, including information on the identity of the individual(s) designated as NIO(s). The ASG/DFS will immediately inform OIOS and the mission concerned of the decision of the TCC to conduct the investigation.
- 13.3 CDU/DFS will monitor responses to requests for the appointment of a NIO sent to TCCs. CDU/DFS will immediately inform OIOS and the mission concerned should the concerned TCC fail to respond within ten working days of any notification, as set out in clause 13.2 herein.
- 13.4 Where a TCC has been notified by the UN of an allegation of misconduct for which the United Nations has not requested the appointment of a NIO, the mission's CDT will refer the matter, through the HOMC, for investigation by the national contingent, in accordance with the authority vested in the Commander of the national contingent, with the assistance of appropriate personnel in the concerned mission, notably the FMP.
- 13.5 Where investigations are conducted by TCCs, the role of United Nations investigation personnel will be to assist the NIO(s), as necessary, in the conduct of the investigation, including the identification and interviewing of witnesses, the recording of witness statements, and the collection of documentary and forensic evidence. Other United Nations personnel may also be involved in the provision of administrative, as well as logistical, assistance.

- 13.6 **Investigation by the United Nations:** Where a TCC decides not to conduct an investigation or where a TCC fails to respond to a notification as set out in clause 13.2 herein within ten working days, the United Nations may proceed to carry out its own administrative investigation into the allegation, in accordance with its internal procedures. CDU/DFS will immediately notify OIOS and the concerned mission of the TCC's decision not to conduct the investigation or where the concerned TCC has failed to notify the United Nations.
- 13.7 The United Nations administrative investigation shall be conducted in a timely manner and shall respect those legal rights of due process that are provided to the national contingent member by national and international laws. For alleged serious misconduct, the administrative investigation will be undertaken by OIOS, unless referred by OIOS for investigation to the concerned mission. Administrative investigations referred by OIOS shall be conducted by appropriate personnel in the concerned mission, notably the FMP. A representative of the national contingent may be part of any team carrying out the administrative investigation, where such a representative is provided by the concerned contingent.

14. **Forwarding of investigation results**

- 14.1 Where an investigation is carried out by a national contingent or appropriate personnel in the concerned mission and the report approved by the HOMC, the mission's CDT shall assist the Head of Mission with a review of the corresponding report and with the formulation of appropriate recommendation(s). Such recommendations will be sent via Code Cables addressed to the USG/DFS, with copy to the USG/DPKO and USG/OIOS, as relevant. Thereafter, the Head of Mission shall forward, by pouch, the original of the investigation report to CDU/DFS.
- 14.2 Where an investigation is carried out by OIOS, it will forward its report to the USG/DFS, with a copy to the concerned Head of Mission. A copy of all reports will also be entered in MTS, by CDTs or CDU/DFS, as appropriate.

15. **Cooperation**

- 15.1 **Cooperation with host countries:** TCCs have undertaken to ensure that they obtain prior authorizations from host countries, through the mission, in respect of access to any victim or witness who is not a member of their national contingent, as well as for the collection or securing of evidence which is not under the ownership and control of their national contingent.
- 15.2 **Cooperation by the UN:** The United Nations has undertaken to cooperate fully and share documentation and information, related to matters under investigation, with appropriate authorities of the concerned TCC that are investigating allegations of misconduct or serious misconduct by members of their contingents. Heads of Mission are also to cooperate fully and share documentation and information available to the mission with such appropriate authorities. These appropriate authorities include NIO(s) designated by the concerned TCC. As part of this cooperation, missions shall liaise with competent authorities within mission areas, including host countries, with a view to facilitating the conduct of the investigation by the concerned TCC.

Upon a request by a TCC, the United Nations may provide financial support when the presence of a NIO is requested by DFS. Heads of Mission shall, when requested by the ASG/DFS, provide the administrative and logistic support necessary for the deployment of an NIO in the mission area, including the provision of transport.

- 15.3 **Cooperation by national contingent:** TCCs have undertaken to ensure that, subject to its national laws, including military law, the Commander of the concerned contingent shall cooperate fully with a United Nations administrative investigation. This cooperation shall include sharing of information and documentation relating to the investigation, and giving instructions to members of the concerned national contingent to cooperate with the United Nations administrative investigation. The HOMC, with the assistance of the mission's CDT, must inform concerned contingent Commanders of this obligation.
- 15.4 If a United Nations administrative investigation or the TCC's investigation makes a conclusion regarding suspicions of failure, on the part of a contingent Commander, to cooperate with a United Nations investigation, to exercise effective command and control, or to immediately report to appropriate authorities or to take action in respect of allegations of misconduct that are reported to him/her, DFS will request that the concerned TCC bring the case to the attention of the TCC's appropriate authorities for due action. Such matters shall also be reflected in a contingent Commander's performance appraisal by the HOMC.

16. Reporting

- 16.1 **Provision of the report to the United Nations:** Subject to their national laws, TCCs have undertaken to provide the United Nations with the findings of investigations conducted by their competent authorities, including NIOs, into allegations of misconduct or serious misconduct by any member of their national contingent. DFS will systematically request TCCs to provide the findings of investigations they have conducted and actions taken as a result. All information received in response will be communicated to OIOS, OMA/DPKO and the concerned mission.
- 16.2 **Provision of report to the TCC:** In cases where a United Nations administrative investigation is conducted, the ASG/DFS will provide the Permanent Mission of the concerned TCC with the findings of, and any evidence gathered in the course of the investigation, together with a request that it provide information to DFS on any actions that the national authorities may have taken as a result of the report.
- 16.3 **Follow-up:** Although the responsibility to discipline military members of national contingents remains a national responsibility, the United Nations has an interest in ensuring that justice is carried out and that individuals are held accountable for misconduct or serious misconduct committed while in missions. Following the completion of an investigation concluding that any member of a TCC's national contingent has committed an act of misconduct or serious misconduct, DFS shall request information about actions taken with regard to such member(s) of national contingents. If no response is received, periodic reminders will be sent by DFS to the concerned

Permanent Mission. If still no response is forthcoming, DFS shall take appropriate steps to bring the matter to the attention of the concerned TCC, at the highest possible levels, to underscore the seriousness of the matter and to pursue it with a view to ensuring that the United Nations is informed of appropriate disciplinary actions taken, as relevant.

- 16.4 The concerned Head of Mission, OMA/DPKO and OIOS, where applicable, will be informed by the ASG/DFS of disciplinary actions taken by TCCs with regard to members of national contingents.

17. Repatriation and Redeployment

- 17.1 **Repatriation:** The decision to repatriate a member of a national contingent on disciplinary grounds, in all cases, shall be communicated to the mission by the ASG/DFS, following approval by OMA/DPKO, and based on the recommendation of the Head of Mission. The expenses connected with the repatriation and replacement action will be borne by the concerned TCC.
- 17.2 No member of military contingent shall be repatriated without approval and authorization communicated by DFS.
- 17.3 The decision to recommend repatriation on disciplinary grounds shall be based on the findings of a completed investigation or administrative investigation conducted by a TCC or the United Nations respectively. However, if the continued presence in the mission area of individual(s) involved is detrimental to the morale of United Nations personnel, the image of the mission or has other negative effects, the objective of the United Nations shall be to repatriate as soon as appropriate, notwithstanding whether the investigation is complete or not. In such circumstances, all possible measures shall be taken by the investigation entity to ensure that the investigation can be completed despite the repatriation of the involved member(s) of a national contingent. However, DFS may also request that a member of a national contingent remain in a particular mission until the completion of an investigation.
- 17.4 Where a member of a national contingent returns to his home country as part of a normal rotation following end of assignment, but prior to the completion of the investigation process, DFS may, upon completion of the investigation, and where appropriate, formally consider the normal rotation to be repatriation on disciplinary grounds.
- 17.5 **Redeployment:** Where it becomes necessary to redeploy a contingent within a mission but outside of its area of operation, for the purposes of addressing any disciplinary concerns, such redeployment can be directed by the Head of Mission, in consultation with the HOMC, but shall be made with the consent of the concerned TCC or contingent Commander.

18. Paternity Claims

- 18.1 TCCs are required, to the extent of their national laws, to facilitate the settling of paternity claims involving members of their national contingents. Heads of Mission shall forward such claims to DFS, for onward transmittal to the Permanent Mission of the concerned TCC. Heads of Mission are to ensure

that such claims are accompanied by the necessary conclusive evidence, such as a DNA sample from the alleged mother and child, when prescribed by the TCC's national law. Pending the promulgation of a DNA testing policy by the United Nations, all issues relating to the DNA testing of any person in relation to cases of misconduct or serious misconduct involving a member of a national contingent shall be handled on an individual case basis, in consultation with CDU/DFS.

E. TERMS AND DEFINITIONS

The revised MoU contains the following terms and definitions, reproduced here for reference:

Misconduct means any act or omission that is a violation of United Nations standards of conduct, mission-specific rules and regulations or the obligations towards national and local laws and regulations in accordance with the status-of-forces agreement where the impact is outside the national contingent.

Serious Misconduct is misconduct, including criminal acts, that results in, or is likely to result in serious loss, damage or injury to an individual or to a mission. Sexual exploitation and abuse constitute serious misconduct.

Sexual exploitation means any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.

Sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Mission-specific rules and regulations means, mindful of national caveats, standard operating procedures, directives and other regulations, orders and instructions issued by the Head of Mission, Force Commander [now HOMC] or Chief Administrative Officer [now Chief or Director of Mission Support] of the United Nations peacekeeping mission in accordance with the United Nations standards of conduct; they shall contain information on applicable national and local laws and regulations.

Preliminary fact-finding inquiry means the preservation of evidence necessary to ensure that a national or United Nations investigation can be successfully carried out at a later stage. While this inquiry may involve the collection of written statements, it will not normally include the interviewing of witnesses or other involved persons.

For the specific purpose of this Standard Operating Procedure, the following terms are hereby defined:

Commander of a national contingent means the most senior officer deployed by a TCC to a specific mission.

Members of national contingents means, military and civilian personnel subject to the national military laws of a contingent. For the avoidance of doubt, all Military Staff Officers deployed individually or in groups are considered as members of national contingents for the purpose of this SOP. This designation still applies whether or not there are actual national contingents in a particular mission. This procedure does not apply to Military Observers and Military Liaison Officers, etc, serving as "experts on

mission” on behalf of the United Nations and to military personnel of United Nations peacekeeping and other field operations holding a letter of appointment from the Secretary-General (e.g. Head of Military Components).

Prima facie grounds means, in this context, sufficient details to identify possible victim(s) and act(s) of alleged misconduct or serious misconduct by member(s) of a specific national contingent, to be established through investigation of the matter.

F. REFERENCES

Normative or superior references

- A. General Assembly Resolution on Comprehensive Review of a strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations (A/RES/61/267B of 24 August 2007)
- B. Report of the Special Committee on Peacekeeping Operations and its Working Group in the 2007 resumed session (A/61/19 (Part III) of 12 June 2007).
- C. Secretary-General's Bulletin: Special Measures for Protection Against Sexual Exploitation and Sexual Abuse (ST/SGB/2003/13)
- D. Secretary-General's Bulletin: Observance by United Nations Forces of International Humanitarian Law (ST/SGB/1999/13)
- E. Policy Directive and Standard Operating Procedure on Boards of Inquiry (1 June 2008)

Related procedures or guidelines

- A. General Assembly Resolution on the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel (A/RES/62/214 of 7 March 2008)
- B. Contingent Owned Equipment Manual, 2008 Edition (A/C.5/63/18)

G. MONITORING AND COMPLIANCE

- 19. The Office of the Assistant Secretary-General for Field Support (OASG/DFS) through the CDU/DFS, shall oversee the implementation of this Standard Operating Procedure and shall ensure compliance, in cooperation with substantive stakeholders including OIOS, OMA/DPKO, missions and Troop Contributing Countries.

H. CONTACT

- 20. The CDU/DFS shall be contacted regarding this Standard Operating Procedure.
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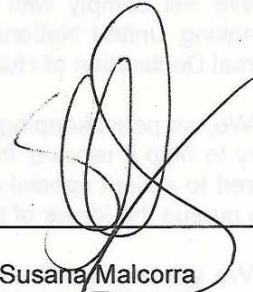
I. HISTORY

21. When approved, this Standard Operating Procedure supersedes the Directives for Disciplinary Matters Involving Military Members of National Contingents (DPKO/MD/03/00993) and the Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions to the extent of the latter's application to members of national contingents.
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APPROVAL SIGNATURES:



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DATE OF APPROVAL:

9 February 2011

ANNEXURE 1

We are United Nations Peacekeeping Personnel

The United Nations Organization embodies the aspirations of all the people of the world for peace.

In this context the United Nations Charter requires that all personnel must maintain the highest standards of integrity and conduct.

We will comply with the Guidelines on International Humanitarian Law for Forces Undertaking United Nations Peacekeeping Operations and the applicable portions of the Universal Declaration of Human Rights as the fundamental basis of our standards.

We, as peacekeeping personnel, represent the United Nations and are present in the country to help it recover from the trauma of a conflict. As a result we must consciously be prepared to accept special constraints in our public and private lives in order to do the work and to pursue the ideals of the United Nations Organization.

We will be accorded certain privileges and immunities arranged through agreements negotiated between the United Nations and the host country solely for the purpose of discharging our peacekeeping duties. Expectations of the world community and the local population will be high and our actions, behaviour and speech will be closely monitored.

We will always:

- Conduct ourselves in a professional and disciplined manner, at all times;
- Dedicate ourselves to achieving the goals of the United Nations;
- Understand the mandate and mission and comply with their provisions;
- Respect the environment of the host country;
- Respect local laws, customs and practices and be aware of and respect culture, religion, traditions and gender issues;
- Treat the inhabitants of the host country with respect, courtesy and consideration;
- Act with impartiality, integrity and tact;
- Support and aid the infirm, sick and weak;
- Obey our United Nations superiors/supervisors and respect the chain of command;
- Respect all other peacekeeping members of the mission regardless of status, rank, ethnic or national origin, race, gender, or creed;
- Support and encourage proper conduct among our fellow peacekeeping personnel;
- Report all acts involving sexual exploitation and abuse;
- Maintain proper dress and personal deportment at all times;
- Properly account for all money and property assigned to us as members of the mission; and
- Care for all United Nations equipment placed in our charge.

We will never:

- Bring discredit upon the United Nations, or our nations through improper personal conduct, failure to perform our duties or abuse of our positions as peacekeeping personnel;
- Take any action that might jeopardize the mission;

- Abuse alcohol use or traffic in drugs;
- Make unauthorized communications to external agencies, including unauthorized press statements;
- Improperly disclose or use information gained through our employment;
- Use unnecessary violence or threaten anyone in custody;
- Commit any act that could result in physical, sexual or psychological harm or suffering to members of the local population, especially women and children;
- Commit any act involving sexual exploitation and abuse, sexual activity with children under 18, or exchange of money, employment, goods or services for sex;
- Become involved in sexual liaisons which could affect our impartiality, or the well-being of others;
- Be abusive or uncivil to any member of the public;
- Willfully damage or misuse any United Nations property or equipment;
- Use a vehicle improperly or without authorization;
- Collect unauthorized souvenirs;
- Participate in any illegal activities, corrupt or improper practices; or
- Attempt to use our positions for personal advantage, to make false claims or accept benefits to which we are not entitled.

We realize that the consequences of failure to act within these guidelines may:

- Erode confidence and trust in the United Nations;
- Jeopardize the achievement of the mission;
- Jeopardize our status and security as peacekeeping personnel; and
- Result in administrative, disciplinary or criminal action.

ANNEXURE 2

MEMORANDUM OF UNDERSTANDING

Between

THE UNITED NATIONS AND THE [participating State]

Contributing

RESOURCES TO THE UNITED NATIONS [Peacekeeping Operation]

Whereas, [the United Nations peacekeeping operation] was established pursuant to Security Council resolution _____.

Whereas, at the request of the United Nations, the Government of _____ (hereinafter referred to as the Government) has agreed to contribute personnel, equipment and services for a [type of contingent/unit] to assist [United Nations peacekeeping mission] to carry out its mandate,

Whereas, the United Nations and the Government wish to establish the terms and conditions of the contribution,

Now, therefore, the United Nations and the Government (hereinafter collectively referred to as the Parties) agree as follows:

Article 1

Definitions

1. For the purpose of this memorandum of understanding, the definitions listed in annex F shall apply.

Article 2

Documents constituting the Memorandum of Understanding

2.1 This document, including all of its annexes, constitutes the entire memorandum of understanding (hereinafter referred to as the MOU) between the Parties for the provision of personnel, equipment and services in support of [United Nations peacekeeping mission].

2.2 Annexes:

Annex A: Personnel

1- Requirements

2- Reimbursement

3- General conditions for personnel

Appendix. Soldier's kit — mission-specific recommended requirement

- Annex B: Major equipment
- 1- Requirements
 - 2- General conditions for major equipment
 - 3- Verification and control procedures
 - 4- Transportation
 - 5- Mission usage factors
 - 6- Loss and damage
 - 7- Loss and damage in transit
 - 8- Special case equipment
 - 9- Liability for damage to major equipment owned by one troop/police contributor and used by another troop/police contributor
- Annex C: Self-sustainment
- 1- Requirements
 - 2- General conditions for self-sustainment
 - 3- Verification and control procedures
 - 4- Transportation
 - 5- Mission-related usage factors
 - 6- Loss and damage
- Annex D: Principles of verification and performance standards for major equipment provided under the wet/dry lease arrangements
- Annex E: Principles of verification and performance standards for minor equipment and consumables provided under self-sustainment
- Annex F: Definitions
- Annex G: Guidelines (aide-mémoire) to Troop-Contributing Countries¹

¹ Annex G is mission specific and is not included in the present document. It is distributed separately in advance of the deployment.

Annex H: United Nations standards of conduct: We are United Nations
Peacekeeping Personnel

Article 3

Purpose

3. The purpose of the present memorandum of understanding is to establish the administrative, logistics and financial terms and conditions to govern the contribution of personnel, equipment, and services provided by the Government in support of [United Nations peacekeeping mission] and to specify United Nations standards of conduct for personnel provided by the Government.

Article 4

Application

4. The present MOU shall be applied in conjunction with the Guidelines to Troop-Contributing Countries.

Article 5

Contribution of the Government

5.1 The Government shall contribute to [United Nations peacekeeping mission] the personnel listed in annex A. Any personnel above the level indicated in this MOU shall be a national responsibility and thus not subject to reimbursement or other kind of support by the United Nations.

5.2 The Government shall contribute to [United Nations peacekeeping mission] the major equipment listed in annex B. The Government shall ensure that the major equipment and related minor equipment meet the performance standards set out in annex D for the duration of the deployment of such equipment to [United Nations peacekeeping mission]. Any equipment above the level indicated in this MOU shall be a national responsibility and thus not subject to reimbursement or other kind of support by the United Nations.

5.3 The Government shall contribute to [United Nations peacekeeping mission] the minor equipment and consumables related to self-sustainment as listed in annex C. The Government shall ensure that the minor equipment and consumables meet the performance standards set out in annex E for the duration of the deployment of such equipment to [United Nations peacekeeping mission]. Any equipment above the level indicated in this MOU shall be a national responsibility and thus not subject to reimbursement or other kind of support by the United Nations.

Article 6

Reimbursement and support from the United Nations

6.1 The United Nations shall reimburse the Government in respect of the personnel provided under this MOU at the rates stated in article 2 of annex A.

6.2 The United Nations shall reimburse the Government for the major equipment provided as listed in annex B. The reimbursement for the major equipment shall be reduced in the event that such equipment does not meet the required performance standards set out in annex D or in the event that the equipment listing is reduced.

6.3 The United Nations shall reimburse the Government for the provision of self-sustainment goods and services at the rates and levels stated in annex C. The reimbursement for self-sustainment shall be reduced in the event that the contingent does not meet the required performance standards set out in annex E, or in the event that the level of self-sustainment is reduced.

6.4 Reimbursement for troop/police costs will continue at full rates until departure of the personnel.

6.5 Reimbursement for major equipment will be in effect at full rates until the date of cessation of operations by a troop/police contributor or termination of the mission and thereafter be calculated at 50 per cent of the rates agreed in this MOU until the equipment departure date.

6.6 Reimbursement for self-sustainment will be in effect at full rates until the date of cessation of operations by a troop/police contributor or termination of the mission and thereafter be reduced to 50 per cent of the rates agreed in this MOU calculated upon the remaining actual deployed troop/police strengths until all troop/police personnel have departed the mission area.

When the United Nations negotiates a contract for the repatriation of equipment and the carrier exceeds a 14-day grace period after the expected arrival date, the troop/police contributor will be reimbursed by the United Nations at the dry-lease rate from the expected arrival date until the actual arrival date.

Article 7

General conditions

7.1 The parties agree that the contribution of the Government as well as the support from the United Nations shall be governed by the general conditions set out in the relevant annexes.

Article 7 bis

United Nations standards of conduct

7.2 The Government shall ensure that all members of the Government's national contingent are required to comply with the United Nations standards of conduct set out in annex H to the present memorandum of understanding.

7.3 The Government shall ensure that all members of its national contingent are made familiar with and fully understand the United Nations standards of conduct. To this end, the Government shall, inter alia, ensure that all members of its national contingent receive adequate and effective predeployment training in those standards.

7.4 The United Nations shall continue to provide to national contingents mission-specific training material on United Nations standards of conduct, mission-specific rules and regulations, and relevant local laws and regulations. Further, the United Nations shall conduct adequate and effective induction training and training during mission assignment to complement predeployment training.

Article 7 ter

Discipline

7.5 The Government acknowledges that the commander of its national contingent is responsible for the discipline and good order of all members of the contingent while assigned to [United Nations Peacekeeping Mission]. The Government accordingly undertakes to ensure that the Commander of its national contingent is vested with the necessary authority and takes all reasonable measures to maintain discipline and good order among all members of the national contingent to ensure compliance with the United Nations standards of conduct, mission-specific rules and regulations and the obligations towards national and local laws and regulations in accordance with the status-of-forces agreement.

7.6 The Government undertakes to ensure, subject to any applicable national laws, that the Commander of its national contingent regularly informs the Force Commander of any serious matters involving the discipline and good order of members of its national contingent including any disciplinary action taken for violations of the United Nations standards of conduct or mission-specific rules and regulations or for failure to respect the local laws and regulations.

7.7 The Government shall ensure that the Commander of its national contingent receives adequate and effective predeployment training in the proper discharge of his or her responsibility for maintaining discipline and good order among all members of the contingent.

7.8 The United Nations shall assist the Government in fulfilling its requirements under paragraph 3 above by organizing training sessions for commanders upon their arrival in the mission on the United Nations standards of conduct, mission-specific rules and regulations and the local laws and regulations.

7.9 The Government shall use its welfare payments to provide adequate welfare and recreation facilities to its contingent members in the mission.

Article 7 quarter

Investigations

7.10 It is understood that the Government has the primary responsibility for investigating any acts of misconduct or serious misconduct committed by a member of its national contingent.

7.11 In the event that the Government has prima facie grounds indicating that any member of its national contingent has committed an act of serious misconduct, it shall without delay inform the United Nations and forward the case to its appropriate national authorities for the purposes of investigation.

7.12 In the event that the United Nations has prima facie grounds indicating that any member of the Government's national contingent has committed an act of misconduct or serious misconduct, the United Nations shall without delay inform the Government. If necessary to preserve evidence and where the Government does not conduct fact-finding proceedings, the United Nations may, in cases of serious misconduct, as appropriate, where the United Nations has informed the Government of the allegation, initiate a preliminary fact-finding inquiry of the matter, until the Government starts its own investigation. It is understood in this connection that any such preliminary fact-finding inquiry will be conducted by the appropriate United Nations investigative office, including the Office of Internal Oversight Services, in accordance with the rules of the Organization. Any such preliminary fact-finding inquiry shall include as part of the investigation team a representative of the Government. The United Nations shall provide a complete report of its preliminary fact-finding inquiry to the Government at its request without delay.

7.13 In the event that the Government does not notify the United Nations as soon as possible, but no later than 10 working days from the time of notification by the United Nations, that it will start its own investigation of the alleged serious misconduct, the Government is considered to be unwilling or unable to conduct such an investigation and the United Nations may, as appropriate, initiate an administrative investigation of alleged serious misconduct without delay. The administrative investigation conducted by the United Nations in regard to any member of the national contingent shall respect those legal rights of due process that are provided to him or her by national and international law. Any such administrative investigation includes as part of the investigation team a representative of the Government if the Government provides one. In case the Government nevertheless decides to start its own investigation, the United Nations provides all available materials of the case to the Government without delay. In cases where a United Nations administrative investigation is completed, the United Nations shall provide the Government with the findings of, and the evidence gathered in the course of, the investigation.

7.14 In the case of a United Nations administrative investigation into possible serious misconduct by any member of the national contingent, the Government agrees to instruct the Commander of its national contingent to cooperate and to share documentation and information, subject to applicable national laws, including military laws. The Government also undertakes, through the Commander of its

national contingent, to instruct the members of its national contingent to cooperate with such United Nations investigation, subject to applicable national laws, including military laws.

7.15 When the Government decides to start its own investigation and to identify or send one or more officials to investigate the matter, it shall immediately inform the United Nations of that decision, including the identities of the official or officials concerned (hereafter “National Investigations Officers”).

7.16 The United Nations agrees to cooperate fully and to share documentation and information with appropriate authorities of the Government, including any National Investigations Officers, who are investigating possible misconduct or serious misconduct by any member of the Government’s national contingent.

7.17 Upon the request of the Government, the United Nations shall cooperate with the competent authorities of the Government, including any National Investigations Officers, that are investigating possible misconduct or serious misconduct by any members of its national contingent in liaising with other Governments contributing personnel in support of [United Nations peacekeeping mission], as well as with the competent authorities in the mission area, with a view to facilitating the conduct of those investigations. To this end, the United Nations shall take all possible measures to obtain consent from the host authorities. The competent authorities of the Government shall ensure that prior authorization for access to any victim or witness who is not a member of the national contingent, as well as for the collection or securing of evidence not under the ownership and control of the national contingent, is obtained from the host nation competent authorities.

7.18 In cases where National Investigations Officers are dispatched to the mission areas, they would lead the investigations. The role of the United Nations investigators in such cases will be to assist the National Investigations Officers, if necessary, in the conduct of their investigations in terms of, e.g. identification and interviewing of witnesses, recording witness statements, collection of documentary and forensic evidence and provision of administrative as well as logistical assistance.

7.19 Subject to its national laws and regulations, the Government shall provide the United Nations with the findings of investigations conducted by its competent authorities, including any National Investigations Officers, into possible misconduct or serious misconduct by any member of its national contingent.

7.20 When National Investigations Officers are deployed in the mission area, they will enjoy the same legal status as if they were members of their respective contingent while they are in the mission area, or host country.

7.21 Upon the request of the Government, the United Nations shall provide administrative and logistic support to the National Investigations Officers while they are in the mission area or host country. The Secretary-General will provide, in accordance with his authority, financial support as appropriate for the deployment of National Investigations Officers in situations where their presence is requested by the United Nations, normally the Department of Peacekeeping Operations, and where financial support is requested by the Government. The United Nations will request the Government to deploy National Investigations Officers in high-risk, complex matters and in cases of serious misconduct. This paragraph is without prejudice to the sovereign right of the Government to investigate any misconduct of its contingent members.

Article 7 quinquiens

Exercise of jurisdiction by the Government

7.22 Military members and any civilian members subject to national military law of the national contingent provided by the Government are subject to the Government's exclusive jurisdiction in respect of any crimes or offences that might be committed by them while they are assigned to the military component of [United Nations peacekeeping mission]. The Government assures the United Nations that it shall exercise such jurisdiction with respect to such crimes or offences.

7.23 The Government further assures the United Nations that it shall exercise such disciplinary jurisdiction as might be necessary with respect to all other acts of misconduct committed by any members of the Government's national contingent while they are assigned to the military component of [United Nations peacekeeping mission] that do not amount to crimes or offences.

Article 7 sexiens

Accountability

7.24 If either a United Nations investigation or an investigation conducted by the competent authorities of the Government concludes that suspicions of misconduct by any member of the Government's national contingent are well founded, the Government shall ensure that the case is forwarded to its appropriate authorities for due action. The Government agrees that those authorities shall take their decision in the same manner as they would in respect of any other offence or disciplinary infraction of a similar nature under its laws or relevant disciplinary code. The Government agrees to notify the Secretary-General of progress on a regular basis, including the outcome of the case.

7.25 If a United Nations investigation, in accordance with appropriate procedures, or the Government's investigation concludes that suspicions of failure by the contingent Commander to

(a) Cooperate with a United Nations investigation in accordance with article 7 quarter paragraph 3 (b), it being understood that the Commander will not have failed to cooperate merely by complying with his or her national laws and regulations, or the Government's investigation; or

(b) Exercise effective command and control; or

(c) Immediately report to appropriate authorities or take action in respect of allegations of misconduct that are reported to him are well founded, the Government shall ensure that the case is forwarded to its appropriate authorities for due action. The fulfilment of these aspects shall be evaluated in the contingent Commander's performance appraisal.

7.26 The Government understands the importance of settling matters relating to paternity claims involving a member of its contingent. The Government will, to the extent of its national laws, seek to facilitate such claims provided to it by the United Nations to be forwarded to the appropriate national authorities. In the case that the Government's national law does not recognize the legal capacity of the United Nations to provide such claims, these shall be provided to the Government by the appropriate authorities of the host country, in accordance with applicable procedures. The United Nations must ensure that such claims are accompanied by the necessary conclusive evidence, such as a DNA sample of the child when prescribed by the Government's national law.

7.27 Bearing in mind the contingent commander's obligation to maintain the discipline and good order of the contingent, the United Nations, through the Force Commander, shall ensure that the contingent is deployed in the mission in accordance with agreement between the United Nations and the Government. Any redeployment outside the agreement will be made with the consent of the Government or contingent commander, in accordance with applicable national procedures.

Article 8

Specific conditions

8.1 Environmental condition factor: _____

8.2 Intensity of operations factor: _____

8.3 Hostile action/forced abandonment factor: _____

8.4 Incremental transportation factor: The distance between the port of embarkation in the home country and the port of entry in the mission area is estimated at _____ miles (____ kilometres). The factor is set at _____ per cent of the reimbursement rates.

8.5 The following locations are the agreed originating locations and ports of entry and exit for the purpose of transportation arrangements for the movement of troops/police and equipment:

Troops/police:

Airport/port of entry/exit: _____
(in the troop/police-contributing country)

Airport/port of entry/exit: _____
(in the area of operations)

Note: The troops/police may be returned to another location nominated by the troop/police contributor, however, the maximum cost to the United Nations will be the cost to the agreed originating location. Where a rotation uplifts troops/police from a different port of exit this port shall become the agreed port of entry for these troops/police.

Equipment:

Originating location: _____

Port of embarkation/disembarkation: _____
(in the contributing country)

or

Border crossing at embarkation/disembarkation: _____
(in the contributing country when landlocked or moving by road/rail)

Port of embarkation/disembarkation: _____
(in the mission area)

Article 9

Claims by third parties

9. The United Nations will be responsible for dealing with any claims by third parties where the loss of or damage to their property, or death or personal injury, was caused by the personnel or equipment provided by the Government in the performance of services or any other activity or operation under this MOU. However, if the loss, damage, death or injury arose from gross negligence or wilful misconduct of the personnel provided by the Government, the Government will be liable for such claims.

Article 10

Recovery

10. The Government will reimburse the United Nations for loss of or damage to United Nations-owned equipment and property caused by the personnel or equipment provided by the Government if such loss or damage (a) occurred outside the performance of services or any other activity or operation under this MOU, or (b) arose or resulted from gross negligence or wilful misconduct of the personnel provided by the Government.

Article 11

Supplementary arrangements

11. The parties may conclude written supplementary arrangements to the present MOU.

Article 12

Amendments

12. Either of the Parties may initiate a review of the level of contribution subject to reimbursement by the United Nations or to the level of national support to ensure compatibility with the operational requirements of the mission and of the Government. The present MOU may only be amended by written agreement of the Government and the United Nations.

Article 13

Settlement of disputes

13.1 The [United Nations peacekeeping operation] shall establish a mechanism within the mission to discuss and resolve, amicably by negotiation in a spirit of cooperation, differences arising from the application of this MOU. This mechanism shall be comprised of two levels of dispute resolution:

(a) First level. The Director/Chief of Mission Support, in consultation with the Force Commander/Police Commissioner and the Contingent Commander will attempt to reach a negotiated settlement of the dispute;

(b) Second level. Should negotiations at the first level not resolve the dispute, a representative of the Permanent Mission of the Member State and the Under-Secretary-General, Department of Field Support, or his/her representative shall, at the request of either Party, attempt to reach a negotiated settlement of the dispute.

13.2 Disputes that have not been resolved as provided in paragraph 13.1 above may be submitted to a mutually agreed conciliator or mediator appointed by the President of the International Court of Justice, failing which the dispute may be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the Chairman. If within thirty days of the request for arbitration either Party has not appointed an arbitrator or if within thirty days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The procedures for the arbitration shall be fixed by the arbitrators, and each Party shall bear its own expenses. The arbitral award shall contain a statement of reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute. The arbitrators shall have no authority to award interest or punitive damages.

Article 14

Entry into force

The present MOU shall become effective on [date]. The financial obligations of the United Nations with respect to reimbursement of personnel, major equipment and

self-sustainment rates start from the date of arrival of personnel or equipment in the mission area, and will remain in effect until the date personnel, and serviceable equipment depart the mission area as per the agreed withdrawal plan or the date of effective departure where the delay is attributable to the United Nations.

Article 15

Termination

The modalities for termination shall be as agreed to by the Parties following consultations between the Parties.

IN WITNESS WHEREOF, the United Nations and the Government of _____ have signed this Memorandum of Understanding.

Signed in New York, on _____, in two originals in the English language.

For the United Nations

For the Government of [troop/police
contributor]

Under-Secretary-General
for Field Support

Permanent Representative
Permanent Mission of [troop/police
contributor]