Compilation of Guidance and Directives on Disciplinary Issues for All Categories of Personnel Serving in United Nations Peacekeeping and Other Field Missions

Uniformed Personnel:

1. Code of Conduct and We are UN Peacekeeping pocket card
2. Secretary-General’s Bulletin on International Humanitarian Law
3. Directives for Disciplinary Matters Involving Military Members of National Contingents
4. Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers
5. Directives on Sexual Harassment in United Nations Peacekeeping and Other Field Missions
6. Public Information Guidelines for Allegations of Misconduct Committed by Personnel of United Nations Peacekeeping and Other Field Missions
7. Undertaking by United Nations Military Observers
8. Undertaking by Civilian Police Officers

Civilian Personnel

1. UN Charter
2. Staff Rules and Regulations
3. Revised Disciplinary Measures and Procedures (ST/AI/371)
4. Procedures for Dealing with Sexual Harassment (ST/AI/379)
5. Secretary-General’s Bulletin on status, basic rights and duties of staff
6. Secretary-General’s Bulletin on sexual exploitation and abuse
TEN RULES
CODE OF PERSONAL CONDUCT
FOR BLUE HELMETS

1. Dress, think, talk, act and behave in a manner befitting the dignity of a disciplined, caring, considerate, mature, respected and trusted soldier, displaying the highest integrity and impartiality. Have pride in your position as a peace-keeper and do not abuse or misuse your authority.

2. Respect the law of the land of the host country, their local culture, traditions, customs and practices.

3. Treat the inhabitants of the host country with respect, courtesy and consideration. You are there as a guest to help them and in so doing will be welcomed with admiration. Neither solicit or accept any material reward, honor or gift.

4. Do not indulge in immoral acts of sexual, physical or psychological abuse or exploitation of the local population or United Nations staff, especially women and children.
5. Respect and regard the human rights of all. Support and aid the infirm, sick and weak. Do not act in revenge or with malice, in particular when dealing with prisoners, detainees or people in your custody.

6. Properly care for and account for all United Nations money, vehicles, equipment and property assigned to you and do not trade or barter with them to seek personal benefits.

7. Show military courtesy and pay appropriate compliments to all members of the mission, including other United Nations contingents regardless of their creed, gender, rank or origin.

8. Show respect for and promote the environment, including the flora and fauna, of the host country.

9. Do not engage in excessive consumption of alcohol or traffic in drugs.

10. Exercise the utmost discretion in handling confidential information and matters of official business which can put lives into danger or soil the image of the United Nations.
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; and
- Jeopardize our status and security as peacekeepers.

We are United Nations Peacekeepers

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 peacekeepers, 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 customs and practices through awareness and respect for the 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 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 peacekeepers;
- 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 peacekeepers;
- 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;
- 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.
Secretary-General’s Bulletin

Observance by United Nations forces of international humanitarian law

The Secretary-General, for the purpose of setting out fundamental principles and rules of international humanitarian law applicable to United Nations forces conducting operations under United Nations command and control, promulgates the following:

Section 1
Field of application

1.1 The fundamental principles and rules of international humanitarian law set out in the present bulletin are applicable to United Nations forces when in situations of armed conflict they are actively engaged therein as combatants, to the extent and for the duration of their engagement. They are accordingly applicable in enforcement actions, or in peacekeeping operations when the use of force is permitted in self-defence.

1.2 The promulgation of this bulletin does not affect the protected status of members of peacekeeping operations under the 1994 Convention on the Safety of United Nations and Associated Personnel or their status as non-combatants, as long as they are entitled to the protection given to civilians under the international law of armed conflict.

Section 2
Application of national law

The present provisions do not constitute an exhaustive list of principles and rules of international humanitarian law binding upon military personnel, and do not prejudice the application thereof, nor do they replace the national laws by which military personnel remain bound throughout the operation.

Section 3
Status-of-forces agreement

In the status-of-forces agreement concluded between the United Nations and a State in whose territory a United Nations force is deployed, the United Nations undertakes to ensure that the force shall conduct its operations with full respect for the principles and rules of the general conventions applicable to the conduct of military personnel. The United Nations also undertakes to ensure that members of the military personnel of the force are fully acquainted with the principles and rules of those international instruments. The obligation to respect the said principles and rules is applicable to United Nations forces even in the absence of a status-of-forces agreement.

Section 4
Violations of international humanitarian law

In case of violations of international humanitarian law, members of the military personnel of a United Nations force are subject to prosecution in their national courts.

Section 5
Protection of the civilian population

5.1 The United Nations force shall make a clear distinction at all times between civilians and combatants and between civilian objects and military objectives. Military operations shall be directed only against combatants and military objectives. Attacks on civilians or civilian objects are prohibited.
5.2 Civilians shall enjoy the protection afforded by this section, unless and for such time as they take a direct part in hostilities.

5.3 The United Nations force shall take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians or damage to civilian property.

5.4 In its area of operation, the United Nations force shall avoid, to the extent feasible, locating military objectives within or near densely populated areas, and take all necessary precautions to protect the civilian population, individual civilians and civilian objects against the dangers resulting from military operations. Military installations and equipment of peacekeeping operations, as such, shall not be considered military objectives.

5.5 The United Nations force is prohibited from launching operations of a nature likely to strike military objectives and civilians in an indiscriminate manner, as well as operations that may be expected to cause incidental loss of life among the civilian population or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated.

5.6 The United Nations force shall not engage in reprisals against civilians or civilian objects.

6.5 It is forbidden to order that there shall be no survivors.

6.6 The United Nations force is prohibited from attacking monuments of art, architecture or history, archaeological sites, works of art, places of worship and museums and libraries which constitute the cultural or spiritual heritage of peoples. In its area of operation, the United Nations force shall not use such cultural property or their immediate surroundings for purposes which might expose them to destruction or damage. Theft, pillage, misappropriation and any act of vandalism directed against cultural property is strictly prohibited.

6.7 The United Nations force is prohibited from attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, such as foodstuff, crops, livestock and drinking-water installations and supplies.

6.8 The United Nations force shall not make installations containing dangerous forces, namely dams, dikes and nuclear electrical generating stations, the object of military operations if such operations may cause the release of dangerous forces and consequent severe losses among the civilian population.

6.9 The United Nations force shall not engage in reprisals against objects and installations protected under this section.

Section 6 Means and methods of combat

6.1 The right of the United Nations force to choose methods and means of combat is not unlimited.

6.2 The United Nations force shall respect the rules prohibiting or restricting the use of certain weapons and methods of combat under the relevant instruments of international humanitarian law. These include, in particular, the prohibition on the use of asphyxiating, poisonous or other gases and biological methods of warfare; bullets which explode, expand or flatten easily in the human body; and certain explosive projectiles. The use of certain conventional weapons, such as non-detectable fragments, anti-personnel mines, booby traps and incendiary weapons, is prohibited.

6.3 The United Nations force is prohibited from employing methods of warfare which may cause superfluous injury or unnecessary suffering, or which are intended, or may be expected to cause, widespread, long-term and severe damage to the natural environment.

6.4 The United Nations force is prohibited from using weapons or methods of combat of a nature to cause unnecessary suffering.

Section 7 Treatment of civilians and persons hors de combat

7.1 Persons not, or no longer, taking part in military operations, including civilians, members of armed forces who have laid down their weapons and persons placed hors de combat by reason of sickness, wounds or detention, shall, in all circumstances, be treated humanely and without any adverse distinction based on race, sex, religious convictions or any other ground. They shall be accorded full respect for their person, honour and religious and other convictions.

7.2 The following acts against any of the persons mentioned in section 7.1 are prohibited at any time and in any place: violence to life or physical integrity; murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; collective punishment; reprisals; the taking of hostages; rape; enforced prostitution; any form of sexual assault and humiliation and degrading treatment; enslavement; and pillage.

7.3 Women shall be especially protected against any attack, in particular against rape, enforced prostitution or any other form of indecent assault.

7.4 Children shall be the object of special respect and shall be protected against any form of indecent assault.
Section 8
Treatment of detained persons

The United Nations force shall treat with humanity and respect for their dignity detained members of the armed forces and other persons who no longer take part in military operations by reason of detention. Without prejudice to their legal status, they shall be treated in accordance with the relevant provisions of the Third Geneva Convention of 1949, as may be applicable to them mutatis mutandis. In particular:

(a) Their capture and detention shall be notified without delay to the party on which they depend and to the Central Tracing Agency of the International Committee of the Red Cross (ICRC), in particular in order to inform their families;

(b) They shall be held in secure and safe premises which provide all possible safeguards of hygiene and health, and shall not be detained in areas exposed to the dangers of the combat zone;

(c) They shall be entitled to receive food and clothing, hygiene and medical attention;

(d) They shall under no circumstances be subjected to any form of torture or ill-treatment;

(e) Women whose liberty has been restricted shall be held in quarters separated from men’s quarters, and shall be under the immediate supervision of women;

(f) In cases where children who have not attained the age of sixteen years take a direct part in hostilities and are arrested, detained or interned by the United Nations force, they shall continue to benefit from special protection. In particular, they shall be held in quarters separate from the quarters of adults, except when accommodated with their families;

(g) ICRC’s right to visit prisoners and detained persons shall be respected and guaranteed.

Section 9
Protection of the wounded, the sick, and medical and relief personnel

9.1 Members of the armed forces and other persons in the power of the United Nations force who are wounded or sick shall be respected and protected in all circumstances. They shall be treated humanely and receive the medical care and attention required by their condition, without adverse distinction. Only urgent medical reasons will authorize priority in the order of treatment to be administered.

9.2 Whenever circumstances permit, a suspension of fire shall be arranged, or other local arrangements made, to permit the search for and identification of the wounded, the sick and the dead left on the battlefield and allow for their collection, removal, exchange and transport.

9.3 The United Nations force shall not attack medical establishments or mobile medical units. These shall at all times be respected and protected, unless they are used, outside their humanitarian functions, to attack or otherwise commit harmful acts against the United Nations force.

9.4 The United Nations force shall in all circumstances respect and protect medical personnel exclusively engaged in the search for, transport or treatment of the wounded or sick, as well as religious personnel.

9.5 The United Nations force shall respect and protect transports of wounded and sick or medical equipment in the same way as mobile medical units.

9.6 The United Nations force shall not engage in reprisals against the wounded, the sick or the personnel, establishments and equipment protected under this section.

9.7 The United Nations force shall in all circumstances respect the Red Cross and Red Crescent emblems. These emblems may not be employed except to indicate or to protect medical units and medical establishments, personnel and material. Any misuse of the Red Cross or Red Crescent emblems is prohibited.

9.8 The United Nations force shall respect the right of the families to know about the fate of their sick, wounded and deceased relatives. To this end, the force shall facilitate the work of the ICRC Central Tracing Agency.

9.9 The United Nations force shall facilitate the work of relief operations which are humanitarian and impartial in character and conducted without any adverse distinction, and shall respect personnel, vehicles and premises involved in such operations.

Section 10
Entry into force

The present bulletin shall enter into force on 12 August 1999.

(Signed) Kofi A. Annan
Secretary-General
Directives for Disciplinary Matters Involving Military Members of National Contingents
I. PURPOSE
1. The purpose of the present directives is to establish United Nations procedures to be followed for alleged breaches of conduct in the mission area by military members of national contingents assigned to United Nations peacekeeping and other field missions.

II. SCOPE OF APPLICATION
2. These directives shall apply to cases of serious misconduct as defined in section III, committed by military members of national contingents. In addition, any act of misconduct that has a detrimental effect on the image, credibility, impartiality or integrity of the United Nations, the peacekeeping or other field operation or the national contingent concerned shall be regarded as an act of misconduct falling within the scope of these directives.

3. Cases of minor misconduct, as defined in section III, committed by military members of national contingents shall normally be dealt with by the national contingent commander, as provided for under the relevant national military laws and guidelines and in conformity with mission directives and standard operating and administrative procedures.

III. DEFINITIONS
4. For the purpose of the present directives, the following definitions shall apply:

**Serious misconduct:** Any act, omission or negligence, including criminal acts, that is a violation of mission standard operating procedures, directives, or any other applicable rules, regulations or administrative instructions that results in or is likely to result in serious damage or injury\(^1\) to an individual or to the mission. Serious misconduct includes, but is not limited to:

- Sexual abuse and exploitation of any individual, particularly children;
- Harassment, including sexual harassment\(^2\);
- Abuse of authority;
- Breach of confidentiality;
- Abuse of United Nations privileges and immunities;
- Use, possession or distribution of illegal narcotics;
- Embezzlement or other financial malfeasance;
- Wilful disobedience of a lawful order;
- Conduct prejudicial to good order and discipline;
- Driving while intoxicated or other grossly negligent driving;
- Intoxicated while on duty or in public on repeated occasions;

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\(^1\) The term “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

\(^2\) Refer to *Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions for Military Members of National Contingents, Military Observers and Civilian Police Officers* for a description of a formal complaint of sexual harassment.
- Repeatedly absent from duty without permission;
- Unlawful acts (e.g. theft, fraud, smuggling, bribery) on or off United Nations premises, with or without the involvement of United Nations vehicles, and whether or not the individual was officially on duty at the time of the offence.

**Minor misconduct:** Any act, omission or negligence that is a violation of mission standard operating procedures (SOPs), directives, or any other applicable rules, regulations or administrative instructions, but which does not result or is not likely to result in major damage or injury to an individual or the mission. Minor misconduct includes, but is not limited to:

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<tr>
<th>Item</th>
<th>Description</th>
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<tr>
<td>1.</td>
<td>Improper uniform appearance;</td>
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<td>2.</td>
<td>Neglect in performance of duty not amounting to a wilful or deliberate act;</td>
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<tr>
<td>3.</td>
<td>Intoxication while on duty or in public;</td>
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<td>4.</td>
<td>Negligent driving.</td>
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## IV. STANDARD OF CONDUCT

5. Military members of national contingents shall refrain from any action or activity incompatible with the impartial and independent nature of their duties and inconsistent with the letter or spirit of the authorized mandate of the operation, the status of forces agreement, and other applicable legal norms and standards. Military members of national contingents shall respect all local laws and regulations.

6. Military members of national contingents are required to abide by the highest standards of integrity while in service for the United Nations. They shall refrain from any conduct that would adversely reflect on the United Nations and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations. They are also required to abide by mission standard operating procedures, directives, or any other applicable rules, regulations or administrative issuances.

7. Upon deployment to the field mission, all military personnel shall receive a briefing on these directives, the types of serious misconduct prohibited and the process that will ensue should an allegation of misconduct be made. In this briefing, particular attention shall be drawn to the standard of conduct expected of members of United Nations field missions and to local laws and customs and the need to respect them.

## V. LEGAL STATUS

8. Military members of national contingents assigned to the military component of a United Nations peacekeeping or other field operation shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences that may be committed by them in the mission area. They shall be immune from legal process in respect of words spoken or
written and all acts performed by them in their official capacity. They are, however, subject to the jurisdiction of the host country/territory in respect of any disputes/claims of a civil nature not related to the performance of their official functions.

VI. NOTIFICATION

9. In cases where military members of national contingents are believed to have been involved in an act of serious misconduct or an act that has the potential to damage the image, credibility or integrity of the United Nations, the Head of Mission shall be notified immediately. Any member of the field mission who becomes aware of such acts shall report them to the Head of Mission.

10. Notification may also be made to the Personnel Conduct Officer, who shall bring it to the attention of the Head of Mission.

VII. PRELIMINARY INVESTIGATION

11. Upon receiving a report of any serious misconduct involving a military member of a national contingent, the Head of Mission shall immediately initiate a preliminary investigation. Mission officials may be assisted in this investigation by local police or military personnel. If required, the investigation team could include a civilian member of the field mission, such as United Nations civilian police, human rights monitor, United Nations security officer, or child protection adviser, to assist in carrying out the preliminary investigation.

12. The purpose of the preliminary investigation shall be to establish the facts of the case. The investigation shall be conducted in accordance with the Guidelines for Preliminary Investigations contained in Annex B.

13. To the extent possible, the preliminary investigation must be completed before the individuals(s) involved and any witnesses leave the mission area due to rotation or for any other reason. No repatriation of individual(s) involved must occur before the conclusion of the preliminary investigation and a determination of the necessary administrative action to be taken. However, in normal circumstances, individuals concerned shall be allowed to depart the mission area after they have provided statements and their role in the investigation is complete.

14. The results of the preliminary investigation shall be immediately reported to the Head of Mission. The report shall contain a full account of the facts, any documentary evidence, statements made, or other relevant records. If the preliminary investigation appears to indicate that the report of serious misconduct is well-founded, the Head of Mission shall immediately report this to United Nations Headquarters in New York, who shall inform the national authorities of the country concerned through their Permanent Mission. The Head of Mission shall also convene a Board of Inquiry.
VIII. BOARD OF INQUIRY

15. Acts of serious misconduct or acts that have the potential to damage the image, credibility or integrity of the United Nations shall require the convening of a mission headquarters Board of Inquiry,\(^3\) in accordance with the procedures set out in Annex A.

16. The purpose of the Board of Inquiry shall be to establish the facts of the case. The Board shall determine cause and responsibility in the incident under review. The Board of Inquiry may also make recommendations for appropriate administrative action, including repatriation. A Board of Inquiry shall not be a judicial body; it is a management tool to assist the Head of Mission in discharging his/her responsibilities. It may also assist the participating State concerned in its own investigation of the incident or act, for the purpose of appropriate national disciplinary proceedings. A Board of Inquiry shall not consider questions of compensation or legal liability.

17. The Board of Inquiry shall be convened within 48 to 72 hours after the findings of the preliminary investigation becoming available. The Board of Inquiry shall be convened by the Head of Mission, who shall issue its terms of reference. The Board shall be composed of at least three impartial, senior officials appointed by the Head of Mission. Due consideration shall be given to geographic and gender representation on the Board of Inquiry. All Board members shall serve in their individual capacity. In exceptional cases, the Secretary-General or the Under-Secretary-General for Peacekeeping Operations shall appoint Board members external to the mission.

18. The proceedings of the Board of Inquiry shall be conducted as speedily as possible. The members of the Board shall not proceed on other missions or on leave until the Board has completed its deliberations. (See Annex A on Procedures for Board of Inquiry for Disciplinary Cases.)

19. Board of Inquiry proceedings shall not preclude any interim measures that the national contingent commander may wish to take with regard to the individual(s) involved or the conduct of a national investigation, in accordance with national military rules and procedures.

20. The Head of Mission shall review the final report of the Board of Inquiry and its recommendations, if any, in consultation with the appropriate personnel (e.g. Legal Officer, Medical Adviser) before determining the action to be taken. The final report of the Board of Inquiry shall be transmitted to United Nations Headquarters in New York, along with the decision of the Head of Mission and the description of measures taken to implement that decision. Any comments that the Head of Mission may have on the recommendations of the Board or on the report in general shall also be transmitted along with the final report.

\(^3\) Other circumstances under which a mission headquarters Board of Inquiry should be instituted are described in the Draft Field Administration Manual.
21. Any recommendations submitted by the Board of Inquiry, together with any comments thereon by the Head of Mission and his/her final decision, shall also be communicated to the commanding officer concerned.

22. The Board of Inquiry file shall be closed after the Head of Mission has approved and forwarded copies of the Board's report to United Nations Headquarters in New York. The Board of Inquiry file and all relevant documentation shall be retained in the mission archives until the closure of the mission and thereafter shall be transferred to United Nations Headquarters in New York.

23. Board of Inquiry reports shall be confidential, internal documents of the United Nations and, as a rule, shall not be made available to outside entities. The release of a Board of Inquiry report to a Government to be used for its official purposes shall be approved by United Nations Headquarters in New York.

IX. REPATRIATION
24. The decision to repatriate a military member of a national contingent, in all cases, shall be made by United Nations Headquarters in New York, based on the recommendation of the Head of Mission. Once decided, repatriation shall be immediate and the national authorities concerned shall be contacted at once through the Permanent Mission concerned in New York. The expenses connected with the repatriation and replacement action shall be borne by the Member State involved.

25. If the continued presence in the mission area of individual(s) to be repatriated on disciplinary grounds is detrimental to the morale of the staff, the image of the mission or has other negative effects, the objective of the Organization shall be to repatriate as soon as appropriate. In certain cases, the Head of Mission may decide to await the completion of the report of the Board of Inquiry if (s)he is of the opinion that the preliminary investigation report is inadequate to support an immediate repatriation decision. The Head of Mission shall inform Headquarters in New York of such a course of action and provide it with a copy of the preliminary investigation report and a statement as to why (s)he considers the report to be inadequate for the purposes of a decision on repatriation. In such situations, the Board of Inquiry shall be required to complete its work on a priority basis and as speedily as possible.

X. ASSISTANCE TO VICTIMS
26. Once the final report of the Board of Inquiry along with the comments and/or decision of the Head of Mission have been reviewed by United Nations Headquarters in New York, the final decision, action or guidance shall be conveyed immediately back to the Head of Mission. If necessary, this information shall be used by the Head of Mission to appropriately inform the victims/individuals concerned of the action taken.
27. The Head of Mission shall consider taking appropriate measures to assist victims of acts of serious misconduct, including directing them to relevant organizations/support groups that could provide assistance.

XI. FOLLOW-UP
28. Although the responsibility to discipline military members of national contingents remains a national responsibility, the United Nations does have an interest in ensuring that justice is carried out. Following repatriation, the United Nations shall request information about the action taken with regard to repatriated military members of national contingents. If no response is received, periodic reminders will be sent to the concerned Permanent Mission from the Military Division of the Department of Peacekeeping Operations. If still no response is forthcoming, appropriate steps shall be taken to bring the matter to the attention of the Government concerned at the highest possible levels, to underscore the seriousness of the matter and to pursue it with a view to seeing that appropriate disciplinary steps are taken.

XII. FINAL PROVISION
29. These Directives supersede DPKO Administrative Procedure on Discipline for Military and Civilian Police Personnel in Mission Areas, directive MPS/651, and any other procedures and guidelines on this subject to the extent that they are inconsistent with these Directives.
ANNEX A

PROCEDURES FOR BOARD OF INQUIRY FOR DISCIPLINARY CASES

1. The Chairman of the Board of Inquiry, upon receipt of the convening order, shall immediately contact the Legal Officer, who shall provide an initial briefing and subsequently review the draft of the Board’s report prior to its submission to the Head of Mission for decision and/or comments. The Chairman shall advise the Legal Officer of the Board’s progress and submit the draft report of the Board for his/her review one week prior to the designated deadline. (See Attachment 1 for the format of a convening order and Attachment 2 for the format of a final report.)

2. A Board of Inquiry constituted to deal with an incident involving technical or other specialized matters may seek, if necessary, the written opinion of mission or outside experts in those matters.

3. Members of the field mission may be ordered to appear and testify as witnesses before a Board of Inquiry. Any other person, including local citizens and local police or military officers, may be requested to make a statement to the Board or answer its questions but is under no obligation to do so.

4. If possible, a majority of Board members shall be present when victims, witnesses or the subjects are being interviewed.

5. Witnesses shall be questioned individually by the Board and in the absence of other witnesses, so that information received from one may be compared with that received from others. If necessary, witnesses who have provided statements shall be questioned by the Board to clarify any ambiguities in their statements and to indicate to what extent, if any, they have knowledge of relevant facts not mentioned in their statements.

6. In the event of a witness or victim being under the age of 18, the Board of Inquiry shall question the minor in the presence of a guardian or an adult of the minor’s choosing.

7. If a witness refuses to make a statement to the Board, the Board shall record that fact. If appropriate, it shall also state the reason(s) why certain persons were not called as witnesses before it.

8. If feasible and useful, the Chairman and members of the Board shall visit the scene of the incident and note any important features that could have a bearing on the case.

9. A Board must reach its findings only after it has considered all the evidence; they must be based upon and supported by the evidence contained in
its report. The Board must give the matter the attention it deserves; i.e. conduct a proper investigation, including sound analysis, supporting rationale, and substantiated conclusions.

10. A Board of Inquiry shall make at least the following findings relating to the incident under investigation:

   i. Cause of incident;

   ii. Whether any person was responsible for the incident;

   iii. Whether any court action (prosecution or law suit) has been initiated;

   iv. Whether individual(s) concerned were on United Nations duty at the time of the incident;

   v. Extent of injuries, if sustained, substantiated by medical documentation;

   vi. Whether any mission regulations, rules, orders or instructions were contravened.

11. The Board shall make recommendations concerning decisions/measures to be taken by the United Nations, for example, any measure that could help avoid the recurrence of an incident, such as specific additional safety precautions; or legislative or administrative action, such as repatriation of the subject(s), amending regulations, rules or instructions, or other administrative issuances.

12. The report of the Board of Inquiry shall be written in a simple and plain language. The Chairman must submit the draft report, together with all necessary documents and attachments, for review by the Legal Officer. Board of Inquiry reports that lack the necessary details in their consideration and merely refer to the preliminary investigation report shall be returned by the Legal Officer, or the Head of Mission, to the Board for reconsideration.

13. The Head of Mission shall review the final report of the Board of Inquiry and its recommendations, if any, in consultation with the appropriate personnel (e.g. Legal Officer, Medical Adviser) before determining the action to be taken.
ATTACHMENT 1

FORMAT FOR MISSION HEADQUARTERS BOARD OF INQUIRY
CONVENING ORDER

[Name of mission]                          Date: __________

To: [distribution]                        
From: [name and title of Head of Mission]  
Subject: Convening Order: Mission Headquarters Board of Inquiry

1. In accordance with the Directives for Disciplinary Matters Involving Military Members of National Contingents (MD/ ), a mission headquarters Board of Inquiry is hereby convened to investigate and report on the accident/incident which occurred on the day of [date] at [time] hours at [place].

2. The Board is to submit the final report and 10 copies by [date].

3. Composition:

   Name                        Title
   Chairman:                   
   Member:                     
   Member:                     
   Secretary:                  

Distribution:
[Chairman; Members and Secretary of Board; Legal Officer; CMPO/CCPO or appropriate official of the related component; Any other relevant official.]
ATTACHMENT 2

FORMAT FOR MISSION HEADQUARTERS BOARD OF INQUIRY REPORT

A mission headquarters Board of Inquiry report should be structured along the following lines:

a. **Constitution**: Cite the convening order; the time, date and place of the incident; and the period during which the Board conducted its proceedings;

b. **Description of the incident**: Present the objective facts of the incident obtained from the available evidence, with full reference to the sources used, including details of duty being performed at the time;

c. **Deliberations**: Present the main issues to be addressed when assessing the incident and reaching substantiated conclusions;

d. **Findings and conclusions**: Address the issues raised by presenting the Board's findings and conclusions based on the available evidence and relevant mission headquarters/unit orders, directives, regulations or SOPs.

e. **Recommendations**: Recommend any remedial or preventive measures to avoid a similar incident;

f. **Signatures**: Affix the signatures of the Chairman and members of the Board.

g. **Annexes**: Attach as annexes the following:
   
   i. Convening order;
   
   ii. MP/UN civilian security or other police or investigating authority's report, with original photographs;
   
   iii. List of persons present at or involved in the incident, giving name, rank, unit and ID number for United Nations personnel and distinguishing them from other persons, whose full name, occupation and address must be listed;
   
   iv. Statements and reports of witnesses;
v. Any additional relevant documents or statements, including all medical reports and technical inspection reports (e.g. weapon inspection reports, vehicle inspection reports);

vi. Any maps or sketches of the scene of the incident;

vii. Any claims, local police reports, pending proceedings or actual decisions of local courts;

viii. Detailed description of property destroyed or damaged, attaching any available damage/discrepancy reports;

ix. Relevant copies of mission headquarters/unit orders, directives, regulations, SOPs, etc.
ANNEX B
GUIDELINES FOR PRELIMINARY INVESTIGATIONS

Investigating Allegations of Serious Misconduct Involving Military Members of National Contingents, Military Observers and Civilian Police Officers Serving in United Nations Field Missions

I. INTRODUCTION
1. These guidelines are intended to serve as a guide for the conduct of preliminary investigations into acts, omissions and negligence amounting to serious misconduct involving military members of national contingents, military observers, and civilian police officers serving in United Nations field missions, and as referred to in the Directives for Disciplinary Matters Involving Military Members of National Contingents and Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers.

2. To the extent possible, preliminary investigations shall be conducted by appropriate authorities with the relevant expertise in the category of misconduct being investigated. Preliminary investigations shall be conducted in accordance with internationally recognized principles of due process and fairness.

II. PURPOSE
3. The purpose of the preliminary investigation is to establish the facts of the case.

III. PLANNING OF AN INVESTIGATION

Step One
4. Define an investigation work plan, listing the steps necessary for conducting the investigation, such as:
   - Witness list;
   - Document list and/or “other evidence” list;
   - The means to be used to collect the evidence;
   - Locations to be investigated;
   - Possible travel arrangements;
   - Local authorities to be consulted;
   - Technical expertise/opinion needed;
   - Estimated time frame;
   - Cost of investigation; etc.

Step Two
5. Discuss the investigation work plan among the investigating team to obtain a common understanding on how to proceed. Go over the procedures outlined below to ensure that there is a consensus on the methodology.

6. Clearly identify responsibilities of each team member and division of tasks.
Step Three
7. Identify any mission regulations, rules, orders or instructions that may have been contravened, as well as any applicable laws.

IV. CONFIDENTIALITY
8. The investigation shall be conducted with the greatest regard to confidentiality. Authorized disclosure, only under certain circumstances, shall be permitted. Unauthorized disclosure constitutes misconduct for which disciplinary measures may be imposed.

9. Provisions of confidentiality shall apply to the following:
   (i) The initial complaint or report (hereinafter complaint);
   (ii) The identity of the person who has made the complaint;
   (iii) The identity of the subject;
   (iv) The identity of witnesses;
   (v) The victim.

10. The investigators shall be responsible for ensuring that the information provided in the complaint, the identity of the complainant and the subject, and witnesses and their statements are not accidentally, negligently or wilfully disclosed. The investigator(s) will be obliged to take all appropriate measures for the protection of this information.

11. Authorization for disclosure will be given by the Head of Mission.

Confidentiality of Complaint
12. Although the information provided in the complaint should be confidential, it will be used for the conduct of the investigation and for the conduct of administrative, disciplinary or judicial proceedings.

Confidentiality of Complainant/Victim
13. Circumstances under which authorized disclosure of the identity of the complainant/victim can be made are as follows:
   (i) The complainant/victim has consented to the disclosure (see form attached as Sample 1);
   (ii) Such disclosure is necessary for administrative, disciplinary and judicial proceedings;
   (iii) Authorized disclosure can also be made when a false complaint or report is made. Making a willfully false allegation constitutes misconduct and, therefore, disciplinary measures may be imposed against the complainant. Consequently, for the subsequent administrative and disciplinary proceedings the identity of the person who has, with bad intent, made a false complaint may be disclosed.

Confidentiality of Subject
14. Identity of the subject may be disclosed for the purposes of furthering the investigation and for the imposition of administrative, disciplinary or judicial proceedings.

Confidentiality of Witnesses
15. Witnesses shall be provided confidentiality, if they request, to the extent possible.

V. INTERVIEWING COMPLAINANTS, SUBJECT(S) AND WITNESSES

Sequence of Interviews
16. The sequence of interviews should be at the discretion of the investigator(s). Normally, the sequence is as follows:
   (i) Complainant(s) and/or victim(s);
   (ii) Subject (the person in question);
   (iii) Witnesses;
   (iv) Follow-up interviews with complainant/victim and the subject, if necessary.

17. Sometimes it may be appropriate to interview some or all of the witnesses before interviewing the subject (and reviewing other evidence, such as documentary or physical evidence) in order to give him/her an effective opportunity to respond to all the allegations.

18. The investigator(s) shall conduct as many interviews or make as many contacts with witnesses and/or subject(s) in order to support a rational finding of facts.

Interview Site
19. It is preferable to conduct interviews in a place where other employees will not be able to see who is being interviewed and how long the interview takes.

20. This may require that the interview be conducted away from the job site, such as at a hotel conference room, or perhaps at the home of the interviewee.

21. In-person interviews are preferable to telephone interviews, which are not optimal because investigators need to be able to see the person to make an assessment of credibility. Telephone interviews may be appropriate for non-crucial witnesses, when an in-person interview would be too difficult or expensive.

Language of Interview
22. All interviews shall be in the preferred language of the interviewee. If an interpreter is necessary, one shall be provided. The interpreter shall remain impartial and objective in the conduct of the interview.

Interviewing Minors
23. When a minor is to be interviewed, an appropriate adult must be notified as soon as possible. Minors must be interviewed in the presence of an adult of
the minor’s choosing.\(^4\)

**Third Parties**

24. A third party whose presence is deemed necessary by the investigator(s) (interpreters, adults accompanying minors, etc.) shall be obliged to maintain full confidentiality, and shall sign a certification to that effect, with respect to the matter discussed and to all the information gathered during the interview. The role of a third party in an interview is solely to facilitate the interview.

**Interviewing Victims**

25. Interviewing a victim of an act of serious misconduct shall be done with sensitivity and understanding.

**Interviewing Subjects**

26. The subject of an investigation should be advised about the matter under investigation and any specific allegation made against him/her.

27. The subject has an obligation to cooperate with the investigation and to answer questions truthfully and honestly. The subject should be given the opportunity to speak and to provide information in his/her own words without unnecessary interruptions by the investigator(s). The subject may offer such information, documents or other materials as (s)he wishes to assist in the inquiry. The subject may name witnesses on his/her behalf and in favour of his/her contentions.

28. The interviewing investigator(s) can question the subject on all the aspects deemed relevant for the conduct of the investigation, in any rhetorical manner, in a free conversation or in a strict question-and-answer format.

**Interviewing Witnesses**

29. Witnesses who are members of the field mission are obliged to cooperate with the investigation and must reply honestly and truthfully to questions. A witness acknowledgement form shall be completed and signed. (See form attached as Sample 2.) Witness acknowledgement forms should be made available in local languages when dealing with local witnesses.

**How to Interview**

30. Prepare an outline of topics to be covered during the interview, e.g. What is the complaint? What is in dispute? What relevant information does the interviewee possess? As a general rule, investigators should address non-threatening topics first and hard topics last.

**Structure of the Interview**

\(^4\) A minor is defined according to the applicable local laws. However, the international legal standard, as defined by Article 1 of the Convention of the Rights of the Child, is that a minor is “a person under 18 years of age”.
Introductory questions
31. These are examples of introductory questions:
✔️ The investigators should introduce themselves;
✔️ Inform interviewees of the purpose of the interview;
✔️ Stress that no conclusions have been reached (the goal is to hear all sides of the story);
✔️ Put the interviewee at ease by first establishing a rapport with him/her by asking general questions on non-threatening topics, such as general background, age, employment history, address, etc.

Questions about the matter under investigation
32. Investigators should not be afraid to ask the tough questions. If the interviewee is not cooperating fully, investigators should politely but persistently seek an answer to their questions.

33. It is important to ask the interviewee if they know of any documents related to the matter. The investigators should always define what they mean by “documents”, which could include memos, letters, notes, calendars, e-mails, computer files, voice mails, tape recordings, diary notes, etc.
   • Use the “Funnel Method” for questioning:
     o Open-ended questions
       ▪ First ask broad, open-ended questions designed to elicit an expansive, narrative response.
       ▪ Seldom interrupt a witness. As they talk, investigator(s) should take notes on areas that they may want to explore in further detail later. If they learn of a new topic, they should make a note of it and come back to it later.
     o Follow-up
       ▪ Once the interviewee has answered the open-ended question, follow-up by asking about each incident/conversation/issue separately. Ask for details.
     o Follow-up on non-responsive answers

Closing questions
34. These are examples of closing questions:
✔️ Is there anything else that we have not discussed that you think is relevant to this matter? (Interviewee should be able to contact the investigators later if they think of or have additional information or documents related to the matter.)
✔️ Who else should we interview?
✔️ Are there any documents relating to this issue? (Documents may include e-mails, personal letters, faxes, medical records, etc.)
✔️ Remind subjects and witnesses that retaliation against victims and complainants constitutes serious misconduct.
- Request that the interviewee keep the matter confidential in order to protect the integrity of the investigation.
- Thank the person for his/her cooperation.

**What not to ask**
35. Investigators should avoid aggressive, leading questions especially at the beginning of the interview. For example, a friendly, conversational approach works better than an aggressive, cross-examination. The aim is to get the interviewee to talk as much as possible in order to obtain as much information as possible, look for inconsistencies in the interviewees’ stories and make credibility determinations.

36. Avoid leading or close-ended questions (especially at the beginning of an interview and at the beginning of a category of questions). For example, “Did you see John drinking at the Post Office?”

37. Avoid compound questions that would allow the interviewee to truthfully answer only part of the question. For example, “Was he drunk when you saw him at the Post Office?” Answer: “I did not see him at the Post Office.”

38. Avoid legalese; use simple language.

39. Avoid questions that allow the interviewee to define a term in his or her own way, e.g. “Was he just having a good time?”

**Taping of Interviews**
40. Normally, it is not obligatory to conduct tape recordings of interviews. However, interviews could be taped by investigator(s) for their own convenience. It allows the investigator(s) to focus more on listening to the interviewees’ answers, rather than taking copious notes. All tape recordings must be transcribed and summarized into a formal record of the interview, which will require a signature by the interviewee attesting to its accuracy, as mentioned in paragraph 39 below.

41. However, transcribing the tapes of interviews could be time-consuming. Quality of the tape could be poor, which could be a critical problem if the investigators are relying on the tape and have not taken notes. Also, taping of an interview could potentially inhibit the interviewee and have a “chilling effect”. The investigators should make every effort to put the interviewee at ease so that they feel at ease to speak candidly.

**Written Statements**
42. The investigator may request an interviewee to furnish a written statement, or an interviewee may choose to make a written statement. The interviewee may provide this written statement in addition to an interview.
43. The statement shall be written in simple and plain language. The statement should be written in the first person (singular or plural, depending on how many persons are involved).

44. The language of the written statement shall be determined according to its likely use. For administrative action or disciplinary measures to be taken by the United Nations, the language of the statement shall be the working language of the mission. If a criminal prosecution seems probable, it may be considered to translate the statement into the working language of the court that will be in charge of conducting the trial. If possible, the language of the statement should be in the interviewee’s preferred language.

45. The interviewee shall acknowledge the accuracy of the written statement by initialling it at the bottom of every page and signing at the end of the statement. If the interviewee decides to amend any part of the statement, (s)he shall initial the amendment as well.

46. The person shall sign and date the statement in the investigator’s presence.

47. No threats or coercion of any kind may be used to obtain a written statement.

VI. COLLECTION OF EVIDENCE

Forms of Evidence
48. Forms of evidence include but are not limited to:
   ➢ Documentary evidence
   ➢ Demonstrative/physical evidence
   ➢ Statements by complainants, subjects and witnesses
   ➢ Experts’ opinion

Means of Obtaining Evidence
49. Means of obtaining evidence include but are not limited to:
   ➢ Observation
   ➢ Forensic research and analysis
   ➢ Interviews

50. When attending the scene/location of an incident, the investigator shall document what he/she sees, not what he/she thinks and take all necessary steps to protect the scene. The notes and reports shall be done in a chronological order and shall include no opinions, no analysis, or no conclusions; just the facts.

51. The evidence observed, its location, condition, or anything remarkable about the evidence shall be included in the investigation report. If necessary, photographs shall be taken or a sketch/diagram made.
Safeguarding Evidence
52. Evidence should be duly logged and secured. The log should indicate where and how each piece of evidence was obtained.

53. When an act of serious misconduct that may amount to a criminal offence has occurred, investigator(s) should pay particular attention to the collection and safeguarding of evidence, as it may serve as a basis for a subsequent judicial process.

Validating Information
54. The goal of the preliminary investigation is to find one or more facts to establish the existence or non-existence of a key element of proof of the allegation. Furthermore, a determination needs to be made if any relevant rules, directives or standard administrative or operating procedures were contravened.

55. Once the initial fact-finding has been conducted, there is a need to establish the accuracy and authenticity of the evidence such as testimony, observations, records, and other documentary and physical evidence. Throughout the investigation, evidence obtained shall be checked against the investigative plan by verifying its accuracy. Initial evidence shall be checked against new evidence obtained. Conflicting testimony, information or material matters will be resolved by collecting additional evidence from other competent witnesses and sources.

56. In determining credibility of witnesses, account shall be taken of their interest, bias, integrity, reputation, the manner in which they gained their information, and any possible motive. The demeanor of the witness/subject being interviewed should also be taken into account when determining credibility.

57. Through this continuous process of the validation of evidence obtained, the investigator(s) shall ensure that the findings and conclusions of the investigation are fully supported by evidence. If any piece of evidence is ambiguous, it needs to be weighed. This means that the investigator(s) needs to reflect on the evidence with regard to the following factors: credibility; logic; plausibility; completeness; and persuasiveness. The standard of proof used by the investigator(s) is the preponderance of the evidence (50 plus 1).

58. Acting neutral and impartial in the process of weighing the evidence is crucial for the persuasiveness of the investigation’s findings.
VII. REPORT OF PRELIMINARY INVESTIGATION

59. The Investigation Report is the summary of the work that has preceded it and its findings and conclusions are based on the evidence obtained. Each fact expressed in the Investigation Report will be fully and substantially supported by evidence. No evidence shall be included in the report that has not undergone extensive review and testing. The investigator(s) shall ensure that facts are backed by evidence and supporting rationale.

Format and Content of Preliminary Investigation Reports

60. The report of the preliminary investigation generally shall contain the following major sections:

(a) Title Page
(b) Executive Summary
(c) Methodology
(d) Background Information
(e) Investigative Details
(f) Issues
(g) Finding of Facts
(h) Annexes

(a) Title Page

61. The title page contains the official title of the case. It shall contain a warning that the report is the property of the United Nations field mission and is not to be reproduced or disclosed to unauthorized persons. The details of the reporting investigator(s) (name, rank and title), the date and the distribution shall be shown on the title page.

(b) Executive Summary

62. The Executive Summary shall specify the nature of the allegation(s); the methodology used for the investigation; the violation (if any) of mission regulations, rules, orders or instructions, as well as any applicable laws; and the results of the fact-finding.

63. The Executive Summary should also include the date, time, place and other specifics of the incident, including who committed what, when and where. The Executive Summary is intended to give the reader a quick overview of the case from its inception to the writing of the report. Every statement in the summary must be fully substantiated in the body of the report. It must not include any opinions or conclusions of the investigator(s); only facts or statements substantiated in the body of the report will be presented in the Executive Summary.

(c) Methodology

64. This section shall contain a brief description of the methodology used to conduct the investigation, including locations that were investigated; witnesses
interviewed; local authorities that were consulted; technical expertise/opinion sought; documents analysed; etc.

(d) **Background Information**
65. This shall provide details of the allegation(s) and who made them; a narrative of the context in which the incident occurred, without mentioning evidence at this stage; and any other necessary background information.

(e) **Investigative Details**
66. This section shall provide a detailed account of the conduct of the investigation and the evidence collected. This should be presented in a logical form, with supporting information provided in annexes to the report. A chronology of the investigation should be part of this section.

(f) **Issues**
67. A discussion of any issues that may have come up during the investigation.

(g) **Findings of Fact**
68. This section shall provide an analysis of the facts as established by the corroborating evidence obtained in the course of the investigation. This section must contain the supporting rationale for the findings of the investigators. If the evidence is ambiguous, the investigator(s) should explain what criteria were used to weigh the evidence and why a specific conclusion was drawn.

(g) **Annexes**
69. The report can contain as many annexes as necessary. Normally these would contain interview lists; statements of the subject and the witnesses; list of evidence; etc.

VIII. **SUBMISSION OF REPORT**
70. The report of the preliminary investigation shall be submitted to the Head of Mission as soon as it has been completed. The distribution of the report, as indicated on the Title Page, will also be done concurrently. Normally, the report will be submitted only to the Head of Mission or his/her designee.

71. On the basis of the findings of the preliminary investigation, the Head of Mission may either convene a mission headquarters Board of Inquiry, or (s)he may conclude that no act of serious misconduct occurred.
## SAMPLE 1

### SAMPLE CONSENT TO DISCLOSURE FORM

<table>
<thead>
<tr>
<th>NAME:</th>
<th>DATE OF ENTRY INTO MISSION AREA:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITTLE/FUNCTION:</td>
<td>END OF MISSION DATE:</td>
</tr>
<tr>
<td>UN ID NO:</td>
<td>TELEPHONE CONTACT:</td>
</tr>
</tbody>
</table>

I hereby consent to the disclosure of my name to the relevant United Nations authorities for the purpose of taking appropriate action on my complaint. I understand that the information will be treated with confidentiality, and shared only as needed.

Signature or Thumb Print

____________________________________________________

Witness (for thumb print)

____________________________________________________

Date: _________________________
### SAMPLE 2

**SAMPLE WITNESS ACKNOWLEDGEMENT FORM**

<table>
<thead>
<tr>
<th>NAME:</th>
<th>DATE OF ENTRY INTO MISSION AREA:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE/FUNCTION:</td>
<td>END OF MISSION DATE:</td>
</tr>
<tr>
<td>UN ID NO:</td>
<td>TELEPHONE CONTACT:</td>
</tr>
</tbody>
</table>

I hereby certify that this is a true and accurate reflection of my statement given to Mr./Ms. ________________________________ (print name) regarding Case No. ____________________________________________. I understand that the information will be treated with confidentiality, and shared only as needed.

Signature or Thumb Print

____________________________________________________

Witness (for thumb print)

____________________________________________________

Date: _________________________
Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers
I. PURPOSE
1. The purpose of the present directives is to establish United Nations procedures to be followed for alleged breaches of conduct in the mission areas of peacekeeping and other field operations by civilian police officers and military observers.

II. SCOPE OF APPLICATION
2. These directives shall apply to cases of serious misconduct as defined in section III, committed by civilian police officers\(^1\) and military observers. In addition, any act of misconduct that has a detrimental effect on the image, credibility, impartiality or integrity of the United Nations, the peacekeeping or other field operation or the civilian police officers and military observers concerned shall be regarded as an act of misconduct falling within the scope of these directives.

3. Cases of minor misconduct, as defined in section III, committed by civilian police officers and military observers shall normally be dealt with by the commanders or other supervisors responsible for the maintenance of discipline, in accordance with any relevant rules, mission directives and the standard operating and administrative procedures.

III. DEFINITIONS
4. For the purpose of the present directives, the following definitions shall apply:

**Serious misconduct:** Any act, omission or negligence, including criminal acts, that is a violation of mission standard operating procedures, directives, or any other applicable rules, regulations or administrative instructions, that results in or is likely to result in serious damage or injury\(^2\) to an individual or to the mission. Serious misconduct includes, but is not limited to:

- Sexual abuse and exploitation of any individual, particularly children;
- Harassment, including sexual harassment\(^3\);
- Abuse of authority;
- Excessive use of force;
- Unlawful discharge of firearms;
- Breach of confidentiality;
- Abuse of United Nations privileges and immunities;
- Conduct prejudicial to good order and discipline;

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\(^1\)These Directives shall not be applicable to members of national formed police units. Responsibility for disciplinary action in these units rests with the commanders of the national units, who must keep the Head of Mission fully informed in all disciplinary matters.

\(^2\) The term “injury” denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

\(^3\) Refer to *Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions for Military Members of National Contingents, Military Observers and Civilian Police Officers* for a description of a formal complaint of sexual harassment.
Driving while intoxicated or other grossly negligent driving;
Intoxicated while on duty or in public on repeated occasions;
Repeatedly absent from duty without permission;
Use, possession or distribution of illegal narcotics;
Embezzlement or other financial malfeasance;
Wilful disobedience of a lawful order;
Unlawful acts (e.g. theft, fraud, smuggling, bribery) on or off United Nations premises, with or without the involvement of United Nations vehicles, and whether or not the individual was officially on duty at the time of the offence.

Minor misconduct: Any act, omission or negligence that is a violation of mission standard operating procedures (SOPs), directives, or any other applicable rules, regulations or administrative instructions, but which does not result in or is not likely to result in major damage or injury to an individual or the mission. Minor misconduct includes, but is not limited to:

- Improper uniform appearance;
- Neglect in performance of duty not amounting to a wilful or deliberate act;
- Intoxication while on duty or in public;
- Negligent driving;
- Absence from duty without permission;
- Malingering.

IV. STANDARD OF CONDUCT
5. Civilian police officers and military observers shall refrain from any action or activity incompatible with the impartial and independent nature of their duties and inconsistent with the letter or spirit of the authorized mandate of the operation, the status of forces agreement, and other applicable legal norms and standards. Civilian police officers and military observers shall respect all local laws and regulations.

6. Civilian police officers and military observers are required to abide by the highest standards of integrity while in service for the United Nations. They shall refrain from any conduct that would adversely reflect on the United Nations and shall not engage in any activity that is incompatible with the aims and objectives of the United Nations. They are also required to abide by mission standard operating procedures, directives, or any other applicable rules, regulations or administrative issuances.

7. Upon deployment to the field mission, all civilian police officers and military observers shall receive a briefing on these directives, the types of serious misconduct prohibited and the disciplinary process that shall ensue should an allegation of misconduct be made. In this briefing, particular attention shall be drawn to local laws and customs and the need to respect them.
V. LEGAL STATUS
8. Civilian police officers and military observers enjoy the status of “experts performing missions” for the United Nations, under Article VI of the 1946 Convention on the Privileges and Immunities of the United Nations. In accordance with that status, they enjoy *inter alia* immunity for the purposes of the official acts they perform. These privileges and immunities are granted in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General has the right and the duty to waive the immunity of any individual in any case where, in the Secretary-General’s opinion, the immunity would impede the course of justice. Such a waiver shall be without prejudice to the interests of the United Nations. Civilian police officers and military observers are, however, subject to the jurisdiction of the host country/territory in respect of any criminal offences that may be committed by them in the host country and any disputes/claims of a civil nature not related to the performance of their official functions.

VI. NOTIFICATION
9. In cases where civilian police officers or military observers are believed to have been involved in an act of serious misconduct or an act that has the potential to damage the image, credibility or integrity of the United Nations, the Head of Mission shall be notified immediately. Any member of the field mission who becomes aware of such acts shall report them to the Head of Mission.

10. Notification may also be made to the Personnel Conduct Officer, who shall bring it to the attention of the Head of Mission.

VII. PRELIMINARY INVESTIGATION
11. Upon receiving a report of any serious misconduct involving a civilian police officer or a military observer, the Head of Mission shall immediately initiate a preliminary investigation. Mission officials may be assisted in this investigation by local police. If required, the investigation team could include a civilian member of the field mission, such as, human rights monitor, United Nations security officer, or child protection adviser, to assist in carrying out the preliminary investigation.

12. The purpose of the preliminary investigation shall be to establish the facts of the case. The investigation shall be conducted in accordance with the “Guidelines for Preliminary Investigations” contained in Annex B.

13. To the extent possible, the preliminary investigation must be completed before the individuals(s) involved and any witnesses leave the mission area due to rotation or for any other reason. No repatriation of individual(s) involved must occur before the conclusion of the preliminary investigation and a determination of the appropriate administrative action to be taken. However, individuals concerned may be allowed to depart the mission area after they have provided statements and their role in the investigation is complete.
14. The results of the preliminary investigation shall be immediately reported to the Head of Mission. The report shall contain a full account of the facts, any documentary evidence, statements made, or other relevant records. If the preliminary investigation appears to indicate that the report of serious misconduct is well-founded, the Head of Mission shall immediately report this to United Nations Headquarters in New York, who shall inform the national authorities of the country concerned through their Permanent Mission. The Head of Mission shall also convene a Board of Inquiry.

VIII. BOARD OF INQUIRY
15. Acts of serious misconduct or acts that have the potential to damage the image, credibility or integrity of the United Nations shall require the convening of a mission headquarters Board of Inquiry, in accordance with the procedures set out in Annex A.

16. The purpose of the Board of Inquiry shall be to establish the facts of the case. The Board shall determine cause and responsibility in the incident under review. The Board of Inquiry may also make recommendations for appropriate administrative action, including repatriation. A Board of Inquiry shall not be a judicial body; it is a management tool to assist the Head of Mission in discharging his/her responsibilities. It may also assist the participating State concerned in its own investigation of the incident or act, for the purpose of appropriate national disciplinary proceedings. A Board of Inquiry shall not consider questions of compensation or legal liability.

17. The Board of Inquiry shall be convened within 48 to 72 hours after the findings of the preliminary investigation becoming available. The Board of Inquiry shall be convened by the Head of Mission, who shall issue its terms of reference. The Board shall be composed of at least three impartial, senior officials appointed by the Head of Mission. Due consideration shall be given to geographic and gender representation on the Board of Inquiry. All Board members shall serve in their individual capacity. In exceptional cases, the Secretary-General or the Under-Secretary-General for Peacekeeping Operations shall appoint Board members external to the mission.

18. The proceedings of the Board of Inquiry shall be conducted as speedily as possible. The members of the Board shall not proceed on other missions or on leave until the Board has completed its deliberations. (See Annex A on Procedures for Board of Inquiry for Disciplinary Cases.)

19. The Head of Mission shall review the final report of the Board of Inquiry and its recommendations, if any, in consultation with the appropriate personnel (e.g. Legal Officer, Medical Adviser) before determining the action to be taken. The final report of the Board of Inquiry shall be transmitted to United Nations

4 Other circumstances under which a mission headquarters Board of Inquiry should be instituted are described in the Draft Field Administration Manual.
Headquarters in New York, along with the decision of the Head of Mission and the description of measures taken to implement that decision. Any comments that the Head of Mission may have on the recommendations of the Board or on the report in general shall also be transmitted along with the final report.

20. Recommendations of the Board of Inquiry, together with any comments thereon by the Head of Mission and his/her final decision, shall be communicated to the commanders or other supervisors responsible for the maintenance of discipline of the individual(s) concerned for the purpose of imposing disciplinary measures.

21. The Board of Inquiry file shall be closed after the Head of Mission has approved and forwarded copies of the Board’s report to United Nations Headquarters in New York. The Board of Inquiry file and all relevant documentation shall be retained in the mission archives until the closure of the mission and thereafter shall be transferred to United Nations Headquarters in New York.

22. Board of Inquiry reports shall be confidential, internal documents of the United Nations and, as a rule, shall not be made available to outside entities. The release of a Board of Inquiry report to a Government to be used for its official purposes shall be approved by United Nations Headquarters in New York.

IX. ADMINISTRATIVE ACTIONS AND DISCIPLINARY MEASURES

23. Following receipt of the recommendations of the Board of Inquiry and the final decision of the Head of Mission, as referred to in paragraph 20, the commander or other supervisor responsible for the maintenance of discipline shall take appropriate administrative and/or disciplinary action. Such actions may be one or more of the following:

- Removal from position of command;
- Redeployment to another position/area after retraining, if necessary;
- Removal of benefits and concessions provided to United Nations personnel;
- Suspension of leave/compensatory time off;
- Full or partial recovery from Mission Subsistence Allowance, in cases of financial loss to the Organization;
- Recommendation to repatriate;
- Written censure or reprimand, including a possible recommendation for non-eligibility for future assignment with the United Nations.

24. In addition to any United Nations administrative and/or disciplinary action(s), the individual may be subject to any applicable national disciplinary proceedings. For this purpose, a report on the misconduct and action taken shall be forwarded to United Nations Headquarters in New York in order to inform the Permanent Mission concerned.
25. The decision to repatriate a civilian police officer or a military observer, in all cases, shall be made by United Nations Headquarters in New York, based on the recommendation of the Head of Mission. Once decided, repatriation shall be immediate and the national authorities concerned shall be contacted at once through the Permanent Mission concerned in New York. The expenses connected with the repatriation and replacement action shall be borne by the Member State involved.

26. Leaving the mission area without authorization from United Nations Headquarters in New York to avoid disciplinary procedures or criminal charges shall not be allowed and shall require the Member State concerned to return the individual(s) to the mission area to facilitate the disciplinary process. If the national authorities do not comply, they shall not be requested to provide a replacement.

27. If the continued presence in the mission area of individual(s) to be repatriated on disciplinary grounds is detrimental to the morale of the staff, the image of the mission or has other negative effects, the objective of the Organization shall be to repatriate as soon as appropriate. In certain cases, the Head of Mission may decide to await the completion of the report of the Board of Inquiry if (s)he is of the opinion that the preliminary investigation report is inadequate to support an immediate repatriation decision, or the possibility of criminal charges exists. The Head of Mission shall inform Headquarters in New York of such a course of action and provide it with a copy of the preliminary investigation report and a statement as to the reasons why such a decision has been taken. In such situations, the Board of Inquiry shall be required to complete its work on a priority basis and as speedily as possible.

X. CRIMINAL OFFENCES
28. If the misconduct committed by a civilian police officer or military observer amounts to an alleged criminal offence, the Secretary-General has the right and the duty to waive the immunity, if applicable, of the individual(s) concerned, if in his opinion the immunity would impede the course of justice. The United Nations and the host country shall agree on whether or not criminal proceedings are to be instituted.

XI. ASSISTANCE TO VICTIMS
29. Once the final report of the Board of Inquiry along with the comments and/or decision of the Head of Mission have been reviewed by United Nations Headquarters in New York, the final decision, action or guidance shall be conveyed immediately back to the Head of Mission. If necessary, this information shall be used by the Head of Mission to appropriately inform the victims/individuals concerned of the action taken.

30. The Head of Mission shall consider taking appropriate measures to assist victims of acts of serious misconduct, including directing them to relevant organizations/support groups that could provide assistance.
XII. FOLLOW-UP
31. The United Nations shall request information from Member States regarding national disciplinary or criminal action taken with regard to repatriated civilian police officers and military observers. If no response is received, periodic reminders will be sent to the concerned Permanent Mission from the Department of Peacekeeping Operations. If still no response is forthcoming, appropriate steps shall be taken to bring the matter to the attention of the Government concerned at the highest possible levels to underscore the seriousness of the matter and to pursue it with a view to seeing that appropriate disciplinary steps are taken.

XIII. FINAL PROVISION
32. These Directives supersede *DPKO Administrative Procedure on Discipline for Military and Civilian Police Personnel in Mission Areas, directive MPS/651* and any other procedures and guidelines on this subject to the extent that they are inconsistent with these Directives.
ANNEX A

PROCEDURES FOR BOARD OF INQUIRY FOR DISCIPLINARY CASES

1. The Chairman of the Board of Inquiry, upon receipt of the convening order, shall immediately contact the Legal Officer, who shall provide an initial briefing and subsequently review the draft of the Board’s report prior to its submission to the Head of Mission for decision and/or comments. The Chairman shall advise the Legal Officer of the Board’s progress and submit the draft report of the Board for his/her review one week prior to the designated deadline. (See Attachment 1 for the format of a convening order and Attachment 2 for the format of a final report.)

2. A Board of Inquiry constituted to deal with an incident involving technical or other specialized matters may seek, if necessary, the written opinion of mission or outside experts in those matters.

3. Members of the field mission may be ordered to appear and testify as witnesses before a Board of Inquiry. Any other person, including local citizens and local police or military officers, may be requested to make a statement to the Board or answer its questions but is under no obligation to do so.

4. If possible, a majority of Board members shall be present when victims, witnesses or the subjects are being interviewed.

5. Witnesses shall be questioned individually by the Board and in the absence of other witnesses, so that information received from one may be compared with that received from others. If necessary, witnesses who have provided statements shall be questioned by the Board to clarify any ambiguities in their statements and to indicate to what extent, if any, they have knowledge of relevant facts not mentioned in their statements.

6. In the event of a witness or victim being under the age of 18, the Board of Inquiry shall question the minor in the presence of a guardian or an adult of the minor’s choosing.

7. If a witness refuses to make a statement to the Board, the Board shall record that fact. If appropriate, it shall also state the reason(s) why certain persons were not called as witnesses before it.

8. If feasible and useful, the Chairman and members of the Board shall visit the scene of the incident and note any important features that could have a bearing on the case.

9. A Board must reach its findings only after it has considered all the evidence; they must be based upon and supported by the evidence contained in its report. The Board must give the matter the attention it deserves; i.e. conduct a
proper investigation, including sound analysis, supporting rationale, and substantiated conclusions.

10. A Board of Inquiry shall make at least the following findings relating to the incident under investigation:

   i. cause of incident;

   ii. whether any person was responsible for the incident;

   iii. whether any court action (prosecution or law suit) has been initiated;

   iv. whether individual(s) concerned were on United Nations duty at the time of the incident;

   v. extent of injuries, if sustained, substantiated by medical documentation;

   vi. whether any mission regulations, rules, orders or instructions were contravened.

11. The Board shall make recommendations concerning decisions/measures to be taken by the United Nations, for example any measure that could help avoid the recurrence of an incident, such as specific additional safety precautions; or legislative or administrative action, such as repatriation of the subject(s), amending regulations, rules or instructions, or other administrative issuances.

12. The report of the Board of Inquiry shall be written in a simple and plain language. The Chairman must submit the draft report, together with all necessary documents and attachments, for review by the Legal Officer. Board of Inquiry reports that lack the necessary details in their consideration and merely refer to the preliminary investigation report shall be returned by the Legal Officer, or the Head of Mission, to the Board for reconsideration.

13. The Head of Mission shall review the final report of the Board of Inquiry and its recommendations, if any, in consultation with the appropriate personnel (e.g. Legal Officer, Medical Adviser) before determining the action to be taken.
ATTACHMENT 1

FORMAT FOR MISSION HEADQUARTERS BOARD OF INQUIRY
CONVENING ORDER

[Name of mission]                                      Date: ___________

To: [distribution]                                      From: [name and title of Head of Mission]
Subject: Convening Order: Mission Headquarters Board of Inquiry

1. In accordance with the Directives for Disciplinary Matters Involving Military Members of National Contingents (MD/ ), a mission headquarters Board of Inquiry is hereby convened to investigate and report on the accident/incident which occurred on the day of [date] at [time] hours at [place].

2. The Board is to submit the final report and 10 copies by [date].

3. Composition:

   Name                        Title
   Chairman:                   
   Member:                     
   Member:                     
   Secretary:                  

Distribution:
[Chairman; Members and Secretary of Board; Legal Officer; CMPO/CCPO or appropriate official of the related component; Any other relevant official.]
ATTACHMENT 2

FORMAT FOR MISSION HEADQUARTERS BOARD OF INQUIRY REPORT

A mission headquarters Board of Inquiry report should be structured along the following lines:

a. **Constitution:** Cite the convening order; the time, date and place of the incident; and the period during which the Board conducted its proceedings;

b. **Description of the incident:** Present the objective facts of the incident obtained from the available evidence, with full reference to the sources used, including details of duty being performed at the time;

c. **Deliberations:** Present the main issues to be addressed when assessing the incident and reaching substantiated conclusions;

d. **Findings and conclusions:** Address the issues raised by presenting the Board’s findings and conclusions based on the available evidence and relevant mission headquarters/unit orders, directives, regulations or SOPs.

e. **Recommendations:** Recommend any remedial or preventive measures to avoid a similar incident;

f. **Signatures:** Affix the signatures of the Chairman and members of the Board.

g. **Annexes:** Attach as annexes the following:

i. Convening order;

ii. MP/UN civilian security or other police or investigating authority’s report, with original photographs;

iii. List of persons present at or involved in the incident, giving name, rank, unit and ID number for United Nations personnel and distinguishing them from other persons, whose full name, occupation and address must be listed;

iv. Statements and reports of witnesses;

v. Any additional relevant documents or statements, including all medical reports and technical
inspection reports (e.g. weapon inspection reports, vehicle inspection reports);

vi. Any maps or sketches of the scene of the incident;

vii. Any claims, local police reports, pending proceedings or actual decisions of local courts;

viii. Detailed description of property destroyed or damaged, attaching any available damage/discrepancy reports;

ix. Relevant copies of mission headquarters/unit orders, directives, regulations, SOPs, etc.
ANNEX B

GUIDELINES FOR PRELIMINARY INVESTIGATIONS

Investigating Allegations of Serious Misconduct Involving Military Members of National Contingents, Military Observers and Civilian Police Officers Serving in United Nations Field Missions

I. INTRODUCTION

1. These guidelines are intended to serve as a guide for the conduct of preliminary investigations into acts, omissions and negligence amounting to serious misconduct involving military members of national contingents, military observers, and civilian police officers serving in United Nations field missions, and as referred to in the Directives for Disciplinary Matters Involving Military Members of National Contingents and Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers.

2. To the extent possible, preliminary investigations shall be conducted by appropriate authorities with the relevant expertise in the category of misconduct being investigated. Preliminary investigations shall be conducted in accordance with internationally recognized principles of due process and fairness.

II. PURPOSE

3. The purpose of the preliminary investigation is to establish the facts of the case.

III. PLANNING OF AN INVESTIGATION

Step One

4. Define an investigation work plan, listing the steps necessary for conducting the investigation, such as:
   - Witness list;
   - Document list and/or “other evidence” list;
   - The means to be used to collect the evidence;
   - Locations to be investigated;
   - Possible travel arrangements;
   - Local authorities to be consulted;
   - Technical expertise/opinion needed;
   - Estimated time frame;
   - Cost of investigation; etc.

Step Two

5. Discuss the investigation work plan among the investigating team to obtain a common understanding on how to proceed. Go over the procedures outlined below to ensure that there is a consensus on the methodology.

6. Clearly identify responsibilities of each team member and division of tasks.
IV. CONFIDENTIALITY

8. The investigation shall be conducted with the greatest regard to confidentiality. Authorized disclosure, only under certain circumstances, shall be permitted. Unauthorized disclosure constitutes misconduct for which disciplinary measures may be imposed.

9. Provisions of confidentiality shall apply to the following:
   (i) The initial complaint or report (hereinafter complaint);
   (ii) The identity of the person who has made the complaint;
   (iii) The identity of the subject;
   (iv) The identity of witnesses;
   (v) The victim.

10. The investigators shall be responsible for ensuring that the information provided in the complaint, the identity of the complainant and the subject, and witnesses and their statements are not accidentally, negligently or wilfully disclosed. The investigator(s) will be obliged to take all appropriate measures for the protection of this information.

11. Authorization for disclosure will be given by the Head of Mission.

Confidentiality of Complaint

12. Although the information provided in the complaint should be confidential, it will be used for the conduct of the investigation and for the conduct of administrative, disciplinary or judicial proceedings.

Confidentiality of Complainant/Victim

13. Circumstances under which authorized disclosure of the identity of the complainant/victim can be made are as follows:
   (i) The complainant/victim has consented to the disclosure (see form attached as Sample 1);
   (ii) Such disclosure is necessary for administrative, disciplinary and judicial proceedings;
   (iii) Authorized disclosure can also be made when a false complaint or report is made. Making a willfully false allegation constitutes misconduct and, therefore, disciplinary measures may be imposed against the complainant. Consequently, for the subsequent administrative and disciplinary proceedings the identity of the person who has, with bad intent, made a false complaint may be disclosed.

Confidentiality of Subject

14. Identity of the subject may be disclosed for the purposes of furthering the investigation and for the imposition of administrative, disciplinary or judicial proceedings.
Confidentiality of Witnesses
15. Witnesses shall be provided confidentiality, if they request, to the extent possible.

V. INTERVIEWING COMPLAINANTS, SUBJECT(S) AND WITNESSES
Sequence of Interviews
16. The sequence of interviews should be at the discretion of the investigator(s). Normally, the sequence is as follows:
   (i) Complainant(s) and/or victim(s);
   (ii) Subject (the person in question);
   (iii) Witnesses;
   (iv) Follow-up interviews with complainant/victim and the subject, if necessary.

17. Sometimes it may be appropriate to interview some or all of the witnesses before interviewing the subject (and reviewing other evidence, such as documentary or physical evidence) in order to give him/her an effective opportunity to respond to all the allegations.

18. The investigator(s) shall conduct as many interviews or make as many contacts with witnesses and/or subject(s) in order to support a rational finding of facts.

Interview Site
19. It is preferable to conduct interviews in a place where other employees will not be able to see who is being interviewed and how long the interview takes.

20. This may require that the interview be conducted away from the job site, such as at a hotel conference room, or perhaps at the home of the interviewee.

21. In-person interviews are preferable to telephone interviews, which are not optimal because investigators need to be able to see the person to make an assessment of credibility. Telephone interviews may be appropriate for non-crucial witnesses, when an in-person interview would be too difficult or expensive.

Language of Interview
22. All interviews shall be in the preferred language of the interviewee. If an interpreter is necessary, one shall be provided. The interpreter shall remain impartial and objective in the conduct of the interview.

Interviewing Minors
23. When a minor is to be interviewed, an appropriate adult must be notified as soon as possible. Minors must be interviewed in the presence of an adult of the minor’s choosing.  

5 A minor is defined according to the applicable local laws. However, the international legal standard, as defined by Article 1 of the Convention of the Rights of the Child, is that a minor is “a person under 18 years of age”.

16
Third Parties
24. A third party whose presence is deemed necessary by the investigator(s) (interpreters, adults accompanying minors, etc.) shall be obliged to maintain full confidentiality, and shall sign a certification to that effect, with respect to the matter discussed and to all the information gathered during the interview. The role of a third party in an interview is solely to facilitate the interview.

Interviewing Victims
25. Interviewing a victim of an act of serious misconduct shall be done with sensitivity and understanding.

Interviewing Subjects
26. The subject of an investigation should be advised about the matter under investigation and any specific allegation made against him/her.

27. The subject has an obligation to cooperate with the investigation and to answer questions truthfully and honestly. The subject should be given the opportunity to speak and to provide information in his/her own words without unnecessary interruptions by the investigator(s). The subject may offer such information, documents or other materials as (s)he wishes to assist in the inquiry. The subject may name witnesses on his/her behalf and in favour of his/her contentions.

28. The interviewing investigator(s) can question the subject on all the aspects deemed relevant for the conduct of the investigation, in any rhetorical manner, in a free conversation or in a strict question-and-answer format.

Interviewing Witnesses
29. Witnesses who are members of the field mission are obliged to cooperate with the investigation and must reply honestly and truthfully to questions. A witness acknowledgement form shall be completed and signed. (See form attached as Sample 2.) Witness acknowledgement forms should be made available in local languages when dealing with local witnesses.

How to Interview
30. Prepare an outline of topics to be covered during the interview, e.g. What is the complaint? What is in dispute? What relevant information does the interviewee possess? As a general rule, investigators should address non-threatening topics first and hard topics last.

Structure of the Interview
Introductory questions
31. These are examples of introductory questions:
   ➢ The investigators should introduce themselves;
   ➢ Inform interviewees of the purpose of the interview;
Stress that no conclusions have been reached (the goal is to hear all sides of the story);
Put the interviewee at ease by first establishing a rapport with him/her by asking general questions on non-threatening topics, such as general background, age, employment history, address, etc.

**Questions about the matter under investigation**

32. Investigators should not be afraid to ask the tough questions. If the interviewee is not cooperating fully, investigators should politely but persistently seek an answer to their questions.

33. It is important to ask the interviewee if they know of any documents related to the matter. The investigators should always define what they mean by "documents", which could include memos, letters, notes, calendars, e-mails, computer files, voice mails, tape recordings, diary notes, etc.
   - Use the "Funnel Method" for questioning:
     - Open-ended questions
       - First ask broad, open-ended questions designed to elicit an expansive, narrative response.
       - Seldom interrupt a witness. As they talk, investigator(s) should take notes on areas that they may want to explore in further detail later. If they learn of a new topic, they should make a note of it and come back to it later.
     - Follow-up
       - Once the interviewee has answered the open-ended question, follow-up by asking about each incident/conversation/issue separately. Ask for details.
   - Follow-up on non-responsive answers

**Closing questions**

34. These are examples of closing questions:
   - Is there anything else that we have not discussed that you think is relevant to this matter? (Interviewee should be able to contact the investigators later if they think of or have additional information or documents related to the matter.)
   - Who else should we interview?
   - Are there any documents relating to this issue? (Documents may include e-mails, personal letters, faxes, medical records, etc.)
   - Remind subjects and witnesses that retaliation against victims and complainants constitutes serious misconduct.
   - Request that the interviewee keep the matter confidential in order to protect the integrity of the investigation.
   - Thank the person for his/her cooperation.
What not to ask

35. Investigators should avoid aggressive, leading questions especially at the beginning of the interview. For example, a friendly, conversational approach works better than an aggressive, cross-examination. The aim is to get the interviewee to talk as much as possible in order to obtain as much information as possible, look for inconsistencies in the interviewees’ stories and make credibility determinations.

36. Avoid leading or close-ended questions (especially at the beginning of an interview and at the beginning of a category of questions). For example, “Did you see John drinking at the Post Office?”

37. Avoid compound questions that would allow the interviewee to truthfully answer only part of the question. For example, “Was he drunk when you saw him at the Post Office?” Answer: “I did not see him at the Post Office.”

38. Avoid legalese; use simple language.

39. Avoid questions that allow the interviewee to define a term in his or her own way, e.g. “Was he just having a good time?”

Taping of Interviews

40. Normally, it is not obligatory to conduct tape recordings of interviews. However, interviews could be taped by investigator(s) for their own convenience. It allows the investigator(s) to focus more on listening to the interviewees’ answers, rather than taking copious notes. All tape recordings must be transcribed and summarized into a formal record of the interview, which will require a signature by the interviewee attesting to its accuracy, as mentioned in paragraph 39 below.

41. However, transcribing the tapes of interviews could be time-consuming. Quality of the tape could be poor, which could be a critical problem if the investigators are relying on the tape and have not taken notes. Also, taping of an interview could potentially inhibit the interviewee and have a “chilling effect”. The investigators should make every effort to put the interviewee at ease so that they feel at ease to speak candidly.

Written Statements

42. The investigator may request an interviewee to furnish a written statement, or an interviewee may choose to make a written statement. The interviewee may provide this written statement in addition to an interview.

43. The statement shall be written in simple and plain language. The statement should be written in the first person (singular or plural, depending on how many persons are involved).
44. The language of the written statement shall be determined according to its likely use. For administrative action or disciplinary measures to be taken by the United Nations, the language of the statement shall be the working language of the mission. If a criminal prosecution seems probable, it may be considered to translate the statement into the working language of the court that will be in charge of conducting the trial. If possible, the language of the statement should be in the interviewee’s preferred language.

45. The interviewee shall acknowledge the accuracy of the written statement by initialling it at the bottom of every page and signing at the end of the statement. If the interviewee decides to amend any part of the statement, (s)he shall initial the amendment as well.

46. The person shall sign and date the statement in the investigator's presence.

47. No threats or coercion of any kind may be used to obtain a written statement.

VI. COLLECTION OF EVIDENCE

Forms of Evidence

48. Forms of evidence include but are not limited to:
   - Documentary evidence
   - Demonstrative/physical evidence
   - Statements by complainants, subjects and witnesses
   - Experts’ opinion

Means of Obtaining Evidence

49. Means of obtaining evidence include but are not limited to:
   - Observation
   - Forensic research and analysis
   - Interviews

50. When attending the scene/location of an incident, the investigator shall document what he/she sees, not what he/she thinks and take all necessary steps to protect the scene. The notes and reports shall be done in a chronological order and shall include no opinions, no analysis, or no conclusions; just the facts.

51. The evidence observed, its location, condition, or anything remarkable about the evidence shall be included in the investigation report. If necessary, photographs shall be taken or a sketch/diagram made.

Safeguarding Evidence

52. Evidence should be duly logged and secured. The log should indicate where and how each piece of evidence was obtained.
53. When an act of serious misconduct that may amount to a criminal offence has occurred, investigator(s) should pay particular attention to the collection and safeguarding of evidence, as it may serve as a basis for a subsequent judicial process.

Validating Information

54. The goal of the preliminary investigation is to find one or more facts to establish the existence or non-existence of a key element of proof of the allegation. Furthermore, a determination needs to be made if any relevant rules, directives or standard administrative or operating procedures were contravened.

55. Once the initial fact-finding has been conducted, there is a need to establish the accuracy and authenticity of the evidence such as testimony, observations, records, and other documentary and physical evidence. Throughout the investigation, evidence obtained shall be checked against the investigative plan by verifying its accuracy. Initial evidence shall be checked against new evidence obtained. Conflicting testimony, information or material matters will be resolved by collecting additional evidence from other competent witnesses and sources.

56. In determining credibility of witnesses, account shall be taken of their interest, bias, integrity, reputation, the manner in which they gained their information, and any possible motive. The demeanour of the witness/subject being interviewed should also be taken into account when determining credibility.

57. Through this continuous process of the validation of evidence obtained, the investigator(s) shall ensure that the findings and conclusions of the investigation are fully supported by evidence. If any piece of evidence is ambiguous, it needs to be weighed. This means that the investigator(s) needs to reflect on the evidence with regard to the following factors: credibility; logic; plausibility; completeness; and persuasiveness. The standard of proof used by the investigator(s) is the preponderance of the evidence (50 plus 1).

58. Acting neutral and impartial in the process of weighing the evidence is crucial for the persuasiveness of the investigation’s findings.

VII. REPORT OF PRELIMINARY INVESTIGATION

59. The Investigation Report is the summary of the work that has preceded it and its findings and conclusions are based on the evidence obtained. Each fact expressed in the Investigation Report will be fully and substantially supported by evidence. No evidence shall be included in the report that has not undergone extensive review and testing. The investigator(s) shall ensure that facts are backed by evidence and supporting rationale.
Format and Content of Preliminary Investigation Reports

60. The report of the preliminary investigation generally shall contain the following major sections:
(a) Title Page
(b) Executive Summary
(c) Methodology
(d) Background Information
(e) Investigative Details
(f) Issues
(g) Finding of Facts
(h) Annexes

(a) Title Page
61. The title page contains the official title of the case. It shall contain a warning that the report is the property of the United Nations field mission and is not to be reproduced or disclosed to unauthorized persons. The details of the reporting investigator(s) (name, rank and title), the date and the distribution shall be shown on the title page.

(b) Executive Summary
62. The Executive Summary shall specify the nature of the allegation(s); the methodology used for the investigation; the violation (if any) of mission regulations, rules, orders or instructions, as well as any applicable laws; and the results of the fact-finding.
63. The Executive Summary should also include the date, time, place and other specifics of the incident, including who committed what, when and where. The Executive Summary is intended to give the reader a quick overview of the case from its inception to the writing of the report. Every statement in the summary must be fully substantiated in the body of the report. It must not include any opinions or conclusions of the investigator(s); only facts or statements substantiated in the body of the report will be presented in the Executive Summary.

(c) Methodology
64. This section shall contain a brief description of the methodology used to conduct the investigation, including locations that were investigated; witnesses interviewed; local authorities that were consulted; technical expertise/opinion sought; documents analysed; etc.

(d) Background Information
65. This shall provide details of the allegation(s) and who made them; a narrative of the context in which the incident occurred, without mentioning evidence at this stage; and any other necessary background information.

(e) Investigative Details
66. This section shall provide a detailed account of the conduct of the investigation and the evidence collected. This should be presented in a logical form, with supporting information provided in annexes to the report. A chronology of the investigation should be part of this section.

(f) Issues
67. A discussion of any issues that may have come up during the investigation.

(g) Findings of Fact
68. This section shall provide an analysis of the facts as established by the corroborating evidence obtained in the course of the investigation. This section must contain the supporting rationale for the findings of the investigators. If the evidence is ambiguous, the investigator(s) should explain what criteria were used to weigh the evidence and why a specific conclusion was drawn.

(g) Annexes
69. The report can contain as many annexes as necessary. Normally these would contain interview lists; statements of the subject and the witnesses; list of evidence; etc.

VIII. SUBMISSION OF REPORT
70. The report of the preliminary investigation shall be submitted to the Head of Mission as soon as it has been completed. The distribution of the report, as indicated on the Title Page, will also be done concurrently. Normally, the report will be submitted only to the Head of Mission or his/her designee.

71. On the basis of the findings of the preliminary investigation, the Head of Mission may either convene a mission headquarters Board of Inquiry, or (s)he may conclude that no act of serious misconduct occurred.
SAMPLE 1

SAMPLE CONSENT TO DISCLOSURE FORM

<table>
<thead>
<tr>
<th>NAME:</th>
<th>DATE OF ENTRY INTO MISSION AREA:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE/FUNCTION:</td>
<td>END OF MISSION DATE:</td>
</tr>
<tr>
<td>UN ID NO:</td>
<td>TELEPHONE CONTACT:</td>
</tr>
</tbody>
</table>

I hereby consent to the disclosure of my name to the relevant United Nations authorities for the purpose of taking appropriate action on my complaint. I understand that the information will be treated with confidentiality, and shared only as needed.

Signature or Thumb Print
____________________________________________________

Witness (for thumb print)
____________________________________________________

Date: _________________________
SAMPLE 2

SAMPLE WITNESS ACKNOWLEDGEMENT FORM

<table>
<thead>
<tr>
<th>NAME:</th>
<th>DATE OF ENTRY INTO MISSION AREA:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE/FUNCTION:</td>
<td>END OF MISSION DATE:</td>
</tr>
<tr>
<td>UN ID NO:</td>
<td>TELEPHONE CONTACT:</td>
</tr>
</tbody>
</table>

I hereby certify that this is a true and accurate reflection of my statement given to Mr./Ms. ____________________________________________________________ (print name) regarding Case No. ______________________________________________________________.

I understand that the information will be treated with confidentiality, and shared only as needed.

Signature or Thumb Print

____________________________________________________

Witness (for thumb print)

____________________________________________________

Date: _________________________

25
Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions

For Military Members of National Contingents, Military Observers and Civilian Police Officers
I. PURPOSE
1. The purpose of this directive is to inform military members of national contingents, military observers and civilian police officers of the United Nations policy and procedures on sexual harassment. Field mission personnel are strongly advised to familiarize themselves with this directive and to abide by it. This directive provides illustrations of what constitutes sexual harassment; explains the different avenues for resolution of differences/grievances; outlines the steps necessary to lodge a complaint and the organizational process to address a grievance of sexual harassment.

II. SCOPE OF APPLICATION
2. This directive shall apply to military members of national contingents, military observers and civilian police officers.

3. This directive shall not supersede any national guidance or procedures that may exist on dealing with sexual harassment.

III. STANDARD OF CONDUCT
4. The Charter of the United Nations sets high standards for the Organization and requires the observance of those standards. Article 8 of the Charter, which is aimed at preventing any form of discrimination within the Organization, states: “The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.” Sexual harassment creates intimidating, hostile and offensive work environments in which women and men are prevented from equal participation and full involvement in United Nations activities. The United Nations is, therefore, committed to fostering a workplace free of harassment and intimidation, where all field mission personnel can work together with openness, trust and respect for differences.

5. Mission personnel shall conduct themselves in accordance with the highest standards of honesty and integrity. They shall treat each other, at all times, with courtesy and respect, without discrimination or prejudice. Field mission personnel shall always avoid any behaviour in the workplace that may create an atmosphere of hostility or intimidation. This applies to all interactions, whether with supervisors, peers or subordinates; and in all work situations, including mission travel. This policy shall be applicable not only to the work place but also to any other situation of work or work-related activities or functions, irrespective of the time and place of such activity or function.

6. Further, field mission personnel shall maintain the highest standards of personal conduct, whether or not their activities are connected to official business. This principle is firmly ensconced in the Ten Rules: Code of Personal

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1 In addition to the Charter, various international declarations, conventions and resolutions reiterate this principle of equal participation. Security Council resolution 1325 (2000) stresses the importance of women’s equal participation and full involvement in all efforts to maintain peace and security, and in peace-building.
Conduct for Blue Helmets and other relevant mission issuances. Behaviour that is incompatible with these standards shall be subject to appropriate action, including disciplinary proceedings. Hence, field mission personnel must take due care not to create, in private or in public, situations that discredit the Organization or offend the community in which they live or work.

7. Field mission personnel shall demonstrate and cultivate an international outlook that is respectful of all people with their different points of view, different lifestyles and different customs. Field mission personnel shall have a particular responsibility to understand and respect the culture and customs of the country in which they serve and be careful to avoid any behaviour that could constitute or be construed as harassment.

IV. DEFINITION AND EXAMPLES OF SEXUAL HARASSMENT

8. Sexual harassment is any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when:

- It interferes with work;
- It is made a condition of employment; or
- It creates an intimidating, hostile or offensive work environment.

It is particularly serious when behaviour of this kind is engaged in by any official who is in a position to influence the career or employment conditions (including hiring, assignment, contract renewal, performance evaluation or promotion) of the recipient of such attentions.

9. Behaviour that constitutes sexual harassment includes, but is not limited to, the following:

- Demands (direct or implicit requests) for sexual favours in exchange for favourable treatment or continued employment;
- The repetition of suggestive comments or innuendoes;
- The exhibition of materials of a sexually-oriented nature;
- The use of crude or obscene language or gestures, or the telling of risqué or obscene jokes;
- Repeated and/or exaggerated unwelcome compliments about a colleague’s personal appearance;
- Invitation to social activities if they persist after the recipient has made clear that they are not welcome;
- Deliberate and unsolicited physical contact, including fondling or groping, or unwelcome close physical proximity; and
- Comments (verbal or written), gestures, or physical actions that are perceived as demeaning, belittling, or causing personal humiliation or embarrassment.

10. Sexually harassing conduct in the workplace constitutes behaviour that:

- Is unsolicited, unwanted and unreciprocated by the recipient;
- Could be a single incident or a repeated, continuous pattern of behaviour;
- Could be directed at a particular person or a number of people;
11. However, there is a wide range of ambiguous behaviour that might offend some people, but not others. Situations can be perceived as sexually harassing because of differences in power, culture and gender. Given the multicultural environment of field missions, personnel must be sensitive to the fact that behaviour that might be regarded as acceptable in one culture, may give offence in another. The standard of determination of harassment is not the intent of alleged harasser, but the effect of the behaviour on the victim.

V. PREVENTION
12. Field mission personnel are encouraged to ensure that they have a good understanding of the issues surrounding sexual harassment, particularly in recognizing behaviour, both of others and themselves, which could constitute sexual harassment.

13. Managers and supervisors are responsible for maintaining a harmonious, hostility-free work environment and shall take prompt action to deal with any incidents of unacceptable behaviour, including sexual harassment. In this respect, the mission shall take preventive steps to reduce the potential for cases of sexual harassment, such as:

- Ensuring that field mission personnel are well-informed, through induction programmes, briefings, information circulars and/or training programmes, of the definition of sexual harassment, the United Nations position that sexual harassment will not be tolerated, as well as the policy and procedures on dealing with allegations of sexual harassment; and
- Ensuring that senior officers lead by example and take prompt action to deal with any potential situations that may lead to sexual harassment.

VI. NOTIFICATION
14. Field mission personnel are encouraged to come forward in good faith to expose acts of sexual harassment. Senior managers have an obligation to report any incidents or behaviour that may constitute sexual harassment that they may be aware of or that have been brought to their attention.

15. Any mission member who feels that (s)he is being subjected to sexual harassment should first, where possible, make her or his disapproval clearly known to the individual(s) concerned and ask that the behaviour stop. If the circumstances make approaching the individual(s) too threatening, or if direct communication is either ineffective or impossible, these guidelines provide an informal and formal approach to resolving the situation.

VII. DOCUMENTATION
16. The aggrieved individual(s) should keep a written record of each incident, preferably immediately after it occurs, making a note of the date and time, the
place it occurred, a short description of what happened, and names of any
witnesses to the incident or other persons to whom the incident might have been
mentioned. This documentation can be vital if the complaint becomes a formal
one.

VIII. AVENUES OF ASSISTANCE
17. The informal approach allows for the resolution of the situation through
informal means: counselling or mediation. The informal approach provides a non-
adversarial forum to resolve a situation of sexual harassment, while
simultaneously preserving the privacy of the parties. The purpose is not to judge
or punish and typically ends when the complainant is satisfied with the outcome.
Hence, in the informal approach, control over the outcome usually rests with the
complainant.

18. The informal approach is characterized by the following elements:

- Non-compulsory nature;
- Privacy;
- Absence of a formal investigation;
- Absence of a focus on culpability;
- Absence of sanctions.

19. Resort to the informal approach is not compulsory. The particular
circumstances of some cases may be such that the complainant may decide to
forego the informal approach altogether and resort directly to formal procedures.

20. The formal approach calls for a formal complaint and is governed by the
specific procedure for handling cases of serious misconduct. It begins with the
lodging of a written complaint, and requires an investigation. The alleged
perpetrator has a right to be made aware of the accusation and given a chance
to respond. The formal process ends after appropriate action is taken by the
Head of Mission, which could include disciplinary action and sanctions, including
judicial sanctions.

21. In essence, the formal approach is characterized by the following
elements:

- Filing of a written complaint;
- Subject shall be made aware of the complaint and given a chance to
  respond;
- Prompt and speedy investigation;
- Confidentiality of case and records on a need-to-know basis;
- Resolution through appropriate action based on a decision by the Head of
  Mission;
- Possibility of sanctions.

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2 See Directives for Disciplinary Matters Involving Military Members of National Contingents and
Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers.
IX. INFORMAL APPROACH
22. To pursue the informal approach, the following persons can be contacted:
   Appropriate military and civilian police contact person;
   Mission staff counsellors;
   Mission focal points for women;
   Personnel Conduct Officer;
   Trained mediators;
   Chief Military Personnel Officer/Chief Civilian Personnel Officer;
   Any individual, acceptable to both parties, willing to intervene.

Counselling
23. Counselling is systematic guidance offered by trained counsellors (e.g.
   Staff Counsellors, professional counsellors, clinical psychologists), with the aim
   to discuss the situation and to provide appropriate advice. Counselling is a
   supportive measure available to both victims and alleged perpetrators.

24. Individual(s) can seek counselling from a mission staff counsellor, or any
   other trained professional. The details of the counselling shall remain private.

Mediation
25. Mediation is a process by which two parties come together to resolve the
   situation through the facilitation of a third party. Mediation empowers mission
   personnel not only to resolve their own problems, but also enables them to
   choose a process and person with whom they feel comfortable. The parties shall
   select mutually acceptable mediator(s), who shall be perceived by both parties to
   be neutral and preferably shall be trained in mediation of sexual harassment.

26. If the informal approach does not lead to a resolution within an acceptable
   timeframe (10 to 30 days), the complainant may pursue the formal approach. The
   informal approach will also be considered to be at an end if one of the parties
   involved objects to its continuation.

X. FORMAL APPROACH
27. To pursue a formal complaint, the aggrieved individual(s) shall ideally
   make a written complaint. Alternatively, a verbal complaint can be lodged, which
   shall be translated into a written complaint by a relevant authority, such as
   designated authorities in the military/police component, the Personnel Conduct
   Officer, the mission Focal Points for Women, a Personnel Officer, a Security
   Officer, among others. The complaint shall be sufficiently detailed to facilitate an
   investigation.

28. The Head of Mission has a responsibility to maintain a harassment- and
   hostility-free work environment. The presence of a real or perceived sexual
   harassment situation generates stress in individuals and work environments that
   is not conducive to productivity and congeniality in the work place. Hence,
   serious consideration shall be given to the option of reassigning one of the two
   parties involved in the situation until formal resolution of the complaint. In
reassigning one of the two parties, care shall be taken not to take any action that would appear to prejudge the complaint or to be disadvantageous to either party.

29. Upon receipt of a formal complaint of sexual harassment, the Head of Mission shall immediately call for an investigation. The purpose of the investigation is to establish the facts of the case. The investigation team shall consist of two members, a man and a woman. The Head of Mission may request that the investigators be external to the mission.

30. The alleged harasser shall be advised of the complaint against him/her, and given a copy of any relevant written complaint/report. The alleged harasser will be given the opportunity to respond in writing to the allegations.

31. The investigation shall be conducted preferably by investigators trained in the investigation of sexual harassment complaints. The investigation will be conducted in accordance with the Guidelines for Investigating Sexual Harassment Complaints provided in Annex A. Preferably, such investigations shall be conducted by investigators with the relevant expertise in investigating sexual harassment complaints.

32. The investigation shall be confidential and shall be concluded in a reasonable timeframe (10-30 days) within receipt of the formal complaint.

33. The investigation will not preclude any interim measures that the designated disciplinary supervisor may wish to take with regard to the military or police personnel involved or for the conduct of a national investigation, in accordance with national rules and procedures.

34. The findings of the investigation shall be communicated to the Head of Mission, who will determine the appropriate action to be taken.

35. The Head of Mission will review the final report of the investigation, in consultation with the appropriate personnel on his staff (e.g. Legal Officer, Staff Counsellor, Medical Adviser), before determining the action to be taken. The final report of the investigation will be transmitted to United Nations Headquarters in New York, along with the decision of the Head of Mission and what measures have been taken to implement it.

36. In the case of military members of national contingents, the report of the investigation along with the Head of Mission’s decision will be communicated to the national contingent commander concerned. In the case of military observers and civilian police officers, the report will be communicated to the designated disciplinary supervisor.

37. The file on the complaint and all relevant documentation will be retained in the mission archives until the closure of the mission and thereafter transferred to United Nations Headquarters in New York.
38. Investigation reports are confidential, internal documents of the United Nations and, as a rule, not made available to outside entities. Approval for a report to be released to, inter alia, a Member State should be approved by United Nations Headquarters in New York.

XI. REPATRIATION
39. In the case of military members of national contingents, military observers and civilian police, the decision to repatriate, in all cases, will be made by United Nations Headquarters in New York, based on the recommendation of the Head of Mission. Once decided, repatriation is to be immediate and the national authorities concerned are to be contacted at once through the Permanent Mission concerned in New York. The expenses connected with the repatriation and replacement action will be borne by the Member State involved.

40. If the continued presence in the mission area of individual(s) to be repatriated on disciplinary grounds is detrimental to the morale of the staff, the image of the mission or has other negative effects, the objective of the Organization is to repatriate as soon as appropriate.

XII. PROTECTION AGAINST RETALIATION
41. A person who, in good faith, brings a complaint of harassment should not be subjected to retaliation. Retaliation is any unwelcome attempt to discriminate against a member of the field mission or detrimentally affect the terms and conditions of their employment or work environment which is motivated by his or her having made a complaint of sexual harassment.

42. Retaliation is a serious violation of this sexual harassment policy and should be reported immediately. Any person found to have retaliated against another individual for reporting sexual harassment would be subject to the same disciplinary action provided for sexual harassment offenders.

XIII. PROTECTION AGAINST FALSE ALLEGATIONS
43. Making a false allegation of sexual harassment in bad faith, wilfully and knowingly, is also a serious violation of this policy and shall be considered misconduct requiring appropriate action, including disciplinary action.

XIV. ASSISTANCE TO VICTIMS
44. Once the final report of the investigation along with the comments and/or decision of the Head of Mission have been reviewed by United Nations Headquarters in New York, the final decision, action or guidance should be conveyed immediately back to the Head of Mission. This information may be used by the Head of Mission to appropriately inform the victims/individuals concerned of the action taken.

45. The Head of Mission should consider appropriate measures to assist victims of acts of sexual harassment, including directing them to relevant organizations/support groups that could provide assistance.
XV. FOLLOW-UP

46. The United Nations shall request information from Member States regarding national disciplinary or criminal action taken with regard to personnel repatriated on disciplinary grounds. If no response is received, periodic reminders will be sent to the concerned Permanent Mission from the Department of Peacekeeping Operations. If still no response is forthcoming, appropriate steps shall be taken to bring the matter to the attention of the Government concerned at the highest possible levels, to underscore the seriousness of the matter and to pursue it with a view to seeing that appropriate disciplinary steps are taken.
ANNEX A

GUIDELINES FOR INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

I. Introduction

1. These guidelines are intended to serve as a guide for the conduct of investigations into allegations of sexual harassment. Given the sensitive nature of such investigations, to the extent possible, such investigations shall be conducted only by investigators with the relevant expertise in investigating sexual harassment complaints.3

2. A sexual harassment investigation shall be conducted when either party does not desire informal resolution of the situation and a formal, either written or verbal, complaint of sexual harassment is made. The purpose of the investigation shall be to establish the facts of the case.

II. Investigation Team

3. The investigation team shall consist of two members, a man and a woman. The Head of Mission may request that the investigators be external to the mission.4

III. Timeframe

4. The investigation shall be concluded in a reasonable timeframe (10-30 days) within receipt of the formal complaint. Delays have several negative effects, including affecting the credibility of the process and the reliability of witnesses.

IV. Confidentiality

5. Although the complainant cannot be promised absolute confidentiality, the investigators shall make every effort to limit the number of persons who have access to the information, communicating strictly on a “need to know” basis. They shall emphasize to those involved that their discussions are not to be shared with others and provide a warning, if necessary, of possible disciplinary action, if confidentiality is breached. Investigators must sign an understanding of their obligation to protect the confidentiality of the complaint and the investigation.

6. The alleged harasser shall be advised of the complaint against him/her, and given a copy of any relevant written complaint/report. The alleged harasser shall be given the opportunity to respond in writing to the allegations.5

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3 A roster of sexual harassment investigators shall be maintained by the Department of Peacekeeping Operations to complement the investigative capacity of field missions.
4 See para 29 of Directive on Sexual Harassment in UN Peacekeeping and Other Field Missions
5 See para 30 of Directive on Sexual Harassment in UN Peacekeeping and Other Field Missions
V. Planning the Investigation

7. In preparing for the investigation, the investigators shall thoroughly review the existing policies of the Organization on the issue as well as all relevant mission policies, directives, procedures and other instructions.

8. A confidential file shall be created for the investigation, which shall include a record of the complaint, copies of all relevant policies and procedures, documentation relating to the complaint, a detailed record of the conduct of the investigation, the understanding of confidentiality signed by the investigators and any other relevant information.

9. The investigators shall define a work plan for the investigation, including a witness list; a documents or other evidence list; the possible locations that would need to be visited; travel arrangements that may need to be made; the time it would take to conduct the investigation; cost of the investigation; etc. The investigators shall agree on the methodology for the investigation and how to proceed.

10. All claims shall be treated seriously—even those that seem frivolous—until there is reason to do otherwise.

11. If there is more than one allegation, each shall be treated separately.

VI. Interviewing

12. The sequence of interviews shall be at the discretion of the investigators. Normally, the sequence is as follows:
   (i) Complainant(s);
   (ii) Subject (the accused);
   (iii) Witnesses;
   (iv) Follow-up interviews with complainant and subject, if necessary.

13. Sometimes it may be appropriate to interview some or all of the witnesses before interviewing the subject (and reviewing other evidence, such as documentary or physical evidence) in order to give him/her an effective opportunity to respond to all the allegations.

14. The investigators shall conduct as many interviews or make as many contacts with witnesses and/or subject(s) in order to support a rational finding of facts.

15. It is preferable to conduct interviews in a place where other employees will not be able to see who is being interviewed and how long the interview takes. This may require that the interview be conducted away from the job site, such as at a hotel conference room, or perhaps at the home of the interviewee.
VII. Interviewing the Complainant

16. These are tips for investigators interviewing complainant(s):

- Arrange to interview the complainant in a private place.
- Introduce yourself and thank the person for coming.
- Review relevant UN policy with him/her.
- Explain the process of investigation in a supportive manner. Seek the person’s cooperation.
- Acknowledge that bringing a harassment complaint is a difficult thing to do and reiterate that each complaint is taken seriously and investigated.
- Reassure the complainant that all information will be kept confidential to the extent possible and that no retaliation will be permitted.
- Listen to the charge. Do not make comments like, “You’re overreacting.” Instead, be sympathetic in a neutral manner. For example, “I know this is difficult for you.”
- Do not be afraid to be silent after you have asked a question or if the person is upset.
- Maintain a professional attitude. Do not ask questions about prior or current sexual conduct or activities of the complainant.
- Do not make any statements about the alleged perpetrator’s character, job performance, or family life.
- Gather the facts; don’t be judgemental.
- Get specific details. Ask who (including participants and/or witnesses), what, when (including specific dates and times), where, why, and how (including how it happened and how the complainant reacted).
- Ask if the complainant spoke to anyone at the time of the event.
- Ask if the conduct was similar to any conduct mutually engaged in previously.
- Ask if the person can provide copies of any documents (journals, calendar entries, e-mails, etc) or names of persons that have information pertaining to the complaint.
- Find out if the complainant is aware of a pattern of previous episodes or similar behaviour towards others.
- Determine the effect of the conduct on the complainant. Was it economic, non-economic and/or psychological? Has it affected his/her work? If so, how?
- Ask how the complainant would like to have the matter resolved and what action he/she wants the UN to take, but do not promise specific results.
- Provide an opportunity for the complainant to make additional comments and/or ask questions. You could take a break before concluding.
- Provide complainant with an approximate timetable for the investigation and inform the person that he/she will be notified of the decision.

VIII. Interviewing the Subject

17. The subject of an investigation should be advised about the matter under investigation and any specific allegation made against him/her.
18. The subject shall be given the opportunity to speak and to provide information in his/her own words without unnecessary interruptions by the investigator(s). The subject may offer such information, documents or other materials as (s)he wishes to assist in the inquiry. The subject may name witnesses on his/her behalf and in favour of his/her contentions.

19. These are tips for interviewing the subject:
- Arrange to interview the subject in a private place.
- Introduce yourself and thank the person for coming.
- Review relevant UN policy with him/her and explain the process of investigation in a supportive manner. Seek the person’s cooperation.
- Reassure the subject that all information will be kept confidential to the extent possible.
- Inform the subject of the complaint and provide him/her an opportunity to comment and explain his/her side of the situation. If possible, obtain a written statement either before or at the interview.
- You can expect the subject to deny the charges. Observe his/her reaction. Describe the details of the allegation and note the areas of disagreement between the testimonies of both parties. If the subject denies the allegations, probe further to determine why (s)he thinks that such a complaint could have been made.
- Ask exactly what the subject did, not what (s)he intended to do or what (s)he meant.
- Ask if the person can provide copies of any documents (include memos, letters, notes, calendars, e-mails, computer files, voice mails, tape recordings, diary notes, etc.) or names of persons that have information pertaining to the complaint or corroborating the subject’s version of events.
- Identify the relationship of the subject to the complainant.
- Was there any prior consensual relationship between the parties? How long have they known each other? Is there a history of group or individual socializing?
- If the subject is a supervisor, indicate the individual's job title and obtain a copy of the individual's job description, and determine the individual's specific duties at the time of the alleged harassment.
- Determine whether the subject directed or had responsibility for the work of other employees or the complainant, had authority to recommend employment decisions affecting others or was responsible for the maintenance or administration of the records of others.
- Provide an opportunity for the subject to make additional comments and/or ask questions. You may want to take a break before concluding.
- Reiterate to the subject that the UN does not permit retaliation against those who complain. Retaliation is itself grounds for disciplinary action.
- Give an approximate timetable for when the investigation will be completed and inform the person that he/she will be notified of the decision.
IX. Interviewing Witnesses

20. To the extent possible and necessary, questions should be uniform for all witnesses.

21. These are tips for interviewing witnesses:
   - Arrange to interview each witness individually in a private place.
   - Introduce yourself and thank the person for coming.
   - Tell the person, in a neutral manner, that there is reason to believe that he/she may have information that would be helpful to an investigation. Review UN policy with him/her and explain the process of investigation in a supportive manner.
   - Assure all witnesses that their cooperation is important, that their testimony is confidential and that they will not be retaliated against for testifying.
   - Begin by asking generally about incidents of harassment (s)he has observed and their general understanding of what constitutes sexual harassment.
   - If no information about the claim being investigated is forthcoming, ask specifically about the behaviour of both the complainant and the subject, without disclosing the details of the complaint.
   - Ask each witness if he/she is aware of any prior and/or personal relationship between the complainant and the subject.
   - Try and determine what the witness has actually seen, heard or knows. It is not sufficient information, for example, if the witness says, “I think Pat was upset.” Ask why does the witness think so, or how did Pat behave that raised concern.
   - Distinguish between information the witness furnishes based on rumour and information gained through first-hand observation or knowledge.
   - Ask if the witness has or knows of any documents (memos, letters, notes, calendars, e-mails, computer files, voice mails, tape recordings, diary notes, etc.) or persons that have information pertaining to the matter.
   - Stress the confidentiality of the investigation. Ask witnesses not to discuss the interview or investigation with anyone, not even the subject or complainant.

22. Investigators should not be afraid to ask the tough questions. If the interviewee is not cooperating fully, investigators should politely but persistently seek an answer to their questions.

23. Use the “Funnel Method” for questioning:
   - Seldom interrupt a witness. As they talk, investigator(s) should take notes on areas that they may want to explore in further detail later. If they learn of a new topic, they should make a note of it and come back to it later.
Once the interviewee has answered the open-ended question, follow-up by asking about each incident/conversation/issue separately. Ask for details.
Follow-up on non-responsive answers.
Ask if there is anything else that might be relevant to the matter?
(Interviewee should be able to contact the investigators later if they think of or have additional information or documents related to the matter.)

24. Investigators should avoid aggressive, leading questions especially at the beginning of the interview. For example, a friendly, conversational approach works better than an aggressive, cross-examination. The aim is to get the interviewee to talk as much as possible in order to obtain as much information as possible, look for inconsistencies in the interviewees' stories and make credibility determinations.

25. Avoid compound questions that would allow the interviewee to truthfully answer only part of the question. For example, “Was he drunk when you saw him at the Post Office?” Answer: “I did not see him at the Post Office.”

26. Avoid questions that allow the interviewee to define a term in his or her own way, e.g. "Was he just having a good time?"

27. Investigators should ask questions so that information is not unnecessarily disclosed. For example, instead of asking, “Did you see Paul touch Joan?” ask “Have you seen anyone touch Joan at work in a way that made her uncomfortable?” The purpose of the investigation is to gather facts, not disseminate allegations.

X. Review of Facts
28. Prepare a detailed chronology of the complaint and the investigative interviews.

29. It may be necessary to visit the scene of the incident to confirm specific details mentioned in interviewee statements.

30. Determine the time relationship between the occurrence of the conduct, its effect on the complainant, and the time when the complainant made the report.

31. Review all the information obtained during the investigation. All evidence should be weighed, including statements, medical or other expert opinions, circumstantial evidence that has a bearing on the complaint. Evidence presented by a person of authority such as a supervisor should be given no more credibility that evidence from a lower-level employee.

32. Assess credibility, motive and bias. Analyse whether there might have been certain events or circumstances that triggered the complaint. Determine whether there were any possible motives on the part of the complainant or witnesses.
33. Consider the existence or lack of corroborating evidence, as well as any other indicators that may be persuasive to you in determining the facts, including established past conduct.

34. When an allegation of improper behaviour in personal interactions is made, it is common that there may be no disinterested witnesses. In such a case, consider whether the complainant told anyone else of the harassment and/or whether anyone observed a change in behaviour of either or both of the parties. Assessing the credibility of the parties and witnesses calls for observing attitudes and behaviour. A person’s emotional state can be telling. The reports of other persons in the work unit about the complainant’s and the alleged harasser’s behaviour may also be informative.

35. Evaluate the alleged conduct from the standpoint of “a reasonable woman” and “a reasonable man”. In determining whether sexual harassment occurred, the criterion is not “beyond a reasonable doubt”, rather “the preponderance of evidence”. Given the preponderance of evidence, a reasonable person would conclude that this occurred (or did not occur).

36. In assessing credibility changes in the complainant’s behaviour as a result of harassment would add credibility; changes in the alleged harasser’s behaviour as harassment continued or when complainant indicated the behaviour was not welcome would add credibility. Major inconsistencies in testimony would detract from credibility.

37. The timing of the complaint in relation to the occurrence of the behaviour may allow for an inference about truthfulness. If there were a delay in reporting the harassment, an explanation would not detract from credibility (Note: A delay in and of itself would not detract from credibility since many people delay reporting because of a fear of retaliation, not knowing or trusting the policy, fear of being blamed for causing the harassment, not understanding it was harassment, etc.)

38. Documents such as calendar entries, journals, notes, letters would add to credibility. Other complaints against the subject would add to credibility.

39. The fact that a relationship was at one time consensual does not detract from credibility nor is it a defence against a charge of sexual harassment. Consensual relationships can be followed by sexual harassment when one person tries to end the relationship and the other person uses his or her power to intimidate the former lover into staying in the relationship.

40. The fact that the alleged harasser did not intend to harass the complainant is not a defence of a charge of sexual harassment. The standard of determination of harassment is not the intent of the alleged harasser, but the effect of the behaviour on the victim.

41. Not knowing that the behaviour was offensive and unwelcome is not a
defence of a complaint of sexual harassment. The fact that the complainant did not tell the alleged harasser that his/her behaviour was offensive does not affect credibility. There is no obligation for the complainant to inform the alleged harasser that his behaviour is offensive.

42. Motivation to lie, exaggerate or distort information should be assessed when there are differences in what was reported or questions about credibility arise.

XI. Format and Content of Investigation Report
43. The report of the investigation generally shall contain the following major sections:
(a) Title Page
(b) Executive Summary
(c) Methodology
(d) Background Information
(e) Investigative Details
(f) Issues
(g) Conclusions
(h) Annexes

(a) Title Page
44. The title page contains the official title of the case. It shall contain a warning that the report is the property of the United Nations field mission and is not to be reproduced or disclosed to unauthorized persons. The details of the reporting investigator(s) (name, rank and title), the date and the distribution shall be shown on the title page.

(b) Executive Summary
45. The Executive Summary shall specify the nature of the allegation(s); the methodology used for the investigation; the violation (if any) of mission regulations, rules, orders or instructions, as well as any applicable laws; and the results of the fact-finding.

46. The Executive Summary should also include the date, time, place and other specifics of the incident(s), including who committed what, when and where. The Executive Summary is intended to give the reader a quick overview of the case from its inception to the writing of the report. Every statement in the summary must be fully substantiated in the body of the report. It must not include any opinions or conclusions of the investigator(s); only facts or statements substantiated in the body of the report will be presented in the Executive Summary.

(c) Methodology
47. This section shall contain a brief description of the methodology used to conduct the investigation, including locations that were investigated; witnesses interviewed; local authorities that were consulted; technical expertise/opinion sought; documents analysed; etc.
(d) **Background Information**

48. This shall provide details of the allegation(s) and who made them; a narrative of the context in which the incident(s) occurred, without mentioning evidence at this stage; and any other necessary background information.

(e) **Investigative Details**

49. This section shall provide a detailed account of the conduct of the investigation and the evidence collected. This should be presented in a logical form, with supporting information provided in annexes to the report. A chronology of the investigation should be part of this section.

(f) **Issues**

50. This section shall contain any discussion or elaboration of any particular issue that arose during the investigation.

(g) **Conclusions**

51. This section shall provide an analysis of the facts as established by the corroborating evidence obtained in the course of the investigation. This section must contain the supporting rationale for the findings of the investigators. If the evidence is ambiguous, the investigator(s) should explain what criteria were used to weigh the evidence and why a specific conclusion was drawn.

52. The conclusions should also state if there was insufficient evidence to make a determination of whether or not harassment had occurred. This is not the same as saying the harassment did not occur.

(g) **Annexes**

53. The report can contain as many annexes as necessary. Normally these would contain interview lists; statements of the subject and the witnesses; list of evidence; etc.

XII. **Submission of Report**

54. The report of the preliminary investigation shall be submitted to the Head of Mission as soon as it has been completed. The distribution of the report, as indicated on the Title Page, will also be done concurrently. Normally, the report will be submitted only to the Head of Mission or his/her designee.
Public Information Guidelines
For Allegations of Misconduct Committed by
Personnel of United Nations Peacekeeping and
Other Field Missions
Public Information Guidelines for Allegations of Misconduct Committed by Personnel of UN Peacekeeping and Other Field Missions

Introduction

Allegations of misconduct, especially sexual misconduct, committed by United Nations peacekeepers have arisen with persistent regularity in the past and may continue to arise in future missions. These incidents are particularly unacceptable as the United Nations, and personnel associated with it, are held to the highest standards of conduct in their personal and professional behaviour. Such allegations also present a serious public information problem and challenge not only to field missions, but also to United Nations Headquarters and ultimately to the Secretary-General. Even if the number of actual incidents is small, the negative publicity these cases generate tarnishes the image of the United Nations in general and of peacekeeping in particular, and temporarily overshadows, in the public consciousness, the many successes and achievements of the missions themselves.

Among the local population, an absence of visible accountability gives rise to the perception that those accused may get away with their crimes. For a larger international audience, the regularity of these allegations generates a perception that the United Nations is not doing enough to prevent misconduct, including sexual misconduct, among personnel serving in peacekeeping and other field operations.

Public interest and media interest in such allegations will remain strong and broad media coverage must be anticipated when such allegations come to light. Public information personnel in field missions must work with local and international media representatives to project the key messages as outlined below.

Strategic Objectives

The public information strategy to deal with such cases must have the following objectives:

- To convey the message of “zero tolerance” and that all allegations will be promptly investigated and appropriate action will be taken against those found guilty;
- To provide information to victims and their families on what action is being taken by the mission, thus demonstrating transparency on the part of the mission, without compromising any investigation that is being undertaken and divulging details;
- To dispel rumours and damaging gossip with facts, so that the media and the local population sees the mission as trustworthy; and
- To encourage accurate reporting of incidents by the media.
Public Information Guidelines for Allegations of Misconduct Committed by Personnel of UN Peacekeeping and Other Field Missions

Guidance on Dealing with Cases of Misconduct

In order to handle queries from the public and the media on cases of misconduct, public information personnel should refer to the following guidance:

- Be well prepared on all the policies and procedures in place within the mission to deal with allegations of misconduct. These will vary from component to component. (See below for more details on immunities and United Nations jurisdiction over different categories of personnel.)
- Be aware of what preventive steps the mission may have taken, such as existing codes of conduct, promulgation of mission-specific directives or other issuances on behaviour in the mission area, designation of “off-limits” sites etc., any monitoring mechanisms that may be in place, training initiatives, among others.
- Be clear about the facts of the allegation in order to dispel rumours, but use that information advisedly, without prejudging any preliminary investigation or Board of Inquiry review (for reasons of confidentiality, you may not have access to all the facts, but you may be able to state what did not happen).
- Be aware of extenuating circumstances or other factors that may have contributed to a particular incident occurring (these may not justify any misconduct, but may contribute to a common understanding of what occurred).

Other Do’s and Don’ts

- Do say what steps the mission has taken and what the status is (preliminary investigation under way, or Board of Inquiry review, alleged perpetrator detained or temporarily suspended from duties, reassigned to another location etc.);
- Do not comment on the details of any investigation currently under way (premature statements to the press could result in damages being paid to the individual accused);
- Do emphasize the presumption of innocence;
- Do acknowledge any assistance provided to the investigation by both external experts (local military or police) and internal (child protection advisers or the Personnel Conduct Officer);
- Do clarify the limits of United Nations or mission jurisdiction and do emphasize that immunity (if applicable) does not imply impunity. The perpetrator is liable for appropriate action in his/her own country and under his/her own national or military law (if applicable);
- Do clarify that while the United Nations itself cannot take any legal action against military members of national contingents, it does have a strong interest in seeing that justice is served (only in the very special circumstance where a United Nations mission has executive and
governance authority and law enforcement powers, can the mission itself initiate a prosecution);

- If it is established that misconduct occurred, do explain that the United Nations will take whatever administrative and disciplinary action deemed appropriate within its competence and will follow up, as necessary;
- Do explain that repatriation is an administrative measure that the mission can use. Repatriation, however, does not mean the perpetrator is getting off free, but that (s)he will be subject to the jurisdiction, due process and penalties of his/her national authorities;
- Do explain that the United Nations will follow up with national authorities, on a regular basis, to monitor action taken in cases of serious misconduct;
- Do point out that anybody guilty of misconduct is not eligible to work with a United Nations peacekeeping operation again;
- Do draw attention to training that reinforces adherence to the Code of Conduct and other mission directives and issuances;
- Do draw attention to the on-going work of human rights and child protection advisers, the mission Personnel Conduct Officer and other mission personnel working on these issues;
- If appropriate, do draw attention to the HIV/AIDS awareness training that all peacekeepers must undergo; and
- Most importantly, do point out that acts of serious misconduct are rare and that all but a very few peacekeepers work hard to support the mandate, the mission and the peace process.

Legal Status and Jurisdiction

**Military members of national contingents** (i.e. most members of the military component, except military observers) remain under the exclusive criminal jurisdiction of their own national authorities and, therefore, have immunity from local criminal prosecution. However, immunity does not and should not imply impunity. Military members of national contingents are subject to the laws of their own national authorities, who are expected to take appropriate action, including punitive sanctions. In their own countries, military members of national contingents are subject to national military law and can face a court-martial.

**Military observers and civilian police officers** enjoy the status of “experts performing missions” for the United Nations, under Article VI of the 1946 Convention on the Privileges and Immunities of the United Nations. In accordance with that status, they enjoy *inter alia* immunity for the purposes of the official acts they perform. This “functional immunity” is granted solely to enable them to perform their official functions. They are subject to local civil and criminal jurisdiction for acts committed by them in the host country that do not form part of their official functions. These privileges and immunities are granted in the interests of the United Nations and not for the personal benefit of the individuals
Public Information Guidelines for Allegations of Misconduct Committed by Personnel of UN Peacekeeping and Other Field Missions

themselves. The Secretary-General has the right and the duty to waive the immunity of any individual in any case where, in the Secretary-General's opinion, the immunity would impede the course of justice.

Under the 1946 Convention, United Nations civilian staff also enjoy “functional immunity” as described above. Civilian staff are bound by the Charter of the United Nations (Art.101), United Nations Staff Rules and Regulations, and all other administrative instructions and issuances. They are required to observe the standards of conduct expected of international civil servants and to live up to the highest standards of integrity. The Secretary-General's Bulletin entitled Status, Basic Rights and Duties of United Nations Staff Members, issued on 1 November 2002 (ST/SGB/2002/13), provides a commentary on these rules and also contains the International Civil Service Commission standards of conduct. Some uniformed personnel are under United Nations contracts, hence fall under this category of United Nations civilian staff. The United Nations Staff Rules and Regulations, and all other administrative instructions and issuances apply to them in full.

All mission personnel are required to respect local laws and customs and not to discredit the United Nations by their actions.

Procedures and Policies for Various Categories of Personnel

The Directives for Disciplinary Matters Involving Military Members of National Contingents is the applicable instruction for serious misconduct committed by military members of national contingents. These Directives also contain the standards of conduct expected of military personnel in a United Nations peacekeeping or other field mission, their legal status, and the procedure for investigating allegations of misconduct. Other relevant mission-specific directives, standard operating and administrative procedures or issuances may also contain information on various issues relating to conduct, prohibitions, discipline or legal issues. All troop contributing countries have agreed to abide by the Ten Rules: Code of Personal Conduct for Blue Helmets and We are the United Nations Peacekeepers, which also provide guidance on standards of personal behaviour.

For military observers and civilian police officers, the Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers is the relevant instruction. Other relevant mission-specific directives, standard operating and administrative procedures or issuances may also contain information on various issues relating to conduct, prohibitions, discipline or legal issues. The Ten Rules: Code of Personal Conduct for Blue Helmets and We are the United Nations Peacekeepers, applies equally to this category of personnel. Civilian police officers and military observers, additionally, sign an undertaking to abide by all policies and directives laid down by the Head of
Public Information Guidelines for Allegations of Misconduct Committed by Personnel of UN Peacekeeping and Other Field Missions

Mission and to live up to the highest standards of integrity while in service for the United Nations.

In addition, the Directive on Sexual Harassment in United Nations Peacekeeping and Other Field Missions for Military Members of National Contingents, Military Observers and Civilian Police Officers provides guidance on dealing with sexual harassment complaints.

For civilian staff, the Administrative Instruction entitled Revised Disciplinary Measures and Procedures (ST/AI/371) of 2 August 1991 and relevant provisions of the Staff Rules and Regulations detail the disciplinary process for all United Nations staff, local and international. In addition, the Administrative Instruction entitled Procedures for Dealing with Sexual Harassment (ST/AI/379) of 29 October 1992 provides guidance on dealing with sexual harassment allegations.
UNDETERMINING BY UNITED NATIONS MILITARY OBSERVERS

I, ________________________________, undertake to comply with all mission standard operating and administrative procedures, policies, directives and other issuances.

Furthermore, I undertake to abide by the highest standards of integrity while in service for the United Nations and to refrain from any action or activity incompatible with the impartial and international nature of my duties and inconsistent with the letter or spirit of the authorized mandate of the mission.

I undertake to observe the following rules:

a) United Nations Military Observers shall perform their functions under the authority of and in full compliance with the instructions of the Secretary-General, and the person acting on his/her behalf. They shall not seek or accept instructions with regard to the performance of duties from their Government or any other authority external to the United Nations.

b) United Nations Military Observers shall exercise the utmost discretion in the handling of official documents, cables, maps or other information, including electronic, audio/video or photographic information or documentation, and they shall follow detailed instructions issued by the Head of Mission concerning such information and documentation. Copies of these, or notes on their contents, may not be taken away from the Mission, published or otherwise handled or communicated to others, except with the prior approval of the Head of Mission in each case.

c) United Nations Military Observers shall follow specific regulations issued by the Head of Mission regarding the taking of private audio/video and photographs and carrying of private photographic equipment. In particular, they shall not photograph restricted subjects.

d) United Nations Military Observers shall follow specific regulations issued by the Head of Mission regarding the purchase, import and disposal of duty-free merchandise and shall cooperate with measures taken by the Mission to prevent the occurrence of any abuse of privileges or facilities accorded to United Nations Military Observers.

I sign this Undertaking with the understanding that if I am found responsible for serious misconduct I will not be eligible for future assignment with the United Nations.

(Date) ____________________________

(Signature)
UNDERTAKING BY CIVILIAN POLICE OFFICERS

I, __________________________, as a member of [name of Mission] undertake to comply with all mission standard operating and administrative procedures, policies, directives and other issuances.

I undertake to abide by the highest standards of integrity while in service for the United Nations and to refrain from any conduct that would adversely reflect on the United Nations. I shall refrain from any action or activity incompatible with the impartial and independent nature of my duties and inconsistent with the letter or spirit of the authorized mandate of the mission.

I undertake to observe the following:

a) I shall perform my functions under the authority of and in full compliance with the instructions of the Secretary-General, and the person acting on his/her behalf. I shall not seek or accept instructions with regard to the performance of duties from my Government or any other authority external to the United Nations.

b) I shall exercise the utmost discretion in the handling of official documents, cables, maps or other information, including electronic, audio/video or photographic information or documentation, and I shall follow detailed instructions issued by the Head of Mission concerning such information and documentation. I shall not take copies of these, or notes on their contents, away from the Mission. I shall not make them public or communicate them to others, except with the prior approval of the Head of Mission in each case. In any case, I shall not use such information or documentation for personal gain.

c) I shall follow specific regulations issued by the Head of Mission regarding the taking of private audio/video and photographs and carrying of private photographic equipment. In particular, I shall not photograph restricted subjects.

I sign this Undertaking with the understanding that if I violate this Undertaking and am found responsible for serious misconduct I shall be subject to appropriate disciplinary proceedings and shall not be eligible for future assignment with the United Nations.

[Date] 
Signature
CHARTER OF THE UNITED NATIONS

Provisions relating to service of the staff

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staff shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.
United Nations

STAFF RULES

Staff Regulations of the United Nations
and
Staff Rules 100.1 to 112.8

SECRETARY-GENERAL'S BULLETIN
SECRETARY-GENERAL’S BULLETIN

STAFF RULES - 100 SERIES

The Secretary-General, pursuant to staff regulations 12.2, 12.3 and 12.4, hereby promulgates the following:

Section 1

Revised edition of the 100 series of the Staff Rules

1.1 The revised edition of the 100 series of the Staff Rules, applicable to all staff members except those specified in rule 100.1, is attached to the present bulletin.

1.2 For ease of reference, Articles 8, 97, 100, 101 and 105 of the Charter of the United Nations, which relate to the service of the staff, are included in the introductory part of the present revision. The text of the Staff Regulations of the United Nations, which provide the authority for the issuance of these rules, is also included in the present edition, with each article of the Regulations preceding each chapter of the related rules.

1.3 The revised edition incorporates amendments to the 100 series of the Staff Rules that have been published since the last revised edition, which was promulgated by Secretary-General’s bulletin ST/SGB/1999/5 of 3 June 1999.

1.4 In addition, the revised edition attached to the present bulletin incorporates the following amendments:

(a) Staff rule 103.20, Education grant, is amended to specify that no prorating shall be required when a staff member who has one or more children in school dies while in service after the beginning of the school year;

(b) Staff rule 104.14, Appointment and Promotion Board, is modified to implement the managed reassignment programme for junior Professional staff in accordance with section III.D of General Assembly resolution 51/226 of 3 April 1997;

(c) Staff rule 104.15, Competitive examinations, is amended to implement the managed reassignment programme for junior Professional staff in accordance with section III.D of General Assembly resolution 51/226 by specifying that staff members appointed to the Professional level after a competitive examination shall be subject to mandatory reassignment, under conditions established by the Secretary-General;

(d) Staff rule 105.3, Home leave, is amended to allow greater flexibility in the application of the requirement of a minimum stay in the home country, based on the need to take into account changes that have occurred in respect of mode of travel, the composition of many families and the location of eligible family members, who often work, reside or go to school in different countries;

(e) Staff rule 109.3, Notice of termination, is amended to clarify the computation of the amount to be paid in lieu of notice;

(f) Staff rule 109.10, Last day for pay purposes, is amended to allow the entitlement to education grant to continue for the duration of a school year that has begun when a staff member dies while in service.
Section 2
Final provisions

2.1 Unless otherwise indicated, the effective date of all changes introduced in the present revised edition is 1 January 2002.

2.2 The following bulletins are hereby abolished:

   ST/SGB/1999/5 of 3 June 1999;
   ST/SGB/2000/1 of 1 January 2000;
   ST/SGB/2001/1 of 1 January 2001;
   ST/SGB/2001/6 of 11 June 2001, which went into effect on 1 July 2001;

(Signed) Kofi A. Annan
Secretary-General

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STAFF REGULATIONS OF THE UNITED NATIONS

Scope and purpose

The Staff Regulations embody the fundamental conditions of service and the basic rights, duties and obligations of the United Nations Secretariat. They represent the broad principles of personnel policy for the staffing and administration of the Secretariat. For the purposes of these Regulations, the expressions "United Nations Secretariat", "staff members" or "staff" shall refer to all the staff members of the Secretariat, within the meaning of Article 97 of the Charter of the United Nations, whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter. The Secretary-General, as the chief administrative officer, shall provide and enforce such staff rules consistent with these principles as he or she considers necessary.
STAFF RULES

Rule 100.1

Applicability

Staff rules 100.1 to 112.8 are applicable to all staff members appointed by the Secretary-General except technical assistance project personnel and staff members specifically engaged for conferences and other short-term services.
Article X

DISCIPLINARY MEASURES

Regulation 10.1

The Secretary-General may establish administrative machinery with staff participation which will be available to advise him or her in disciplinary cases.

Regulation 10.2

The Secretary-General may impose disciplinary measures on staff members whose conduct is unsatisfactory.

The Secretary-General may summarily dismiss a member of the staff for serious misconduct.
Chapter X

DISCIPLINARY MEASURES AND PROCEDURES

Rule 110.1

Misconduct

Failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant, may amount to unsatisfactory conduct within the meaning of staff regulation 10.2, leading to the institution of disciplinary proceedings and the imposition of disciplinary measures for misconduct.

Rule 110.2

Suspension during investigation and disciplinary proceedings

(a) If a charge of misconduct is made against a staff member and the Secretary-General so decides, the staff member may be suspended from duty during the investigation and pending completion of disciplinary proceedings for a period which should normally not exceed three months. Such suspension shall be with pay unless, in exceptional circumstances, the Secretary-General decides that suspension without pay is appropriate. The suspension shall be without prejudice to the rights of the staff member and shall not constitute a disciplinary measure.

(b) A staff member suspended pursuant to paragraph (a) shall be given a written statement of the reason for the suspension and its probable duration.

(c) If a suspension pursuant to paragraph (a) is without pay and the charge of misconduct is subsequently not sustained, any salary withheld shall be restored.

Rule 110.3

Disciplinary measures

(a) Disciplinary measures may take one or more of the following forms:

(i) Written censure by the Secretary-General;
(ii) Loss of one or more steps in grade;
(iii) Deferment, for a specified period, of eligibility for within-grade increment;
(iv) Suspension without pay;
(v) Fine;
(vi) Demotion;
(vii) Separation from service, with or without notice or compensation in lieu thereof, notwithstanding rule 109.3;

(viii) Summary dismissal.

(b) The following measures shall not be considered to be disciplinary measures, within the meaning of this rule:

(i) Reprimand, written or oral, by a supervisory official;

(ii) Recovery of moneys owed to the Organization;

(iii) Suspension pursuant to rule 110.2.

Rule 110.4

Due process

(a) No disciplinary proceedings may be instituted against a staff member unless he or she has been notified of the allegations against him or her, as well as of the right to seek the assistance in his or her defence of another staff member or retired staff member, and has been given a reasonable opportunity to respond to those allegations.

(b) No staff member shall be subject to disciplinary measures until the matter has been referred to a Joint Disciplinary Committee for advice as to what measures, if any, are appropriate, except that no such advice shall be required:

(i) If referral to the Joint Disciplinary Committee is waived by mutual agreement of the staff member concerned and the Secretary-General;

(ii) In respect of summary dismissal imposed by the Secretary-General in cases where the seriousness of the misconduct warrants immediate separation from service.

(c) In cases of summary dismissal imposed without prior submission of the case to a Joint Disciplinary Committee in accordance with subparagraphs (b) (i) and (ii), the staff member or former staff member concerned may, within two months of having received written notification of the measure, request that the measure be reviewed by such a Committee. A request shall not have the effect of suspending the measure. After the advice of the Committee has been received, the Secretary-General shall decide as soon as possible what action to take in respect thereof. An appeal in respect of such a decision may not be submitted to the Joint Appeals Board.

(d) An appeal in respect of a disciplinary measure considered by a Joint Disciplinary Committee pursuant to either paragraph (b) or (c) may be submitted directly to the United Nations Administrative Tribunal.

Rule 110.5

Joint Disciplinary Committees

(a) A standing Joint Disciplinary Committee is established and shall be available to advise the Secretary-General at his or her request in disciplinary matters at Headquarters; comparable standing committees may be established in the United Nations Office at Geneva, the United Nations Office at Vienna and such other offices as may be designated by the Secretary-General.
(b) The Secretary-General may also establish ad hoc Joint Disciplinary Committees at these or other duty stations for a particular case or series of cases, or may substitute an alternate procedure that conforms to the requirements of due process at duty stations or missions where there is no established staff representative body.

**Rule 110.6**

**Composition of Joint Disciplinary Committees**

(a) Each standing Joint Disciplinary Committee shall be composed of:

(i) Chairpersons, appointed by the Secretary-General after consultation with the staff representative body or bodies at the duty station at which the Committee is established;

(ii) Members appointed by the Secretary-General;

(iii) Members elected by the staff at the duty station at which the Committee is established.

(b) If necessary, additional members may be selected at any time in the same manner as indicated in paragraph (a).

(c) The chairpersons and members of the Joint Disciplinary Committee shall be appointed or elected for two years, shall be eligible for reappointment or re-election and shall remain in office until their successors are appointed or elected as long as they are staff members assigned to the duty station of the Committee.

(d) A chairperson may be removed from the Joint Disciplinary Committee by the Secretary-General after consultation with the staff representative body or bodies at the duty station at which the Committee is established. The members appointed by the Secretary-General may be removed by him or her. The members elected by the staff may be recalled by a majority vote of the staff at the duty station at which the Committee is established, taken at the initiative of any staff representative body at that duty station.

(e) The Secretary-General shall, in consultation with the staff representative body or bodies at the duty station at which a Joint Disciplinary Committee is established, appoint a Presiding Officer from among the panel of chairpersons.

(f) For the consideration of each case, a panel of the Joint Disciplinary Committee shall be constituted by the Presiding Officer as follows:

(i) A chairperson;

(ii) A member from among those appointed by the Secretary-General;

(iii) A member from among those elected by the staff.

The Presiding Officer, at the request of either party, may disqualify the chairperson or any member from the consideration of a specific case if in the opinion of the Presiding Officer the action is warranted by the relation of that member to the staff member whose case is to be considered or by any possible conflict of interest. The Presiding Officer may also excuse any member at that member's request from the consideration of a specific case.
Ad hoc Joint Disciplinary Committees shall be composed as follows:

(i) At duty stations where there is an established staff representative body or bodies, ad hoc Joint Disciplinary Committees shall be composed, by the Secretary-General or an official designated by him or her, in a manner similar to that of standing Joint Disciplinary Committees, except that staff-appointed members may be substituted for staff-elected members. If no appointments are made within a period set by the Secretary-General, the designated official may make the appointments after consultation with the staff representative body or bodies;

(ii) At duty stations or missions where there is no established staff representative body, the head of office or mission, after reporting the matter to the Secretary-General, shall constitute a panel from among staff present at the duty station to investigate the allegations and to recommend what, if any, disciplinary measure should be imposed. The panel members shall be selected with a view to ensuring that the rights of all parties are respected.

Any case relating to a staff member serving at a duty station where a standing Joint Disciplinary Committee is established shall be referred to that Committee, unless the Secretary-General considers there is a good reason to refer the case to a standing Committee at a different duty station or to an ad hoc Committee at the same or another duty station.

Rule 110.7

Joint Disciplinary Committee procedure

(a) In considering a case, the Joint Disciplinary Committee shall act with maximum dispatch and shall make every effort to provide its advice to the Secretary-General within four weeks after the case has been submitted to it.

(b) Proceedings before a Joint Disciplinary Committee shall normally be limited to the original written presentation of the case, together with brief statements and rebuttals, which may be made orally or in writing, but without delay. If the Committee considers that it requires the testimony of the staff member concerned or of other witnesses, it may, at its sole discretion, obtain such testimony by written deposition, by personal appearance before the Committee, before one of its members or before another staff member acting as a special master, or by telephone or other means of communication.

(c) Each standing Joint Disciplinary Committee shall adopt its own rules of procedure, which shall be consistent with these Staff Rules and with any applicable administrative instructions, as well as with the requirements of due process. An ad hoc Committee shall apply the rules of procedure of the Headquarters Joint Disciplinary Committee, except to the extent that it decides, consistent with the requirements of due process, to apply other such rules.

(d) A Joint Disciplinary Committee shall permit a staff member to arrange to have his or her case presented before it by any other staff member or retired staff member at the same duty station where the Committee is established.
United Nations

STAFF RULES

STAFF RULES 301.1 TO 312.6
GOVERNING APPOINTMENTS FOR
PERIOD OF A LIMITED DURATION

SECRETARY-GENERAL'S BULLETIN
SECRETARY-GENERAL'S BULLETIN

STAFF RULES - 300 SERIES

The Secretary-General, pursuant to staff regulations 12.2, 12.3 and 12.4, hereby promulgates the following:

Section 1

Revised edition of the 300 series of the Staff Rules

1.1 The revised edition of the 300 series of the Staff Rules, applicable to staff specifically engaged for short-term service and appointments of limited duration, is attached to the present bulletin.

1.2 For ease of reference, Articles 8, 97, 100, 101 and 105 of the Charter of the United Nations, which relate to the service of the staff, are included in the introductory part of the present revision.

1.3 The revised edition contains the updated text of appendices A and C to the 300 series of the Staff Rules.

1.4 In addition, the revised edition attached to the present bulletin incorporates the following amendments:

(a) Staff rule 309.3, Notice of termination, is amended to clarify the computation of the amount to be paid in lieu of notice.

(b) Staff rule 309.6, Last day for pay purposes in case of death, the title of which is revised to read, Last day for pay purposes, is amended to simplify payment of travel days on separation.

Section 2

2.1 Unless otherwise indicated, the effective date of all changes introduced in the present revised edition is 1 January 2002.

2.2 Secretary-General's bulletin ST/SGB/2001/3 of 1 January 2001 is hereby abolished.

(Signed) Kofi A. Annan
Secretary-General
SCOPE AND PURPOSE OF THE 300 SERIES OF STAFF RULES

The 300 series of the Staff Rules is applicable to staff members recruited specifically to meet special needs of the United Nations for services of a limited duration. The Rules provide for two types of non-career appointment:

(a) Short-term (ST) appointments, for a period not exceeding six months. The purposes for which such appointments may be made are for assistance in dealing with peak workloads or meeting unforeseen demands; to cover essential work which, as a result of vacancies or absences for mission service, cannot be performed by regular staff; and to provide services for conferences and other short-term purposes;

(b) Appointments for activities of a limited duration (LD appointments), including peacekeeping, peacemaking and humanitarian missions, technical cooperation in the field and other emergency operations. Such appointments are intended for assignments not expected to exceed three years, with a possibility of extension, exceptionally, for a fourth and final year. Under no circumstances will an extension beyond four years be granted.

These Rules are to be read in conjunction with the Staff Regulations of the United Nations, which are enacted by the General Assembly. The Staff Regulations embody the fundamental conditions of service and the basic rights, duties and obligations of the United Nations Secretariat.

The Secretary-General, as the Chief Administrative Officer, provides and enforces such Staff Rules, consistent with the principles expressed in the Staff Regulations, as he considers necessary.

Rules 301.1 to 312.6 are numbered to show their relationship to the articles of the Staff Regulations. Thus, rule 301.3 deals with a subject covered by article I of the Regulations; rule 306.2 deals with a subject covered by article VI of the Regulations; and rule 312.1 deals with a subject covered by article XII of the Regulations.

The articles of the Staff Regulations are:

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CHARTER OF THE UNITED NATIONS

Provisions relating to service of the staff

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staff shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staff shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.
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### Appendixes to the 300 series of the Staff Rules

#### A. Salary rates for conference and other short-term staff at Headquarters under rule 301.1 (a) (i)

#### B. Overtime payment and compensatory time off for short-term staff at Headquarters

#### C. Salary rates for staff specifically recruited for service of a limited duration under rule 301.1 (a) (ii)

#### D. Rules governing compensation in the event of death, injury or illness attributable to the performance of official duties (issued separately as Secretary-General’s bulletin ST/SGB/Staff Rules/Appendix D/Rev.1 and Amend.1, and ST/SGB/Staff Rules/1/Rev.7/Amend.3)

#### E. Staff rules 108.1 and 108.2 and 111.1 and 111.2
STAFF RULES 301.1-312.6

GOVERNING APPOINTMENTS FOR SERVICE OF A LIMITED DURATION

Rule 301.1

Applicability

(a) Staff rules 301.1 to 312.6 are applicable to staff members:

(i) Specifically engaged on short-term (ST) appointments for conference and other short-term service for a period not exceeding six consecutive months, at all duty stations where separate rules for such staff have not otherwise been established;

(ii) Specifically recruited on limited duration (LD) appointments for activities of a limited duration not expected to exceed three years, including peacekeeping and peacemaking, humanitarian, technical cooperation and emergency operations.

(b) The Secretary-General may establish special conditions of employment applicable to short-term language staff at the Professional level on specific assignments.

Rule 301.2

Status of staff

The declaration made by a staff member on appointment shall be placed in his or her official status file. A new declaration shall be made after a break in service that exceeds three months.

Rule 301.3

Basic rights and obligations of staff

General

(a) Disciplinary procedures set out in article X of the Staff Regulations and rule 310.1 may be instituted against a member of staff in accordance with his obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Rules, and Financial Regulations and Rules and all administrative issuances.

(b) Staff members shall follow the directions and instructions properly issued by the Secretary-General and their supervisors.

(c) Staff members must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

Specific instances of prohibited conduct

(d) Any form of discrimination or harassment, including sexual or gender harassment, or physical or verbal abuse at the workplace or in connection with work, is prohibited.

(e) Staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, nor shall staff members threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official duties.
(f) Staff members shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

(g) Staff members shall not intentionally alter, destroy, misplace or render useless any official document, record or file entrusted to them by virtue of their functions, which document, record or file is intended to be kept as part of the records of the Organization.

(h) Staff members shall not seek to influence Member States, principal or subsidiary organs of the United Nations or expert groups in order to obtain a change from a position or decision taken by the Secretary-General, including decisions relating to the financing of Secretariat programmes or units, or in order to secure support for improving their personal situation or the personal situation of other staff members, or for blocking or reversing unfavourable decisions regarding their status or their colleagues’ status.

(i) Staff members shall neither offer nor promise any favour, gift, remuneration or any other personal benefit to another staff member or to any third party with a view to causing him or her to perform, fail to perform or delay the performance of any official act. Similarly, staff members shall neither seek nor accept any favour, gift, remuneration or any other personal benefit from another staff member or from any third party in exchange for performing, failing to perform or delaying the performance of any official act.

Honours, gifts or remuneration

(j) Acceptance by staff members of any honour, decoration, favour, gift or remuneration from non-governmental sources requires the prior approval of the Secretary-General. Approval shall be granted only in exceptional cases and where such acceptance is not incompatible with the interests of the Organization and with the staff member’s status as an international civil servant. However, staff members may occasionally accept, without prior approval, minor gifts of essentially nominal value having regard to the duty station concerned, provided that all such gifts are promptly disclosed to the head of the office, who may direct that the gift be entrusted to the Organization or returned to the donor.

(k) The Secretary-General may authorize staff members to accept from a non-governmental source or a university academic awards, distinctions and tokens of a commemorative or honorary character, such as scrolls, certificates, trophies or other items of essentially nominal monetary value.

(l) Staff members, as part of their official functions, will be expected from time to time to attend governmental or other functions, such as meals and diplomatic receptions. Such attendance is not considered receipt of a favour, gift or remuneration within the meaning of the Staff Regulations and Rules.

(m) The Secretary-General may, in exceptional cases, provided that this is in the interest of the United Nations and not incompatible with the staff member’s status, authorize a staff member to receive from a non-governmental source an honour, decoration, favour, gift or remuneration other than those referred to in Staff rules 301.3 (j) to (l) above.

Conflict of interest

(n) A staff member who has occasion to deal, in his or her official capacity, with any matter involving a profit-making, business or other concern in which he or she holds a financial interest, directly or indirectly, shall disclose the measure of that interest to the Secretary-General and, except as otherwise authorized by the Secretary-General, either dispose of that financial interest or formally excuse himself or herself from participating with regard to any involvement in that matter which gives rise to the conflict of interest situation.

(o) The Secretary-General shall establish procedures for the filing and utilization of financial disclosure statements.

Outside activities

(p) Staff members shall not, except in the normal course of official duties or with the prior approval of the Secretary-General, engage in any of the following acts, if such act relates to the purpose, activities or interests of the United Nations:
(i) Issue statements to the press, radio or other agencies of public information;

(ii) Accept speaking engagements;

(iii) Take part in film, theatre, radio or television productions;

(iv) Submit articles, books or other material for publication.

(q) Membership in a political party is permitted, provided that such membership does not entail action, or an obligation to take action, by the staff member contrary to staff regulation 1.2 (h). The payment of normal financial contributions to a political party shall not be construed as an activity inconsistent with the principles set out in staff regulation 1.2 (h).

(r) The Secretary-General shall establish procedures whereby staff may seek in confidence clarification as to whether proposed outside activities would conflict with their status as international civil servants.

Travel and per diem for outside activities

(s) Staff members who are authorized by the Secretary-General to participate in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source, may receive from the Government, intergovernmental organization, non-governmental organization or private source, accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases, the travel subsistence allowance that may otherwise be payable by the United Nations shall be reduced, as envisaged by rule 307.4 (a).

Rule 301.4

Performance of staff

(a) The performance of staff members shall be evaluated to assess their efficiency, competence and integrity and to ensure their compliance with the standards set out in the Staff Regulations and Rules for purposes of accountability.

(b) Performance reports shall be prepared regularly in accordance with procedures established by the Secretary-General.

Rule 301.5

Hours of work and official holidays

(a) The Secretary-General shall set the normal number of working hours per week for each duty station. Exceptions may be made by the Secretary-General as the needs of the service may require. A staff member shall be required to work beyond the normal tour of duty whenever requested to do so.

(b) The number of official holidays at each duty station shall be ten days in each year, including those official holidays mandated by the General Assembly, which shall be observed at all duty stations. The Secretary-General shall set for each duty station the official holidays not mandated by the General Assembly and notify the staff accordingly.
(b) Separation as a result of the expiration of any such appointment shall not be regarded as a termination within the meaning of the Staff Regulations and Staff Rules.

Rule 309.6

Last day for pay purposes

(a) When the separation of a staff member engaged under rule 301.1 (a) (ii) results from death occurring in the course of the appointment, entitlement to salary and emoluments shall cease as from the date of death. However, when there is a surviving spouse or one or more dependent children, a lump sum of three months' gross salary less staff assessment shall be paid to the surviving spouse and any dependent children, to be divided equally among those beneficiaries.

(b) Staff appointed under these Rules who, under rule 304.5, are non-local recruits with an entitlement to return travel shall be paid on separation a lump sum corresponding to the net salary and service allowance, where applicable, for the number of days of authorized travel, estimated on the basis of uninterrupted travel by an approved route and mode, from the duty station or the mission area to the place of entitlement to return travel.

Rule 309.7

Certification of service

Any staff member appointed under these Rules who so requests shall, on leaving the service of the United Nations, be given a statement relating to the nature of his or her duties and the length of service. On the staff member’s written request, the statement shall also refer to the quality of his or her work and official conduct.

Rule 310.1

Disciplinary measures

(a) Failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to unsatisfactory conduct within the meaning of staff regulation 10.2, leading to the institution of disciplinary proceedings and the imposition of disciplinary measures for misconduct.

(b) If an allegation of misconduct is made against a staff member and the Secretary-General so directs, the staff member may be suspended from duty, without prejudice to his or her rights. Such suspension shall be with pay unless, in exceptional circumstances, suspension without pay is appropriate. A staff member suspended under this paragraph shall be given a written statement of the reason for the suspension.

(c) In any case involving possible disciplinary action, the Secretary-General may refer the matter to a standing Joint Disciplinary Committee or may establish, on an ad hoc basis, machinery to advise him before any decision is taken.

(d) No disciplinary proceedings may be instituted unless the staff member has been notified of the allegations against him or her and of his or her right to seek the assistance in his or her defence of another staff member or retired staff member, and has been given a reasonable opportunity to respond to the allegations.

(e) Disciplinary measures under these Rules may take one or more of the following forms:

(i) Written censure;

(ii) Suspension without pay;
(iii) Fine;
(iv) Separation from service, with or without notice or compensation in lieu of notice;
(v) Summary dismissal.

Rule 311.1

Appeals

Rule 111.1 on the establishment of joint appeals boards and rule 111.2 on appeals shall apply to staff members appointed under these Rules. Their texts are reproduced in appendix E to these Rules.

Rule 312.1

Amendment of Staff Rules

Subject to regulations 12.1, 12.2, 12.3, 12.4 and 12.5, these Rules may be amended by the Secretary-General in a manner consistent with the Staff Regulations.

Rule 312.2

Financial responsibility

Any staff member may be required to reimburse the United Nations either partially or in full for any financial loss suffered by the United Nations as a result of the staff member's negligence or of his or her having violated any regulation, rule or administrative instruction.

Rule 312.3

Liability insurance

In accordance with General Assembly resolution 22 E (I) of 13 February 1946, staff members who own or drive motor cars shall carry public liability and property damage insurance in an amount adequate to insure them against claims arising from injury or death to other persons or from damage to the property of others caused by their

Rule 312.4

Staff member's beneficiaries

(a) At the time of appointment each staff member shall nominate a beneficiary or beneficiaries in writing in a form prescribed by the Secretary-General. It shall be the responsibility of the staff member to notify the Secretary-General of any revocations or changes of beneficiaries.

(b) In the event of the death of a staff member, all amounts standing to the staff member's credit will be paid to his or her nominated beneficiary or beneficiaries subject to application of the Staff Rules. Such payment shall afford the United Nations a complete release from all further liability in respect to any sum so paid.

(c) If a nominated beneficiary does not survive or if a designation of beneficiary has not been made or has been revoked, the amount standing to the credit of a staff member will, upon the staff member's death, be paid to his or her estate.
Rule 312.5

Proprietary rights

All rights, including title, copyright and patent rights, in any work performed by a staff member as part of his or her official duties, shall be vested in the United Nations.

Rule 312.6

Effective date of Staff Rules

Except as otherwise indicated and subject always to the provisions of regulations 12.1, 12.2, 12.3, 12.4 and 12.5, staff rules 301.1 to 312.6, as published in the present revision, shall be effective 1 January 2002. Any special conditions entered into in an individual letter of appointment will, however, continue to govern the appointment.
Chapter XI

JOINT APPEALS BOARDS

Rule 111.1

Establishment

(a) Joint appeals boards shall be established in New York, Geneva, Vienna, Nairobi and at such other duty stations as may be designated by the Secretary-General to consider and advise the Secretary-General regarding appeals filed under the terms of staff regulation 11.1.

(b) Each Joint Appeals Board shall be composed of:

(i) Chairpersons appointed by the Secretary-General from among a list presented by the joint staff/management machinery in respect of the staff representative body or bodies at the duty station at which the Board is established;

(ii) Members appointed by the Secretary-General;

(iii) An equal number of members elected by ballot of the staff under the jurisdiction of the Board.

The number of chairpersons and members of each Board shall be determined by the Secretary-General upon recommendation of the joint staff/management machinery in respect of the staff representative body or bodies at the duty station at which the Board is established.

(c) The chairpersons and members of the Joint Appeals Board shall be appointed or elected for two years, shall be eligible for reappointment or re-election and shall remain in office until their successors are appointed or elected.

(d) A chairperson may be removed from a Joint Appeals Board by the Secretary-General upon recommendation of the joint staff/management machinery in respect of the staff representative body or bodies of the duty station at which the Board is established. The members appointed by the Secretary-General may be removed by him. The members elected by the staff may be recalled by a majority vote of the staff under the jurisdiction of the Board concerned, taken at the initiative of any staff representative body at the duty station at which that Board is established.

(e) The Joint Appeals Board shall elect the presiding officer and, where necessary, any alternate presiding officers shall be selected from among the chairpersons.

(f) Each Joint Appeals Board may, by a majority vote of all its chairpersons and members, recommend to the Secretary-General changes in the present chapter of the Staff Rules.

(g) The secretariat of each Joint Appeals Board shall consist of a secretary and such other staff as may be required for its proper functioning.

Rule 111.2

Appeals

(a) A staff member wishing to appeal an administrative decision, pursuant to staff regulation 11.1, shall, as a first step, address a letter to the Secretary-General, requesting that the administrative decision be
reviewed; such a letter must be sent within two months from the date the staff member received notification of
the decision in writing.

(i) If the Secretary-General replies to the staff member’s letter, he or she may appeal against
the answer within one month of the receipt of such reply;

(ii) If the Secretary-General does not reply to the letter within one month in respect of a staff
member stationed in New York, or within two months in respect of a staff member
stationed elsewhere, the staff member may appeal against the original administrative
decision within one month of the expiration of the time limit specified in this subparagraph
for the Secretary-General’s reply.

(b) At any time after a request for review has been submitted but before a panel of the Joint Appeals
Board has been constituted to hear an appeal, conciliation may be sought on the issues involved at the initiative
of the Secretary-General, or the staff member, or the presiding officer of the Joint Appeals Board. The presiding
officer shall refer the matter for that purpose to a chairperson or member of the Joint Appeals Board. This
procedure is without prejudice to the right of the staff member to pursue an appeal under the provisions of this
rule if the issues cannot be resolved through conciliation.

(c) Neither a request for administrative review under paragraph (a) above nor the filing of an appeal
under paragraph (d) below shall have the effect of suspending action on the contested decision.

(i) However, the staff member concerned may request a suspension of action on such decision
by writing to the Secretary of the appropriate Joint Appeals Board under paragraph (d)
below. The request shall set forth the relevant facts and indicate how implementation
would directly and irreparably injure the staff member’s rights;

(ii) Upon receipt of such a request, a panel of the Board shall be promptly constituted, and
shall act expeditiously. If the panel, after considering the views of both parties, determines
that the decision has not been implemented and that its implementation would result in
irreparable injury to the appellant, it may recommend to the Secretary-General the
suspension of action on that decision:

a. Until the time limits specified in subparagraphs (a) (i) or (ii) have passed without an
appeal having been filed, or

b. If an appeal is filed, until a decision on the appeal is taken;

(d) An appeal pursuant to paragraph (a) or a request for suspension of action pursuant to paragraph
(c) above shall be filed with the Secretary of the appropriate Joint Appeals Board, to be determined as follows:

(i) With respect to staff members serving at a duty station at which a Board has been
established or who are administered by organizational units located at such duty station, it
shall be the Board;

(ii) With respect to former staff members who last served at a duty station at which a Board
has been established or who were administered by organizational units located at such a
duty station, it shall be that Board;

(iii) With respect to all other staff members and all other former staff members, it shall be the
Board established in New York, provided that the Secretary-General may decide, at the
request of the staff member, to refer the appeal to another one of the Boards or to establish
an appropriate ad hoc body. Such staff members or former staff members may meet the
time limits specified in subparagraphs (a) (i) or (ii) by delivering the requisite submissions within such limits to any office of the United Nations for transmission to the appropriate Board.

(e) (i) For the consideration of each appeal, the presiding officer of the appropriate Joint Appeals Board shall constitute a panel of the Board, composed as follows:

a. A panel chairperson from among the chairpersons of the Board;
b. A member selected from among those appointed by the Secretary-General;
c. A member selected from among those elected by the staff;

(ii) In constituting such panels, the maximum possible rotation of chairpersons and members of the Board shall be observed: the modalities of such rotation shall be specified in the rules of procedure of the Board. No person who has assisted the Secretary-General in a conciliation procedure referred to in paragraph (b) shall serve on a panel established to consider an appeal relating to the same case;

(iii) Before a panel undertakes consideration of an appeal, the parties shall be notified of the proposed composition thereof. The presiding officer of the Board may, at the request of either party, disqualify the chairperson or either member if, in the opinion of the presiding officer, such action is warranted to ensure impartiality. He or she may also excuse the chairperson or either member from serving on the panel;

(iv) Subject to the principles set out in subparagraphs (i) to (iii), the presiding officer of the Board shall fill any vacancies arising on the panel.

(f) An appeal shall not be receivable unless the time limits specified in paragraph (a) above have been met or have been waived, in exceptional circumstances, by the panel constituted for the appeal.

(g) At the duty station where the appeal is considered, the designated representative of the Secretary-General shall submit a written reply within two months following the date of receipt of the appeal.

(h) Proceedings before a panel shall normally be limited to the original written presentation of the case, together with brief statements and rebuttals, which may be made orally or in writing, in one of the working languages of the Secretariat.

(i) A staff member may appear to have his or her appeal presented to the panel on his or her behalf by another serving or retired staff member. The staff member may not, however, be represented before the panel by any other person.

(j) Where the competence of the Joint Appeals Board is in doubt, the panel constituted for the appeal shall decide.

(k) In the case of termination or other action on grounds of inefficiency or relative efficiency, the panel shall not consider the substantive question of efficiency but only evidence that the decision was motivated by prejudice or by some other extraneous factor.

(l) The panel shall have authority to call members of the Secretariat who may be able to provide information concerning the issues before it and shall have access to all documents pertinent to the case. Notwithstanding the preceding sentence, should the panel wish to have information or documents relating to the proceedings of the appointment and promotion bodies in questions involving appointment and promotion, it shall request such information or documents from the Chairperson of the Appointment and Promotion Board, who shall decide on the panel’s request, taking into account the interests of confidentiality. This decision of the Chairperson is not subject to appeal. The Chairperson of the panel shall determine which documents are to be transmitted to all members of the panel and the parties.
(m) In considering an appeal, the panel shall act with the maximum dispatch consistent with a fair review of the issues before it.

(n) Within one month of the date on which the consideration of an appeal has been completed, the panel shall, by majority vote, adopt and submit a report to the Secretary-General. The report shall be considered as constituting a record of the proceedings in the appeal and may include a summary of the matter as well as all recommendations that the panel considers appropriate. Votes on the recommendations shall be recorded and any member of the panel may have his or her dissenting opinion included in the report.

(o) Notwithstanding the above, if the appeal involves a claim having a cumulative maximum value not in excess of one thousand and five hundred dollars ($1,500), on account of salary, emoluments or any other entitlement under the Staff Regulations and Staff Rules, such claim shall be considered a “small claim” and shall be dealt with accordingly under appropriate rules of procedure which the Joint Appeals Board competent to hear the appeal may have adopted. Such rules may require the designated representative of the Secretary-General to submit comments within thirty days of receipt of the claim from the Joint Appeals Board secretariat.

(p) The final decision on the appeal will normally be taken by the Secretary-General within one month after the panel has forwarded its report, and shall be communicated to the staff member, together with a copy of the panel’s report. The Secretary-General’s decision and a copy of the panel’s report shall also be transmitted to a designated officer of the staff representative body or bodies at the duty station at which the Joint Appeals Board is established, unless the staff member objects.

(q) To enable staff members to exercise their right to make application to the Administrative Tribunal under article 7, paragraphs 2 (b) and (c), of its statute, the Secretary of the Joint Appeals Board concerned shall, at the request of the staff member, communicate to him or her the report of the panel, if the Secretary-General has not made a decision upon the report within a period of one month after the date on which the report was submitted to him.
ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Under-Secretary-General for Administration and Management

Subject: REVISED DISCIPLINARY MEASURES AND PROCEDURES*

I. PURPOSE

1. The purpose of the present instruction is to provide guidelines and instructions on the application of chapter X of the Staff Rules, Disciplinary Measures and Procedures, and to outline the basic requirements of due process to be afforded a staff member against whom misconduct is alleged. Personnel directive PD/1/76 on disciplinary procedure for staff serving at offices away from Headquarters and Geneva, which addressed some of the matters dealt with in the present instruction, is hereby superseded.

II. INITIAL INVESTIGATION AND FACT-FINDING

2. Where there is reason to believe that a staff member has engaged in unsatisfactory conduct for which a disciplinary measure may be imposed, the head of office or responsible officer shall undertake a preliminary investigation. Misconduct is defined in staff rule 110.1 as "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other administrative issuances, or to observe the standards of conduct expected of an international civil servant." Conduct for which disciplinary measures may be imposed includes, but is not limited to:

* Personnel Manual index No. 11075.
(a) Acts or omissions in conflict with the general obligations of staff members set forth in article 1 of the Staff Regulations and the rules and instructions implementing it;

(b) Unlawful acts (e.g. theft, fraud, possession or sale of illegal substances, smuggling) on or off United Nations premises, and whether or not the staff member was officially on duty at the time;

(c) Misrepresentation or false certification in connection with any United Nations claim or benefit, including failure to disclose a fact material to that claim or benefit;

(d) Assault upon, harassment of, or threats to other staff members;

(e) Misuse of United Nations equipment or files, including electronic files;

(f) Misuse of office; abuse of authority; breach of confidentiality; abuse of United Nations privileges and immunities;

(g) Acts or behaviour that would discredit the United Nations.

3. If the preliminary investigation appears to indicate that the report of misconduct is well founded, the head of office or responsible officer should immediately report the matter to the Assistant Secretary-General, Office of Human Resources Management, giving a full account of the facts that are known and attaching documentary evidence, such as cheques, invoices, administrative forms, signed written statements by witnesses or any other document or record relevant to the alleged misconduct.

4. If the conduct appears to be of such a nature and of such gravity that suspension may be warranted, the head of office or responsible official shall make a recommendation to that effect, giving reasons. As a general principle, suspension may be contemplated if the conduct in question might pose a danger to other staff members or to the Organization, or if there is a risk of evidence being destroyed or concealed and if redeployment is not feasible.

5. On the basis of the evidence presented, the Assistant Secretary-General, on behalf of the Secretary-General, shall decide whether the matter should be pursued, and, if so, whether suspension is warranted. Suspension under staff rule 110.2 (a) is normally with pay, unless the Secretary-General decides that exceptional circumstances warrant suspension without pay, in both cases without prejudice to the staff member's rights.

6. If the case is to be pursued, the appropriate official in the administration at headquarters duty stations, and the head of office or mission at duty stations away from headquarters, shall:

   (a) Inform the staff member in writing of the allegations and his or her right to respond;
(b) Provide him or her with a copy of the documentary evidence of the alleged misconduct;

(c) Notify the staff member of his or her right to the advice of another staff member or retired staff member to assist in his or her responses; and offer information on how to obtain such assistance.

If the Secretary-General authorizes suspension, the staff member shall be informed of the reason for the suspension and its probable duration and shall surrender his or her grounds pass. A staff member on suspension may not enter United Nations premises without first requesting permission and shall be afforded the opportunity to enter, under escort, if necessary to prepare his or her defence or for any other valid reason.

7. The staff member should be given a specified time to answer the allegations and produce countervailing evidence, if any. The amount of time allowed shall take account of the seriousness and complexity of the matter. If more time is required, it shall be granted upon the staff member's written request for an extension, giving cogent reasons why he or she is unable to comply with the deadline. If no response is submitted within the time-limit, the matter shall nevertheless proceed.

8. The entire dossier is then submitted to the Assistant Secretary-General, Office of Human Resources Management. It shall consist of the documentation listed under subparagraphs 6 (a), (b) and (c) above, the staff member's reply and the evidence, if any, that he or she has produced. In cases arising away from New York, the responsible official shall promptly forward the dossier to the Assistant Secretary-General, Office of Human Resources Management.

9. On the basis of the entire dossier, the Assistant Secretary-General, Office of Human Resources Management, shall proceed as follows:

   (a) Decide that the case should be closed, and the staff member should be immediately notified that the charges have been dropped and that no further action will be taken. This is without prejudice, where appropriate, to the measures indicated in staff rule 110.3 (b) (i) and (ii); or

   (b) Should the facts appear to indicate that misconduct has occurred, refer the matter to a joint disciplinary committee for advice; or

   (c) Should the evidence clearly indicate that misconduct has occurred, and that the seriousness of the misconduct warrants immediate separation from service, recommend to the Secretary-General that the staff member be summarily dismissed. The decision will be taken by or on behalf of the Secretary-General.

/...
III. REFERRAL TO A JOINT DISCIPLINARY COMMITTEE

10. Staff rule 110.4 (b) provides for referral of a case to a joint disciplinary committee for advice as to what disciplinary measures, if any, would be appropriate. If the Assistant Secretary-General for Human Resources Management decides to refer the matter to a joint disciplinary committee, he or she shall so inform the staff member in writing.

11. Referral to a joint disciplinary committee may be waived, by mutual agreement of the staff member concerned and the Secretary-General, under the provisions of staff rule 110.4 (b) (i). A waiver means that the staff member agrees to forego joint disciplinary committee proceedings and to have imposed one or more of the disciplinary measures listed in staff rule 110.3 (a). Either the staff member or the responsible official may propose a waiver. If there is mutual agreement, it shall be recorded in writing. The staff member shall be assisted by counsel, unless he or she has specifically waived the right to counsel.

12. If there is no waiver of referral to the Joint Disciplinary Committee, any case relating to a staff member serving at a duty station where a standing Joint Disciplinary Committee is established shall be referred by the Assistant Secretary-General, Office of Human Resources Management, to that Committee, unless the Secretary-General considers there is a good reason to refer the case to a standing committee at a different duty station or to an ad hoc committee at the same or another duty station.

13. At duty stations that are headquarters to the Economic Commission for Africa, the Economic Commission for Latin America and the Caribbean, the Economic and Social Commission for Asia and the Pacific and the Economic and Social Commission for Western Asia and at Nairobi, a presiding officer shall be designated by the Secretary-General on the proposal of the head of office(s) concerned after consultation with the staff representative body or bodies at the duty station concerned.

14. If a case is referred to an ad hoc committee, such committee shall be constituted as follows:

(a) At duty stations where a presiding officer has been designated, the Presiding Officer will proceed to constitute with maximum dispatch an ad hoc joint disciplinary committee of which he or she, or someone designated by him or her, shall be the chairperson. The Presiding Officer shall select the other two members, one member from a list of at least three names submitted by the head of office and the other member from a list of at least three names nominated by the staff representative body at the duty station;

(b) At all other duty stations, after consulting the staff representative body or bodies concerning the Chairperson of the Ad Hoc Committee, the head of office shall proceed with maximum dispatch to submit his or her proposal to the Secretary-General for the composition of the Committee as follows:
(i) The Chairperson;

(ii) A member to be appointed by the Secretary-General from a list of three staff members nominated by the head of office;

(iii) A member to be appointed by the Secretary-General selected from a list of three staff members nominated by the staff representative body or bodies at the duty station;

(c) In accordance with Staff Rule 110.6 (g), if nominations by staff representative bodies as provided in (a) or (b) are not submitted within a time period set by the Secretary-General, the latter may make appointments after consultation with the staff representative body or bodies.

15. The Assistant Secretary-General for Human Resources Management, or the designated official at Geneva or Vienna, or the head of office or designated official at other duty stations shall:

(a) Transmit to the staff member the entire dossier submitted to the Joint Disciplinary Committee;

(b) Advise the staff member of his or her right to be represented by any serving or retired staff member at the same duty station where the Joint Disciplinary Committee is established.

In addition, in those cases where an ad hoc joint disciplinary committee has been constituted, he or she shall:

(a) Inform the staff member of the composition of the Committee;

(b) Advise the staff member of his or her right:

(i) To submit any written observations or explanations to the Joint Disciplinary Committee within a specified time; and

(ii) To suggest other persons of whom inquiry might be made and to request that hearings be held and witnesses called. The Joint Disciplinary Committee, at its sole discretion, shall decide if these suggestions or requests are warranted.

16. Staff rule 110.7 provides that:

"(a) In considering a case, the Joint Disciplinary Committee shall act with maximum dispatch and shall make every effort to provide its advice to the Secretary-General within four weeks after the case has been submitted to it.

"(b) Proceedings before a Joint Disciplinary Committee shall normally be limited to the original written presentation of the case, together with statements and rebuttals, which may be made orally or in
writing, but without delay. If the Committee considers that it requires
the testimony of the staff member concerned or of other witnesses, it
may, at its sole discretion, obtain such testimony by written deposition,
by personal appearance before the Committee, before one of its members or
before another staff member acting as a special master, 1/ or by
telephone or other means of communication."

17. The proceedings of the Joint Disciplinary Committee and its rules of
procedures shall be consistent with due process, the fundamental requirements
of which are that the staff member concerned has the right to know the
allegations against him or her; the right to see or hear the evidence against
him or her; the right to rebut the allegations and the right to present
countervailing evidence and any mitigating factors. If the Committee decides
to hear oral testimony, both parties and counsel should be invited to be
present, and no witnesses should be present during the testimony of other
witnesses. If the Chairperson decides that the Committee or one of its
members should take testimony by deposition, telephone, or other means of
communication, such testimony shall be shared with the parties concerned for
comment or rebuttal.

18. The Chairperson shall declare the opening and closing of the meeting;
direct the discussion; enforce time-limits; accord the right to speak; rule on
points of order; rule on relevance; and be responsible for the timely
completion of the report.

19. The Chairperson shall direct that all persons involved in Joint
Disciplinary Committee proceedings, whether as members, parties, counsel or
witnesses, observe strict confidentiality. Normally only members, the
Secretary, parties and counsel shall be present during hearings, the exception
being a witness giving oral testimony. Executive sessions, attended by all
members and the Secretary, may be convened by the Chairperson at any time.

20. The report of the Joint Disciplinary Committee should contain:

(a) The allegations of misconduct;

(b) The staff member's response;

(c) A statement of the proceedings;

(d) A synopsis of the evidence and the Committee's evaluation thereof;

(e) The findings, indicating which of the allegations, if any, appear to
    be supported by the evidence;

(f) Any aggravating or mitigating factors that might be relevant;

(g) The advice of the Joint Disciplinary Committee to the
    Secretary-General as to what sanction, if any, should be applied;

(h) Dissenting or separate opinion, if any.

/...
21. The report should be transmitted with maximum dispatch to the Secretary-General through the Under-Secretary-General for Administration and Management.

22. The final decision shall be taken by or on behalf of the Secretary-General.

23. If there is an appeal in respect of a disciplinary measure imposed after consideration by a joint disciplinary committee, it shall be submitted directly to the United Nations Administrative Tribunal.

24. A staff member who is summarily dismissed under the terms of staff regulation 10.2, second paragraph, and staff rule 110.4 (b) (ii) may, within two months after having received written notification, submit a request that the measure be reviewed by a joint disciplinary committee. Such request shall be submitted to the Joint Disciplinary Committee in New York.

25. Neither a request for review under 110.4 (b) (ii) nor an appeal to the United Nations Administrative Tribunal against a disciplinary measure shall have the effect of suspending the measure.

Notes

1/ A special master is any staff member designated by the Committee to act on its behalf for this purpose.
ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Under-Secretary-General for Administration and Management

Subject: PROCEDURES FOR DEALING WITH SEXUAL HARASSMENT*

1. The purpose of the present instruction is to inform staff members of the procedures which have been established for dealing with incidents of sexual harassment. The Organization's policy regarding this unacceptable behaviour is set out in ST/SGB/253.

2. Sexual harassment is defined as any unwelcome sexual advance, request for sexual favours or other verbal or physical conduct of a sexual nature, when it interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. It is particularly serious when behaviour of this kind is engaged in by any official who is in a position to influence the career or employment conditions (including hiring, assignment, contract renewal, performance evaluation or promotion) of the recipient of such attentions.

3. Individuals who believe that they are being harassed are encouraged to notify the offender that his or her behaviour is unwelcome. However, the Organization recognizes that power or status disparities or other considerations may make direct confrontation difficult. In such a case, the individual is encouraged to discuss the matter with a colleague or friend as soon as possible and may report the incident to one of the staff members referred to in paragraphs 5 and 6 below.

4. The aggrieved individual is encouraged to keep a written record of events, as soon as possible after the incident or incidents have occurred, noting dates, places, a short description of what happened and the names of any witnesses and of anyone to whom the incident might have been mentioned.

* Personnel Manual index No. 1166.

92-66484 3778e (E) 021192
Informal approach

5. In many cases, the situation can be resolved informally. It will often be helpful to seek advice from a colleague. As a next step, an aggrieved individual may wish to consult the Staff Counsellor at his or her duty station. Staff members are reminded that the Staff Counsellor's mandate is to provide advice and help on a strictly confidential basis. At duty stations where there is neither a Staff Counsellor nor a staff member designated to fulfill the functions of a Staff Counsellor, the aggrieved individual may communicate with the Staff Counsellor at Headquarters or other duty stations. Advice and help may also be sought from a member of the Panel of Counsel, a member of the Panel on Discrimination and Other Grievances, staff representatives, members of the Staff Committee or its equivalent, a Focal Point for Women and a member of a Group on Equal Rights for Women.

6. The aggrieved individual may also seek advice and help from his or her Personnel Officer, or from a senior member of the department or office, who is in a position to discuss the matter discreetly with the individual and with the alleged harasser with a view to achieving an informal resolution of the problem, where appropriate.

7. All reports of sexual harassment will be handled discreetly to protect the privacy of all involved. However, staff members should be aware that incidents which may constitute misconduct will be reported by the officials listed in paragraph 6 to the Assistant Secretary-General for Human Resources Management. Should this happen, the aggrieved staff member will be so informed in writing as soon as possible.

Formal procedures

8. In circumstances where informal resolution is not appropriate or has been unsuccessful, the individual may make a written complaint to the Assistant Secretary-General for Human Resources Management. The complaint should describe the specific act or acts which are being objected to, the time, location and circumstances under which they took place, and include any other information and evidence relevant to the matter. The complaint should identify the alleged harasser, any witnesses and anyone to whom the incident might have been mentioned. It should be dated and signed by the complainant.

9. Upon receipt of a complaint from the aggrieved staff member pursuant to paragraph 8, or upon receipt of a report of sexual harassment from an appropriate official pursuant to paragraph 7, the Office of Human Resources Management will promptly conduct at Headquarters the initial investigation and fact-finding provided for in administrative instruction ST/AI/371 on revised disciplinary measures and procedures. At all other duty stations, the Assistant Secretary-General for Human Resources Management shall designate an official who will conduct the initial investigation and fact-finding and report directly to him or her.
10. The alleged offender shall receive a copy of the complaint submitted in accordance with paragraph 8 above, or a written version of the report submitted to the Assistant Secretary-General for Human Resources Management under paragraph 7. He or she shall be given an opportunity to answer the allegations in writing and to produce evidence to the contrary. At the same time, he or she shall be informed of his or her right to the advice of another staff member or retired staff member to assist in his or her response. If no response is submitted, the matter shall nevertheless proceed.

11. After completion of the initial investigation and fact-finding, the Assistant Secretary-General for Human Resources Management shall, in accordance with paragraph 8 of ST/AI/371, proceed as follows:

   (a) Should the facts as a result of the initial investigation not appear to indicate that misconduct has occurred, decide that the case should be closed; or

   (b) Should the facts appear to indicate that misconduct has occurred, refer the matter to a joint disciplinary committee for advice; or

   (c) Should the evidence clearly indicate that misconduct has occurred and that the seriousness of the misconduct warrants immediate separation from service, recommend to the Secretary-General that the alleged harasser be summarily dismissed.

12. The alleged harasser and the aggrieved individual shall be informed promptly of the course of action decided upon by the Assistant Secretary-General for Human Resources Management.
Status, basic rights and duties of United Nations staff members
Secretary-General's bulletin

Status, basic rights and duties of United Nations staff members

The Secretary-General, pursuant to the request of the General Assembly in paragraph 8 of its resolution 52/252 of 8 September 1998, and in order to assist staff members in understanding their status, basic rights and duties as set out in the text of article IX of the Staff Regulations adopted by the Assembly in resolution 52/252 and of chapter I of the 100 series of the Staff Rules, taken note of in the same resolution, promulgates the publication set out in the annex to the present bulletin:

Section 1

Purposes

1.1 The purpose of the present bulletin is to ensure that all United Nations staff are made aware of the “Standards of conduct for the international civil service” that were adopted by the International Civil Service Commission in 2001 and welcomed by the General Assembly in its resolution 56/244 of 24 December 2001 (“the 2001 standards of conduct”), to replace the 1954 report of the International Civil Service Advisory Board entitled Standards of Conduct in the International Civil Service (“the 1954 standards”). The full text of the 2001 standards of conduct is set out in part V of the annex to the present bulletin.

1.2 The present bulletin also updates the text of the commentary on article 1 of the Staff Regulations and chapter I of the 100 series of the Staff Rules previously contained in document ST/SGB/1998/19 by replacing all former references to the 1954 standards by references to the 2001 standards of conduct.

Section 2

General provisions

2.1 The present bulletin with its annex is issued to every staff member who is subject to the Staff Regulations and Rules, including staff members of separately administered organs and programmes.

2.2 The provisions in the annex from chapter I of the 100 series of the Staff Rules are applicable only to staff members appointed under the 100 series of the Rules. Similar provisions are contained in chapter I of the 200 and 300 series, applicable to staff members appointed under these rules.

2.3 The role and status of the commentary to the provisions of the Staff Regulations and Rules and of the standards of conduct set out in the annex to the present bulletin are explained in the introduction to the annex.

Section 3

Final provisions

3.1 The present bulletin shall enter into force on 1 December 2002.

3.2 ST/SGB/1998/19 of 1 January 1999 is hereby abolished.

(Signed) Kofi A. Annan
Secretary-General
Annex

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I. Introduction

1. Article 101, paragraph 3, of the Charter of the United Nations establishes the universal standard for all staff members employed by the United Nations as the "highest standards of efficiency, competence and integrity". It is thus axiomatic that these standards apply to all staff whose employment relationship derives from the authority vested by the Charter in the Organization to employ individuals as staff members. These basic standards are common to all staff, including those of the separately funded and administered organs. The revised text of article I of the Staff Regulations, adopted by the General Assembly in its resolution 52/252 of 8 September 1998, and of chapter I of the 100 series of the Staff Rules, noted in that same resolution, express in concrete terms the basic rights and obligations of staff members.

2. The statutory provisions set out in the present annex are an integral part of the Staff Regulations and Rules, with regulations being adopted by the General Assembly pursuant to Article 101, paragraph 1, of the Charter and with rules being promulgated by the Secretary-General pursuant to the authority granted to him or her by the scope and purpose provision of the Staff Regulations.

3. As the Staff Regulations apply to all staff, including the separately funded organs, the Secretary-General has amended the 200 series (Project personnel) and the 300 series (Short-term appointments and appointments of limited duration) of the Staff Rules to bring them into line with the 100 series.

4. The provisions of article I of the Staff Regulations are in most parts very general as they must apply to all staff. Similarly, the provisions of chapter I of the 100 series of the Staff Rules contained in the present annex are, for the most part, very general as they must apply to all staff appointed under the 100 series of the Staff Rules. Pursuant to the request of the General Assembly in resolution 52/252, it is envisaged that additional rules for particular groups of staff such as finance officers, procurement officers and staff of separately funded organs will be prepared and promulgated by administrative issuances dealing with their status, rights and obligations. It is not appropriate to deal with such specialized matters in the Staff Regulations and Rules.

Role of the commentary

5. Each provision of the Staff Regulations and Rules set out in the present annex is followed by a commentary. The commentary is designed to explain individual provisions and to help staff members understand each provision by placing it into context. It is not part of the Staff Regulations and Rules and so is not a legal "norm" or imperative, nor does it have the legal force of a rule. It is, however, an official guide published by the Secretary-General for the use of management and staff on the scope and application of the rules contained in this annex. Staff may thus safely rely on the commentary to guide their actions since management will use it in interpreting and applying those rules. The commentary will be updated from time to time in consultation with representatives of the staff in the Staff-Management Coordination Committee established under chapter VIII of the Staff Rules in the light of experience in applying the rules to specific instances.
6. In view of the importance of the revised text of article I of the Staff Regulations adopted by the General Assembly in resolution 52/252 and of chapter I of the 100 series of the Staff Rules noted in the same resolution, and in view of the need for staff to have a guide to their status, rights and duties conveniently at hand, the present annex contains extracts from the Charter and the Convention on the Privileges and Immunities of the United Nations, the text of article I of the Staff Regulations and the text of the related provisions of chapter I of the Staff Rules, together with the explanatory commentary, as well as the text of resolution 52/252 and of the "Standards of conduct for the international civil service" adopted by the International Civil Service Commission in 2001 and welcomed by the General Assembly in its resolution 56/244 (the 2001 standards of conduct).

**Status of the “Standards of conduct for the international civil service”**

7. The standards of conduct adopted in 2001 revised and updated the 1954 report of the International Civil Service Advisory Board entitled *Standards of Conduct in the International Civil Service* in order to assist staff members and executive heads of the organizations to understand better the obligations placed on staff conduct by the Charter and the Staff Regulations and Rules. The 1954 report has been continually cited by successive Secretaries-General and by the United Nations Administrative Tribunal when assessing conduct of staff. The revised text is reproduced in the present annex as an illustrative guide to expected standards of conduct. The standards of conduct do not have the force of law as they provide a discussion of expected standards to help staff understand their role as international civil servants rather than a set of binding rules. References to relevant paragraphs in the standards of conduct are made in the commentary.

**II. General Assembly resolution 52/252 of 8 September 1998**

**Revisions to article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules of the United Nations**

The General Assembly,

Recalling Articles 97, 98, 100, 101 and 105 of the Charter of the United Nations,

Recalling also its resolution 52/12 B of 19 December 1997,

Noting with concern the limited time it had at its disposal to consider this matter,

Having considered the reports of the Secretary-General of 17 October 1997 and 28 July 1998 entitled “Proposed United Nations Code of Conduct”,

Taking note with appreciation of the comments provided by the International Civil Service Commission on the revised text of article I of the Staff Regulations

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a A/52/488.  
b A/52/488/Add.1.
and chapter I of the 100 series of the Staff Rules applicable to United Nations staff members,  
s
Taking note of the views expressed by Member States in the Fifth Committee on this question,  

Having heard the views expressed by staff representatives in the Fifth Committee in accordance with General Assembly resolution 35/213 of 17 December 1980,  

1. Adopts the revised text of article I of the Staff Regulations, and takes note of the revised text of chapter I of the 100 series of the Staff Rules applicable to United Nations staff members, as set out in annex I to the report of the Secretary-General of 17 October 1997, and not to other organizations, subject to the following modifications:

(a) The provisions contained in new staff regulations 1.1 (c) and 1.2 (g), and in new staff rule 101.2 (h) of the original proposal as set out in the report of the Secretary-General of 17 October 1997, which deal with staff representatives, are deleted, as indicated in the report of the Secretary-General of 28 July 1998;  

(b) The phrase “and in the relevant resolutions and decisions of the General Assembly” is inserted after “Staff Regulations and Rules” in new staff regulation 1.1 (c);  

(c) The phrase “in the employment of staff and” is deleted from new staff regulation 1.1 (d);  

(d) Article 99 is deleted from annex I, section A;  

(e) At the end of new staff regulation 1.1 (f), the words “in accordance with the relevant instruments” are added;  

(f) New staff regulation 1.2 (o) is replaced with the following:

“All staff members at the assistant secretary-general level and above shall be required to file financial disclosure statements upon appointment and at intervals as prescribed by the Secretary-General, in respect of themselves and their dependent children, including any substantial transfers of assets and property by spouses and children, and any other source that might constitute a conflict of interest, after knowledge of the appointment or during its tenure, to provide certification stating that there is no conflict of interest with regard to the economic activities of spouses and dependent children, and to assist the Secretary-General in verifying the above-mentioned certification on his special request. The financial disclosure statements will remain confidential and will only be used, as prescribed by the Secretary-General, in making determinations pursuant to staff regulation 1.2 (n).”  

2. Decides to insert between the second and third sentences of the text of the “Scope and purpose” provision of the Staff Regulations, the following sentence:

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* See A/52/30/Add.1.  
* Ibid., 53rd meeting (A/C.5/52/SR.53), and corrigendum.
“For the purposes of these Regulations, the expressions ‘United Nations Secretariat’, ‘staff members’ or ‘staff’ shall refer to all the staff members of the Secretariat, within the meaning of Article 97 of the Charter of the United Nations, whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter of the United Nations.”;

3. *Decides also* that the amendments to the Staff Regulations adopted in the present resolution and the related amendments to the Staff Rules shall become effective on 1 January 1999;

4. *Emphasizes* that the implementation of new staff regulation 1.2 (b) should take into account also the definition of integrity provided in the 1954 report of the International Civil Service Advisory Board entitled *Standards of Conduct in the International Civil Service*, in accordance with paragraph 28 of the comments of the International Civil Service Commission;

5. *Also emphasizes* that the implementation of new staff rule 101.2 (d) should be in accordance with the definition provided in administrative instruction ST/Al/379 of 29 October 1992;

6. *Further emphasizes* that managers, as staff members, are bound by the duties and obligations set out in new article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules, and that their higher-level functions and responsibilities entail increased accountability for the proper performance of all their duties in managing the human and financial resources entrusted to them;

7. *Requests* the Secretary-General to emphasize in the commentary on new article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules that the higher level of responsibilities associated with managerial functions entails a commensurate increase in the accountability of managers;

8. *Stresses* the importance of the provisions governing the status and the basic rights and duties of staff members, requests the Secretary-General to issue to every staff member in separate form the text of Articles 97, 98, 100, 101 and 105 of the Charter of the United Nations and relevant extracts from the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of 14 December 1945; the Staff Regulations and chapter I of the 100 series of the Staff Rules, together with the explanatory commentary, the text of the present resolution and the 1954 report of the International Civil Service Advisory Board entitled *Standards of Conduct in the International Civil Service*;

9. *Requests* the Secretary-General to expedite the submission to the General Assembly, by its fifty-fourth session, of appropriate regulations and rules governing the status, basic rights and duties of the Secretary-General, officials other than Secretariat officials and experts on mission;

10. *Also requests* the Secretary-General to prepare, as a matter of priority, additional rules for particular groups of staff such as finance officers, procurement officers and staff of separately funded organs, in accordance with paragraph 10 of his report;

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* See A/52/488, annex II and A/52/488/Add.1, sect. II.
11. *Further requests* the Secretary-General to prepare for consideration by the General Assembly at its fifty-fourth session a text of the Staff Regulations drafted in gender-neutral terms;

12. *Notes* that the Secretary-General will prepare amendments to the 200 and 300 series of the Staff Rules to reflect the amendments to article I of the Staff Regulations, and notes also that such amendments to the Staff Rules are subject to the requirements of staff regulations 12.2, 12.3 and 12.4;

13. *Notes further* that the International Civil Service Commission has decided to include in its work programme the updating of the 1954 *Standards of Conduct in the International Civil Service* of the International Civil Service Advisory Board in consultation with the Consultative Committee on Administrative Questions, and looks forward to the results of this review.

92nd plenary meeting
8 September 1998

III. **Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations**

Provisions relating to the status, basic rights and duties of United Nations staff members, with commentary

A. **Charter of the United Nations**

Chapter III
Orans

Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

Chapter XV
The Secretariat

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General
Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Chapter XVI

Miscellaneous provisions

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.
B. Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly by its resolution 22 (I) of 13 February 1946

Article V

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves ...

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities ...

Commentary

Staff members

1. The Charter requires that staff members be “appointed” by the Secretary-General (or by those to whom this power has been delegated, either by the Secretary-General alone or by the Secretary-General at the direction of the General Assembly). The hallmark of a staff relationship is “appointment”, and this is done through a letter of appointment pursuant to staff regulation 4.1. The Staff Regulations, as revised by the General Assembly in its resolution 52/252, apply to all staff members of the Secretariat, within the meaning of Article 97 of the Charter, whose employment relationship and contractual link with the Organization are through a letter of appointment issued pursuant to regulations promulgated by the General Assembly.

2. To ensure that the revised Regulations apply to all staff members of the Organization, including all staff members of all its principal and subsidiary organs, even those with entirely separate administrations, the following sentence has been inserted between the second and third sentence of the “Scope and purpose” provision of the Staff Regulations:

“For the purposes of these Regulations, the expressions ‘United Nations Secretariat’, ‘the Secretariat’, and ‘Secretary-General of the Secretariat’, within the meaning of Article 97 of the Charter of the United Nations, whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter.”

The entire text is shown in section IV of the present annex.

3. Article 105 of the Charter empowers the General Assembly to make provisions for the privileges and immunities of the “officials” of the Organization. The Assembly did so by adopting the Convention on the Privileges and Immunities of the United Nations on 13 February 1946 (hereafter the “General Convention”). Article V of the General Convention provides for privileges and immunities for officials and article VII provides for the issue of United Nations laissez-passer to officials. By its resolution 76 (I) of 7 December 1946, the Assembly approved that the provisions in articles V and VII of the General Convention apply to all staff members of the United Nations with the exception of those “recruited locally and assigned to hourly
IV. Scope and purpose of the Staff Regulations of the United Nations

Article I of the Staff Regulations of the United Nations and related rules from chapter I of the 100 series of the Staff Rules, with commentary

Staff Regulations of the United Nations
Scope and purpose

The Staff Regulations embody the fundamental conditions of service and the basic rights, duties and obligations of the United Nations Secretariat. They represent the broad principles of personnel policy for the staffing and administration of the Secretariat. For the purposes of these Regulations, the expressions "United Nations Secretariat", "staff members" or "staff" shall refer to all the staff members of the Secretariat, within the meaning of Article 97 of the Charter of the United Nations, whose employment and contractual relationship are defined by a letter of appointment subject to regulations promulgated by the General Assembly pursuant to Article 101, paragraph 1, of the Charter. The Secretary-General, as the chief administrative officer, shall provide and enforce such staff rules consistent with these principles as he or she considers necessary.

Article I
Duties, obligations and privileges

Staff regulation 1.1
Status of staff

Regulation 1.1 (a)

Staff members are international civil servants. Their responsibilities as staff members are not national but exclusively international.

Commentary

1. It should be noted that the commentary uses the word "former" to refer to the regulations and rules in force when General Assembly resolution 52/252 was adopted (ST/SGB/1998/8 and ST/SGB/Staff Rules/1/9 and Amend.1). The word "new" is used to indicate language that was not in the former Staff Regulations and Rules.

2. Staff regulation 1.1 (a) essentially reproduces the text of the first two sentences of former staff regulation 1.1 (see paras. 3-14, 29 and 30 of the 2001 standards of conduct), reproduced in section V of the present annex.
Regulation 1.1 (b)

Staff members shall make the following written declaration witnessed by the Secretary-General or his or her authorized representative:

"I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization."

"I also solemnly declare and promise to respect the obligations incumbent upon me as set out in the Staff Regulations and Rules."

Commentary
1. Staff regulation 1.1 (b) contains the declaration of office of staff and its opening words incorporate the text of former staff regulation 1.9 insofar as it relates to staff members (see paras. 3-14 of the 2001 standards of conduct). The first part of staff regulation 1.1 (b) in substance reproduces the text of the declaration set out in former staff regulation 1.9, except that staff regulation 1.1 (b) codifies existing practice under which staff members subscribe to a written declaration but do not make a sworn statement, since the concept of a sworn statement depends upon the operation of local law.

2. The second paragraph of the declaration is new and refers specifically to the Staff Regulations and Rules.

3. A copy of the present bulletin and its annex will be distributed to all new and current staff members.

Regulation 1.1 (c)

The Secretary-General shall ensure that the rights and duties of staff members, as set out in the Charter and the Staff Regulations and Rules and in the relevant resolutions and decisions of the General Assembly, are respected.

Commentary
1. Staff regulation 1.1 (c) is new.

2. The regulation codifies an implicit duty that falls on the Secretary-General, that is, to ensure that the rights and duties of staff members are respected.

Regulation 1.1 (d)

The Secretary-General shall seek to ensure that the paramount consideration in the determination of the conditions of service shall be the necessity of securing staff of the highest standards of efficiency, competence and integrity.

Commentary
1. Staff regulation 1.1 (d) places on the Secretary-General an affirmative duty to seek to ensure that the criteria set out in Article 101, paragraph 3, of the Charter for the determination of the conditions of service of the staff are implemented. This
provision is not intended to affect the role of legislative bodies involved in the process of establishing conditions of service. It does, however, seek to formulate the responsibility of the Secretary-General to advocate, in the appropriate forums, the adoption of what he or she considers to be the appropriate conditions of service to secure the recruitment and retention of staff possessing the highest standards of efficiency, competence and integrity.

2. The salaries of staff in the Professional category and above are determined by reference to the best paying national civil service under what is known as the Noblesmaire principle. The salaries of staff in the General Service and related categories are established by the Secretary-General on the basis of the best prevailing conditions of employment in the locality where the United Nations office concerned is located under what is commonly referred to as the Flemming principle. The determination of the conditions of service of staff in the Field Service category follows the same pattern as the Professional category.

Regulation 1.1 (e)

The Staff Regulations apply to all staff at all levels, including staff of the separately funded organs and staff holding appointments under the 100, 200 and 300 series of the Staff Rules.

Commentary

1. Regulation 1.1 (e) makes clear that the Staff Regulations apply to all staff members of the Secretariat within the meaning of Article 97 of the Charter whose contractual link with the Organization is through a letter of appointment issued pursuant to regulations promulgated by the General Assembly.

2. While the Staff Regulations apply to all staff, applicable Staff Rules differ depending on the type of appointment held by the staff member. The 100 series of the Staff Rules applies to all staff except those engaged on technical assistance projects (200 series) and staff engaged for short-term service or for appointments of limited duration (300 series). Similar amendments to the 200 series and 300 series rules have been promulgated as appear in the 100 series, with appropriate modifications required to address the different circumstances of such staff.

Regulation 1.1 (f)

The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of the Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to the staff members who are covered by them to fail to observe laws and police regulations of the State in which they are located nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, the staff member shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived in accordance with the relevant instruments.
Commentary

1. Staff regulation 1.1 (f) essentially reproduces the substance of former staff regulation 1.8 (see the 2001 standards of conduct, paras. 39 and 40). It is placed at the end of staff regulation 1.1 as it defines the scope and extent of the privileges and immunities of the United Nations that are enjoyed by staff in the interest of the Organization.

2. Staff rule 101.2 (c) deals with the obligations on staff to honour their private legal obligations.

Staff rule 101.1
Status of staff

The declaration made by a staff member on appointment shall be placed in his or her official status file. A new declaration shall be made after a break in service that exceeds three months.

Commentary

1. Staff rule 101.1 codifies the existing practice of placing written declarations in the official status file. The second sentence seeks to ensure that a new declaration is made after a break in service that exceeds three months unless the staff member is reinstated and the staff member’s services are considered continuous under current staff rule 104.3 (b).

2. The Staff Regulations adopted by the General Assembly in its resolution 52/252 entered into force on 1 January 1999. They are binding on all staff in service on that date, as well as staff recruited on or after that date. The declaration previously made by staff already in service on 1 January 1999 at the time of their entry on duty remains in effect. Thus, it is not necessary that they sign the new declaration set out in staff regulation 1.1 (b).

Staff regulation 1.2
Basic rights and obligations of staff

Regulation 1.2 (a)

Staff members shall uphold and respect the principles set out in the Charter, including faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. Consequently, staff members shall exhibit respect for all cultures; they shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them.

Commentary

This provision describes the basic values expected of international civil servants because of their status. At the heart of those values are the principles set out in the preamble to the Charter. The first sentence is a quotation from those opening words and the second sentence is the obligation on staff flowing from a commitment to those values (see also the 2001 standards of conduct, paras. 2, 3, 6, 13, 14, 20 and 36).
Regulation 1.2 (b)

Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

Commentary

1. This provision describes more basic values expected of international civil servants because of their status. It is derived from Article 101, paragraph 3, of the Charter and affirmatively places on staff the obligation to uphold the highest standards of efficiency, competence and integrity after appointment to the Secretariat.

2. At the heart of those values is integrity, allied with a dedication to the values and principles set out in the Charter. As discussed in paragraph 5 of the 2001 standards of conduct, the concept of integrity “embraces all aspects of behaviour of an international civil servant, including such qualities as honesty, truthfulness, impartiality and incorruptibility”.

3. Various other provisions deal with particular manifestations of this set of basic values in different circumstances, for example, staff regulations 1.2 (d) to (i), (m) and (n).

General rights and obligations

Regulation 1.2 (c)

Staff members are subject to the authority of the Secretary-General and to assignment by him or her to any of the activities or offices of the United Nations. In exercising this authority the Secretary-General shall seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

Commentary

1. Former staff regulation 1.2.

2. The obligations of Member States for the security of staff are set out in Article 105 of the Charter, which provides that the Organization and its officials shall enjoy such privileges and immunities as are necessary for the exercise of their functions.

3. The Secretary-General, as chief administrative officer, has an inherent responsibility to seek to ensure the safety of staff. This regulation recognizes that responsibility as a basic right of staff (see also the 2001 standards of conduct, para. 37).

4. In exercising his or her authority to assign staff to any of the activities of the Organization, the Secretary-General shall seek to ensure that, while assigned to hardship areas, staff are afforded reasonable conditions of life and work having regard to the existing conditions.
5. Furthermore, since staff are subject to assignment, measures should be taken to ensure that staff are properly advised, before departure, of conditions prevailing at the duty station to which they are assigned.

Regulation 1.2 (d)

In the performance of their duties staff members shall neither seek nor accept instructions from any Government or from any other source external to the Organization.

Commentary

1. Staff regulation 1.2 (d) reproduces the essence of former staff regulation 1.3 and flows from the first sentence of Article 100, paragraph 1, of the Charter (see the 2001 standards of conduct, paras. 8, 12 and 30).

2. The new regulation makes clear that directions or instructions to staff come from the Secretary-General, who must fulfill the legislative mandates of the Organization. This is true in all areas, including, for example, decisions relating to the appointment and promotion of staff, which are for the Secretary-General to make as chief administrative officer of the Organization.

Regulation 1.2 (e)

By accepting appointment, staff members pledge themselves to discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all staff members by virtue of their status as international civil servants.

Commentary

1. The first sentence of staff regulation 1.2 (e) sets out an idea that is in former staff regulation 1.1 and former staff regulation 1.9, which contains the oath or declaration of office, that is, that staff must regulate their conduct with only the interests of the Organization in view (see the 2001 standards of conduct, paras. 4 and 8). The second sentence of staff regulation 1.2 (e) (ibid., paras. 1, 4, 6, 7 and 30). It was considered important to highlight those obligations which arise from the very status of a staff member and which, at present, are set out only in the declaration subscribed to by staff upon their entry on duty.

2. The Secretary-General, and those to whom he or she has delegated decision-making authority, has the responsibility to make decisions as to whether the staff have complied with the provisions of the Staff Regulations and Rules. Since no set of rules, no matter how long or complex, can cover all situations, it is clear that there must be discretion in the application of the rules. This is common to all systems of administrative law. However, the discretionary authority of the Secretary-General is not unlimited and it has consistently been held by the Administrative Tribunal that decisions cannot be tainted by prejudice, improper motive or mistake of fact. The
Administrative Tribunal adjudicates claims by staff that decisions have not been properly taken.

Regulation 1.2 (f)

While staff members’ personal views and convictions, including their political and religious convictions, remain inviolable, staff members shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. They shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

Commentary

1. Staff regulation 1.2 (f) generally reproduces the essence of former staff regulation 1.4. The core idea of conduct befitting an international civil servant was considered by the International Civil Service Commission in 2001. The Commission indicated that:

"... international civil servants have a special calling: to serve the ideals of peace, of respect for fundamental rights, of economic and social progress, and of international cooperation. It is therefore incumbent on international civil servants to adhere to the highest standards of conduct; for ultimately, it is the international civil service that will enable the United Nations system to bring about a just and peaceful world."*

(See the 2001 standards of conduct, para. 2; see also para. 5 on the integrity expected of international civil servants; paras. 4, 7, 21 and 33 on loyalty; para. 6 on tolerance and understanding; paras. 8-10 on impartiality; paras. 11 and 12 on independence; paras. 13 and 36 on international outlook; and para. 14 on freedom from discrimination.)

2. The first sentence of regulation 1.2 (f) is a revision of the second sentence in former staff regulation 1.4 which provided that:

"While they are not expected to give up their national sentiments, or their political and religious convictions, they shall at all times comport themselves with the reserve and tact incumbent upon them by reason of their international status."

The revision recasts this obligation in a more positive tone. In the 2001 standards of conduct, the Commission noted that:

"Impartiality implies tolerance and restraint, particularly in dealing with political or religious convictions. While their personal views remain inviolate, international civil servants do not have the freedom of private persons to take sides or to express their convictions publicly on controversial matters, either

individually or as members of a group. This can mean that, in certain situations, personal views should only be expressed with tact and discretion."h

3. As noted in the commentary to regulation 1.2 (e), it is for the Secretary-General to decide whether a staff member has met the standards set out in this provision. The Administrative Tribunal has consistently maintained that, while the Secretary-General has the responsibility and discretion to assess a staff member’s conduct, such discretion must be exercised reasonably, without improper motives and in accordance with the requirements of due process.

Regulation 1.2 (g)

Staff members shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends and those they favour. Nor shall staff members use their office for personal reasons to prejudice the positions of those they do not favour.

Commentary

1. Staff regulation 1.2 (g) builds on ideas in former staff regulation 1.5 and codifies principles set out in the 2001 standards of conduct (see paras. 21, 22, 25 and 34). The use of one’s office for personal gain is clearly unacceptable. This includes not only conducting business from a United Nations office, but also such things as using the United Nations facilities for a business, using the United Nations name, logo or address for a business or approving a contract for a family business without disclosure. It also reflects the principle set out in former staff regulation 1.5 that staff members shall not use information that has not been made public for the private advantage of the staff member or any third party.

2. Staff regulation 1.2 (g), for the sake of clarity, makes specific reference to the prohibition on a staff member favouring a third party, including family or friends, from profiting from a staff member’s position or the exercise of his or her functions. The term “friends” is broad and seeks to encompass not only friends as normally understood but also relationships that are not recognized by the Staff Regulations and Rules as creating a dependency.

3. The regulation also prohibits the use of office or knowledge gained from that office for personal reasons to prejudice or harm the careers of individual staff members or harm third parties.

Regulation 1.2 (h)

Staff members may exercise the right to vote but shall ensure that their participation in any political activity is consistent with, and does not reflect adversely upon, the independence and impartiality required by their status as international civil servants.

h Ibid., para. 9.
Commentary

1. Staff regulation 1.2 (h) reproduces the essence of the text of former staff regulation 1.7 (see the 2001 standards of conduct, paras. 9, 10, 29, 44 and 45), but the provision is cast in a more positive form to ensure that the emphasis is on the need to ensure that political activities do not have an impact on the independence and impartiality of staff rather than suggesting that there is some problem with staff having political views.

2. The notion of consistency with the status of an international civil servant is to be determined by the Secretary-General in view of the necessity of staff being, and appearing to be, independent and impartial. Thus, it is clear that staff members cannot be candidates for political office. In case of doubt, inquiries could be made by staff pursuant to staff rule 101.2 (r).

3. Staff members, of course, have the right to form staff representative bodies in accordance with staff regulations 8.1 and 8.2 in order to ensure, in the words of staff regulation 8.1, "the effective participation of staff in identifying, examining and resolving issues relating to staff welfare, including conditions of work, general conditions of life and other personnel policies".

Regulation 1.2 (i)

Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. These obligations do not cease upon separation from service.

Commentary

1. Staff regulation 1.2 (i) generally reproduces the text of former staff regulation 1.5. The text reflects the fact that official information cannot be used for private purposes, except with authorization. This flows from the idea that staff members should place the interests of the Organization above their own (see the 2001 standards of conduct, para. 4). It follows that permission must be obtained for disclosure to third parties of information that has not been made public, unless such disclosure is in the normal course of the staff member's duties, that is, that the staff member is either generally authorized to release information (for example, a press officer) or by a staff member specifically authorized to do so (see staff regulation 1.2 (r) for the duty of staff to cooperate with United Nations investigations).

2. The last sentence of the regulation provides that the obligations contained in the provision do not cease upon separation from service. It may be difficult to enforce such a provision but, at the very least, if a former staff member ignores the regulation, a note could be placed in his or her official status file to prevent re-employment.
Honours, gifts or remuneration

Regulation 1.2 (j)

No staff member shall accept any honour, decoration, favour, gift or remuneration from any Government.

Commentary

1. Staff regulations 1.2 (j), (k), and (l) provide the basic provisions regulating the issue of acceptance by staff members of any honour, decoration, favour, gift or remuneration from outside sources (see the 2001 standards of conduct, paras. 46\(^1\) and 47).

2. Former staff regulation 1.6 dealt with this issue in one provision, which prohibited the acceptance of any benefits from a Government, and severely restricted the acceptance of benefits from non-governmental sources. In proposing the language of staff regulation 1.2 (j), the Secretary-General believed that it would be appropriate for the General Assembly to stress the importance of the appearance of strict independence and impartiality of staff and thus to reaffirm the absolute prohibition on acceptance of benefits from Governments. The Secretary-General also believed that the prior exception in former staff regulation 1.6 and former staff rule 101.9 (b), which enabled a staff member to accept honours for war service prior to appointment with the United Nations, should be abolished. By General Assembly resolution 52/252, the Assembly abolished that exception.

3. Staff regulation 1.2 (j) contains the basic rule that staff may not accept any honour, decoration, gift or remuneration from any Government (ibid., paras. 46 and 47).\(^2\) This rule applies whatever the reason for the award, even if the award is unrelated to the staff member’s service with the Organization, since it is imperative that an international civil servant be perceived as independent from any national Government.

Regulation 1.2 (k)

If refusal of an unanticipated honour, decoration, favour or gift from a Government would cause embarrassment to the Organization, the staff member may receive it on behalf of the Organization and then report and entrust it to the Secretary-General, who will either retain it for the Organization or arrange for its disposal for the benefit of the Organization or for a charitable purpose.

Commentary

1. Staff regulation 1.2 (k) is new and seeks to regulate a recurrent problem, namely, when a staff member is given an unanticipated honour, decoration, favour or gift, perhaps in public, by a minister or even a head of State. In such cases, a

\(^{1}\) Even though paragraph 46 envisages the possibility of authorization by the executive head of an organization of an honour, decoration, gift, favour or remuneration from a Government, this is precluded by staff regulation 1.2 (j), as explained in paras. 2 and 3 of the commentary.

\(^{2}\) Staff regulation 3.4 (c) envisages that staff members may accept child benefits from their Governments but that, in such a case, United Nations dependency benefits will be reduced. The United Nations has also accepted housing from Governments and when staff are assigned to such housing, rental deductions from emoluments are applicable.
public refusal could cause a needlessly unpleasant incident. In such cases, the new
eregulation states that the unanticipated honour, decoration, favour or gift may be
received by the staff member, but on behalf of the United Nations. The honour,
decoration, favour or gift must then be given to the Secretary-General for retention
or disposal by the Organization. Remuneration from a Government must always be
refused and such refusal, as staff are paid by the Organization, could hardly cause
embarrassment.

2. The Secretary-General will write to all Member States to inform them of the
Organization's policy on acceptance of honours, decorations, favours, gifts or
remuneration so that incidents of this nature can be avoided to the largest extent
possible.

Regulation 1.2 (l)

No staff member shall accept any honour, decoration, favour, gift or
remuneration from any non-governmental source without first obtaining the
approval of the Secretary-General.

Commentary

1. Staff regulation 1.2 (l) requires that a staff member not accept any honour,
decoration, favour, gift or remuneration from a non-governmental source without
first obtaining the approval of the Secretary-General (see also the 2001 standards of
conduct, paras. 46 and 47). This provision is based on former staff regulation 1.6.

2. A non-governmental source means any intergovernmental organization, non-
governmental organization or any private source.

Conflict of interest

Regulation 1.2 (m)

Staff members shall not be actively associated with the management of, or
hold a financial interest in, any profit-making, business or other concern, if it were
possible for the staff member or the profit-making, business or other concern to
benefit from such association or financial interest by reason of his or her position
with the United Nations.

Commentary

1. Staff regulation 1.2 (m) reproduces the essence of former staff rule 101.6 (b)
and clarifies its scope. The provision was made a staff regulation because of its
importance. Its purpose is to put staff on notice that they cannot be actively
associated with a profit-making, business or other concern, if either the concern or
the staff member is to profit by the association with the Organization. For example,
a staff member working in the Office of Legal Affairs cannot act for outside clients
(see also the 2001 standards of conduct, paras. 21 and 22). It will be for the
Secretary-General to judge whether a particular act raises a conflict of interest
situation.

2. This provision does not seek to affect the efforts of staff associations to raise
funds for their activities from staff.
Regulation 1.2 (n)

All staff members at the Assistant Secretary-General level and above shall be required to file financial disclosure statements upon appointment and at intervals as prescribed by the Secretary-General, in respect of themselves and their dependent children, including any substantial transfers of assets and property to spouses and dependent children from the staff member or from any other source that might constitute a conflict of interest, after knowledge of the appointment or during its tenure, to provide certification stating that there is no conflict of interest with regard to the economic activities of spouses and dependent children, and to assist the Secretary-General in verifying the above-mentioned certification on his or her special request. The financial disclosure statements will remain confidential and will only be used, as prescribed by the Secretary-General, in making determinations pursuant to staff regulation 1.2 (m).

Commentary

1. Staff regulation 1.2 (n) requires all staff at the assistant secretary-general level and above to submit financial disclosure statements on appointment and at intervals as prescribed by the Secretary-General (see also the 2001 standards of conduct, para. 22). This requirement is designed to minimize the risk of officials being perceived as using their position for personal gain. The regulation makes it clear that these financial disclosure statements will remain confidential and will only be used by the Secretary-General in assessing whether a conflict of interest situation exists.

2. Staff regulation 1.2 (n) also gives to the Secretary-General the authority to prescribe the form of such disclosure statements and the periodicity of their filing and authorizes him or her to establish procedures to ensure that the statements remain confidential.

Outside employment and activities

Regulation 1.2 (o)

Staff members shall not engage in any outside occupation or employment, whether remunerated or not, without the approval of the Secretary-General.

Commentary

1. Staff regulation 1.2 (o), which is based on former staff rule 101.6 (e), reflects the Organization’s long-standing policy on outside occupation or employment, whether during or outside the work week (see also the 2001 standards of conduct, paras. 41-45).

2. The notion of occupation includes the practice of a profession (whether as an employee or an independent contractor). Employment is a legal relationship pursuant to which one person is providing work and skill at the control and direction of another.

Regulation 1.2 (p)

The Secretary-General may authorize staff members to engage in an outside occupation or employment, whether remunerated or not, if:
(i) The outside occupation or employment does not conflict with the staff member's official functions or the status of an international civil servant;

(ii) The outside occupation or employment is not against the interest of the United Nations; and

(iii) The outside occupation or employment is permitted by local law at the duty station or where the occupation or employment occurs.

Commentary

1. Staff regulation 1.2 (p) is new and sets out in specific terms the Organization's long-standing requirements that have to be met before a staff member may be given permission to engage in an outside occupation or employment. The key factors in determining whether permission should be granted relate to the compatibility of that occupation or employment with the status and functions being discharged by the staff member and with the interest of the United Nations (see also the 2001 standards of conduct, para. 41). In addition, the occupation or employment must be permitted by local law. If the Secretary-General decides that permission for such occupation or employment should be denied, a reason will be given.

2. The first requirement is that there be no conflict with the staff member's official functions or with the staff member's status as an international civil servant. For example, it would not be appropriate for a member of the Office of Legal Affairs to be working part-time in an outside law firm.

3. The second requirement is that such occupation or employment not be against the interest of the United Nations, that is, that the occupation or employment does not reflect adversely upon the United Nations. For example, permission would not be granted for a staff member to work with an organization the goals of which are incompatible with those of the United Nations or to work in a capacity that could call into question the impartiality and independence of the staff member.

4. The third requirement is that the occupation or employment be permitted under the law of the duty station concerned. For example, in the United States of America, staff holding G-4 visas are not permitted under local law to accept outside employment, or to earn money from an occupation, so no permission would be granted.

5. It should be remarked that private non-remunerated activities that have nothing to do with a staff member's official functions would be at the discretion of the staff member (for example, the secretary of a stamp club) (see the 2001 standards of conduct, para 38).

6. Private activities that relate to the United Nations are regulated by staff rule 101.2 (p).

Use of property and assets

Regulation 1.2 (q)

Staff members shall use the property and assets of the Organization only for official purposes and shall exercise reasonable care when utilizing such property and assets.
Commentary

1. Staff regulation 1.2 (q) is new and makes explicit the duty to use reasonable care when utilizing the property and assets of the Organization, which duty is behind several provisions in the Financial Rules and the Staff Rules.

2. Management accountability for the way in which staff resources are utilized is discussed in the commentary to staff rule 101.3 (a).

Regulation 1.2 (r)

Staff members must respond fully to requests for information from staff members and other officials of the Organization authorized to investigate the possible misuse of funds, waste or abuse.

Commentary

1. Staff regulation 1.2 (r) builds on the obligation to supply information set out in current staff rule 104.4. This provision seeks to ensure that staff members clearly understand that they must cooperate with official investigations by the Organization and must supply information on their official actions to, for example, the internal or external auditors. Such requests are not in the nature of criminal inquiries where an individual may refuse to answer on the basis of self-incrimination. The issue in the employment relationship between a staff member and the Organization is whether the highest standards of competence, efficiency and integrity have been met.

2. The Secretary-General has the authority to request staff to supply information and the staff have a duty to respond. This is without prejudice to the rights of staff under chapter X of the Staff Regulations and Rules. It should be noted that, although the Secretary-General obviously has control of United Nations premises, any investigations that involve the staff member’s home would require the consent of the staff member or would have to be conducted by the appropriate authorities in accordance with national law.

3. If, after investigation, a staff member is charged with misconduct, the staff member is entitled to all the due process protections set out in the Staff Regulations and Rules and administrative issuances promulgated thereunder. This includes the freedom to decide whether the staff member wishes to make any statements or submissions in response to the charge.

Staff rule 101.2
Basic rights and obligations of staff

General

Rule 101.2 (a)

Disciplinary procedures set out in article X of the Staff Regulations and chapter X of the Staff Rules may be instituted against a staff member who fails to comply with his or her obligations and the standards of conduct set out in the Charter of the United Nations, the Staff Regulations and Rules, the Financial Regulations and Rules and all administrative issuances.
Commentary

Staff rule 101.2 (a) is new. It will ensure that staff are held accountable through disciplinary procedures for failure to comply with their obligations and the standards of conduct, set out in the Charter of the United Nations, the Staff Regulations and Rules, the Financial Regulations and Rules and all related issuances. Administrative issuances refer to issuances promulgated by the Secretary-General, or by those who are delegated authority by the Secretary-General, in furtherance of the Staff Regulations and Rules and the Financial Regulations and Rules (see ST/SGB/1997/1).

Rule 101.2 (b)

Staff members shall follow the directions and instructions properly issued by the Secretary-General and their supervisors.

Commentary

1. Staff rule 101.2 (b) deals with the obligation of staff to follow directions properly given by supervising officials (see the 2001 standards of conduct, paras. 17 and 18). The use of the word “properly” means that a supervisor who gives improper instructions will be held accountable since staff regulation 1.1 (c) introduces an affirmative duty on the Secretary-General to ensure that the rights and duties of staff are respected.

2. In the 2001 standards of conduct, the International Civil Service Commission noted that staff members have to follow the instructions they receive in connection with their official functions but also have a right to ask for written instructions if they have doubts as to the consistency of the instruction with the Charter or any other constitutional instrument, decisions of the governing bodies or administrative rules and regulations (ibid. para. 18). Although it is clear that staff must follow instructions, it should also be noted that staff have a right to appeal instructions that they consider infringe their rights pursuant to chapter XI of the Staff Rules.

3. Obviously, staff do not have to follow instructions that are manifestly inconsistent with their official functions or threaten their safety or have nothing to do with their official functions, and are rare and can usually be handled by seeking a review from the next level supervisor or by consulting the Office of Human Resources Management.

Rule 101.2 (c)

Staff members must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

Commentary

1. Staff rule 101.2 (c) is really an amplification of staff regulation 1.1 (f) (formerly staff regulation 1.8), which provides that the privileges and immunities of the Organization afford no excuse to staff for non-performance of their private obligations (see the 2001 standards of conduct, paras. 39 and 40). The Secretary-General shall determine in any particular case whether such privileges and immunities exist and, if so, whether they shall be waived.
2. Staff rule 101.2 (c) makes clear to staff that they have an obligation to honour such private obligations. This provision will assist the Organization effectively to ensure that staff respect court orders relating to their private obligations. In the event that a plaintiff forwards to the Organization a court order against a staff member, the Administration will seek the views of the staff member before taking any action on the basis of that order. It is the responsibility of staff who have an order against them that they contest to avail themselves of all existing means under the applicable national law to appeal the order and/or obtain relief from the obligation to comply with the order pending its appeal.

3. Failure to honour such private obligations may be treated as a disciplinary matter under article X of the Staff Regulations and chapter X of the Staff Rules. In cases of non-compliance with family support court orders, deductions from staff members’ salaries, wages and other emoluments may be made in accordance with the procedures set out in Secretary-General’s bulletin ST/SGB/1999/4 as may be amended or replaced by another issuance on the subject.

Specific instances of prohibited conduct

Rule 101.2 (d)

Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse at the workplace or in connection with work, is prohibited.

Commentary

1. Staff rules 101.2 (d) to (i) deal with specific instances of prohibited conduct.

2. Staff rule 101.2 (d) reproduces the core of the Secretary-General’s bulletin of 29 October 1992 (ST/SGB/253), as may be amended or replaced by another issuance on the subject, which sets out United Nations policy on equal treatment of men and women in the Secretariat, and which also prohibits all forms of discrimination or harassment (see also the 2001 standards of conduct, paras. 14 and 20).

Rule 101.2 (e)

Staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, nor shall staff members threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official duties.

Commentary

1. Staff rule 101.2 (e) prohibits actions that threaten, intimidate or interfere with official functions and activities.

2. The rule is not intended to prevent permitted activities such as the right of staff to peaceful assembly, the right of representatives of staff representative bodies to address the Fifth Committee or other organs that have authorized such procedures or for staff to meet in authorized meeting rooms. What is prohibited are actions that prevent Member States, departments, offices, staff and other authorized persons from holding a meeting or carrying out an official activity. Ultimately the
application of the rule will be judgemental but the test is reasonably clear in that conduct which prevents others from performing official functions is not permitted.

3. It is noted that at times staff representatives have for certain periods suspended participation in joint bodies. Withdrawal by staff representatives from joint bodies does not constitute interference with official functions since the Administrative Tribunal has ruled that, in such cases, the Administration may proceed without the consultation normally needed pursuant to article VIII of the Staff Regulations and chapter VIII of the Staff Rules.

**Rule 101.2 (f)**

Staff members shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

**Commentary**

*Staff rule 101.2 (f) prohibits the intentional misrepresentation of official title or duties to outside parties, for example, by placing misleading titles on business cards, usually for private advantage. The use of the word "intentional" makes clear that this is not a careless or accidental act.*

**Rule 101.2 (g)**

Staff members shall not intentionally alter, destroy, misplace or render useless any official document, record or file entrusted to them by virtue of their functions, which document, record or file is intended to be kept as part of the records of the Organization.

**Commentary**

*Staff rule 101.2 (g) puts staff on notice that the intentional unauthorized destruction, alteration or misplacement of records, which were intended to form part of the official files of the Organization, department or office, is prohibited. This has been a problem from time to time in disciplinary cases when key documents are found to be missing from official files of the Organization. The use of the word ‘intentional’ makes clear that this is not a careless or accidental act.*

**Rule 101.2 (h)**

Staff members shall not seek to influence Member States, principal or subsidiary organs of the United Nations or expert groups in order to obtain a change from a position or decision taken by the Secretary-General, including decisions relating to the financing of Secretariat programmes or units or in order to secure support for improving their personal situation or the personal situation of other staff members or for blocking or reversing unfavourable decisions regarding their status or their colleagues’ status.

**Commentary**

*Staff rule 101.2 (h) reproduces provisions from the information circular of 2 February 1996 (ST/IIC/1996/10) concerning conduct of staff members in relation to Member States (see the 2001 standards of conduct, paras. 23-25 and 27). The new
rule seeks to make clear that lobbying Member States by individual staff members against positions taken by the Secretary-General is not permitted.

Rule 101.2 (i)

Staff members shall neither offer nor promise any favour, gift, remuneration or any other personal benefit to another staff member or to any third party with a view to causing him or her to perform, fail to perform or delay the performance of any official act. Similarly, staff members shall neither seek nor accept any favour, gift, remuneration or any other personal benefit from another staff member or from any third party in exchange for performing, failing to perform or delaying the performance of any official act.

Commentary

The prohibition in staff rule 101.2 (i) applies to the staff member's relations with other staff members and to the staff member's relations with third parties. While the general proposition is that the practices described in the rule violate the highest standards of integrity required of staff members (see the 2001 standards of conduct, paras. 16, 46 and 47), the purpose of the new rule is specifically to deal with “détournement de pouvoir”, “trafic d’influence” and other improper or even corrupt practices.

Honours, gifts or remuneration

Rule 101.2 (j)

Acceptance by staff members of any honour, decoration, favour, gift or remuneration from non-governmental sources requires the prior approval of the Secretary-General. Approval shall be granted only in exceptional cases and where such acceptance is not incompatible with the interests of the Organization and with the staff member's status as an international civil servant. However, staff members may occasionally accept, without prior approval, minor gifts of essentially nominal value having regard to the duty station concerned, provided that all such gifts are promptly disclosed to the head of the office, who may direct that the gift be

Commentary

1. Staff rule 101.2 (j) implements staff regulation 1.2 (l). It provides guidance on what honours, decorations, favours, gifts or remuneration may be accepted from non-governmental sources (see the 2001 standards of conduct, paras. 46 and 47). In essence, advance approval is required unless the gifts are of essentially nominal value, having regard to the duty station concerned. Acceptance of such items of essentially nominal value would not seem to present any significant risk of undermining the integrity or independence of staff members. The rule thus permits the staff member to accept gifts of essentially nominal value in view of the significant cost and effort that would be involved if staff members were required to seek prior approval.

2. The assessment of what is of "essentially nominal value" must be left to the best judgement of the staff member and the head of the office in the light of circumstances at the duty station concerned, since what is considered a minor gift at
a Headquarters duty station may take on a different significance in a small field office. The problem is regulated through a requirement for staff either to obtain permission in advance or to disclose what they have received to the head of the office. It will be up to the head of the office to determine what is acceptable and, if he or she is in doubt, higher authorities may be consulted. As a safeguard against possible abuse, all gifts received in this manner are to be disclosed to the head of the office, who will have authority to direct that gifts already received be returned.

Rule 101.2 (k)

The Secretary-General may authorize staff members to accept from a non-governmental source or a university academic awards, distinctions and tokens of a commemorative or honorary character, such as scrolls, certificates, trophies or other items of essentially nominal monetary value.

Commentary

Staff rule 101.2 (k) is based on former staff rule 101.9 (d) and permits the Secretary-General to authorize staff members to accept certain awards, distinctions and tokens from a non-governmental source or from a university. The rule provides that, for the purpose of the rule, universities are not considered government sources since, in many countries, they are not so considered and it would be incongruous for a staff member to be authorized to accept an honorary degree or certification from universities in some, but not all, countries. An honorary degree or certificate may therefore be accepted from universities in all countries.

Rule 101.2 (l)

Staff members, as part of their official functions, will be expected from time to time to attend governmental or other functions such as meals and diplomatic receptions. Such attendance is not considered receipt of a favour, gift or remuneration within the meaning of the Staff Regulations and Rules.

Commentary

Staff rule 101.2 (l) is new and deals with the issue of attendance at various official functions. It is clear that international officials are required, from time to time, to attend lunches, dinners and diplomatic receptions. Such attendance will not be considered by the Secretary-General a favour or gift within the meaning of staff regulations 1.2 (j) to (l).

Rule 101.2 (m)

The Secretary-General may, in exceptional cases, provided that this is in the interest of the United Nations and not incompatible with the staff member's status, authorize a staff member to receive from a non-governmental source an honour, decoration, favour, gift or remuneration other than those referred to in staff rules 101.2 (j) to (l) above.

Commentary

Staff rule 101.2 (m) enables the Secretary-General, on an exceptional basis, to authorize a staff member to accept an honour, decoration, favour, gift or
remuneration from a non-governmental source that falls outside staff rules 101.2 (j) to (l) as long as such acceptance is in the interests of the United Nations and not inconsistent with the staff member's status. This provision flows from former staff rule 101.9 (c) since it is not possible to define in advance what may be accepted from a non-governmental source.

Conflict of interest

Rule 101.2 (n)

A staff member who has occasion to deal in his or her official capacity with any matter involving a profit-making business or other concern in which he or she holds a financial interest, directly or indirectly, shall disclose the measure of that interest to the Secretary-General and, except as otherwise authorized by the Secretary-General, either dispose of that financial interest or formally excuse himself or herself from participating with regard to any involvement in that matter which gives rise to the conflict of interest situation.

Commentary

1. Staff rule 101.2 (n) is based on former staff rule 101.6 (c). However, the second part is new and deals with the consequences of a staff member disclosing to the Secretary-General that he or she has an interest, direct or indirect, in a profit-making business or other concern (whether profit-making or not-for-profit) with which the United Nations is dealing. In such cases, unless the Secretary-General has authorized the staff member to deal with a particular matter despite the disclosed interest, the staff member will be directed to dispose of the interest or will be excused from dealing with the matter (see also the 2001 standards of conduct, paras. 21 and 22).

2. This provision departs from former staff rule 101.6 (d), which provided that the mere holding of shares in a company did not constitute a financial interest that would require disclosure. That provision has been deleted in the interest of transparency and the need to avoid any appearance of conflict of interest. Staff rule 101.2 (n) requires that a staff member, with shares in a corporation with which he or she is involved, disclose that interest to the Secretary-General. Obviously whether there was a conflict would depend on the extent of the holding and on the nature of the staff member's duties. The object of the provision is to compel disclosure so that the Secretary-General can decide if there is a conflict situation before a problem arises.

3. If informal procedures are not sufficient to deal with questions that arise under this rule, under confidential clarification procedures established in administrative instruction ST/IA/2000/13 on outside activities, as may be amended or replaced by another issuance on the subject, staff can obtain advice on whether a planned outside occupation, employment or activity would conflict with their status. However, the common sense approach of excusing oneself from any dealings with an entity with which one has a financial interest would normally be appropriate.

Rule 101.2 (o)

The Secretary-General shall establish procedures for the filing and utilization of financial disclosure statements.
Commentary

Staff rule 101.2 (o) provides that the Secretary-General will establish procedures to implement the filing and access to financial disclosure statements. These procedures will ensure that the confidentiality of such forms is respected.

Outside activities

Rule 101.2 (p)

Staff members shall not, except in the normal course of official duties or with the prior approval of the Secretary-General, engage in any of the following acts, if such act relates to the purpose, activities or interests of the United Nations:

(i) Issue statements to the press, radio or other agencies of public information;

(ii) Accept speaking engagements;

(iii) Take part in film, theatre, radio or television productions;

(iv) Submit articles, books or other material for publication.

Commentary

1. Staff rule 101.2 (p) is based on former staff rule 101.6 (e) (see also the 2001 standards of conduct, paras. 34 and 41).

2. The rule only requires that a staff member seek permission if the outside activities relate to the purpose, activities or interests of the United Nations. If a request is denied, a reason for that refusal will be given. No permission is needed for social or charitable activities or for activities that have no relation to the Organization.

3. Outside activities that are of benefit to the Organization or the achievement of its goals and contribute to the development of professional skills of staff members are usually not only permitted but also encouraged, for example, the publication of scholarly articles, participation in symposiums and limited teaching activities.

Rule 101.2 (q)

Membership in a political party is permitted, provided that such membership does not entail action, or an obligation to take action, by the staff member contrary to staff regulation 1.2 (h). The payment of normal financial contributions to a political party shall not be construed as an activity inconsistent with the principles set out in staff regulation 1.2 (h).

Commentary

Staff rule 101.2 (q) reproduces the essence of former staff rule 101.8 (a) (see also the 2001 standards of conduct, paras. 44 and 45).
Rule 101.2 (r)

The Secretary-General shall establish procedures whereby staff may seek in confidence clarification as to whether proposed outside activities would conflict with their status as international civil servants.

Commentary

Staff rule 101.2 (r) is new and seeks to assist staff to determine if there are conflict situations by requiring the establishment of procedures to enable the staff to seek confidential guidance on these issues (see the 2001 standards of conduct, para. 44).

Travel and per diem for outside activities

Rule 101.2 (s)

Staff members who are authorized by the Secretary-General to participate in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source may receive from the Government, intergovernmental organization, non-governmental organization or private source accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases the travel subsistence allowance that may otherwise be payable by the United Nations shall be reduced as envisaged in staff rule 107.15 (a).

Commentary

Staff rule 101.2 (s) is new and distinguishes the notion of gifts and so on from invitations routinely extended by Governments, intergovernmental organizations, non-governmental institutions or other private sources to the Secretary-General and staff members to attend conferences or meetings dealing with United Nations-related matters hosted by them. This is currently routinely authorized by the Secretary-General and the rule reflects that current practice. It also provides an opportunity for the Organization to save on allowances that may be payable by the Organization by having the accommodation or travel and subsistence allowance provided by the Government, intergovernmental organization, non-governmental organizations or private source and by reducing the travel subsistence allowance that may otherwise be payable to the staff member.

Staff regulation 1.3

Performance of staff

Regulation 1.3 (a)

Staff members are accountable to the Secretary-General for the proper discharge of their functions. Staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions and their performance will be appraised periodically to ensure that the required standards of performance are met.
Commentary

1. Much of staff regulation 1.3 deals with the standards of performance required of staff members and provides that they will be evaluated and held accountable to meet the required standards established by the Charter. Since the separately funded organs have systems of assessing performance that are adapted to meet their special needs, the provisions in staff regulation 1.3 (a) must remain very general. The regulation now explicitly places on managers the duty to make proper appraisals of performance, which reinforces the solid legislative basis for such procedures and practices.

2. Staff regulation 1.3 (a) makes it clear that staff members are required to uphold the highest standards of efficiency, competence and integrity in the discharge of their functions (see Article 101 of the Charter and the 2001 standards of conduct, paras. 3-14 and 48-50). The regulation introduces the concept of accountability for performance as a fundamental condition of service.

3. The relationship of integrity to performance is discussed in the commentary to staff rule 101.3 (a).

4. An integral part of the performance of managers is to manage properly the human, financial and other resources entrusted to them. It should be emphasized that the higher level of responsibilities associated with managerial functions of managers entails a commensurate increase in their accountability for the proper performance of all their duties in managing the human and financial resources entrusted to them.

Regulation 1.3 (b)

The whole time of staff members shall be at the disposal of the Secretary-General for the performance of official functions; however, the Secretary-General shall establish a normal working week and shall establish official holidays for each duty station. Exceptions may be made by the Secretary-General as the needs of the service may require and staff members shall be required to work beyond the normal tour of duty when requested to do so.

Staff regulation 1.3 (b) combines the last two sentences of former staff regulation 1.2 into one sentence to make it clear that, although staff normally work an ordinary working week, they must work in excess of that working week when directed (see the 2001 standards of conduct, para. 41). It is, of course, clear that any requests to work additional hours must be reasonable and must be related to the needs of the service. Appropriate compensation arrangements are included in appendix B to the Staff Rules. The new regulation abolishes the requirement that those working hours must be reflected in an appendix to the Staff Rules as opposed to being issued in a local instruction.
Staff rule 101.3
Performance of staff members

Rule 101.3 (a)

Staff members shall be evaluated for their efficiency, competence and integrity through performance appraisal mechanisms that shall assess the staff member’s compliance with the standards set out in the Staff Regulations and Rules for purposes of accountability.

Commentary

1. Staff rule 101.3 (a) makes explicit that the efficiency, competence and integrity required of staff by the Charter and staff regulation 1.3 (a) will be evaluated and that they will be held accountable to maintain the required standards.

2. Generally speaking an appraisal relates primarily to efficiency and competence, but integrity is part of the essential characteristic of an international civil servant and may have an impact on the performance of official duties. For example, abusive conduct by a staff member to his or her colleagues is not excused even though the staff member is efficient. On the other hand, the staff member’s personal life is generally of no concern to a supervisor unless there is an impact on the discharge of his or her functions or on the role of that person as an international civil servant. As noted in the 2001 standards of conduct:

"4. International civil servants should share the vision of their organizations. It is loyalty to this vision that ensures the integrity and international outlook of international civil servants; it guarantees that they will place the interests of their organization above their own and use its resources in a responsible manner.

"5. The concept of integrity enshrined in the Charter of the United Nations embraces all aspects of behaviour of an international civil servant, including such qualities as honesty, truthfulness, impartiality and incorruptibility. These qualities are as basic as those of competence and efficiency, also enshrined in the Charter."

the way in which they perform their tasks but the way in which they interact with others. As noted in the 2001 standards of conduct, the obligations of staff to their supervisors, and of supervisors to their staff, is of crucial importance. Those duties and obligations bear repeating in this commentary:

"15. Managers and supervisors are in positions of leadership and it is their responsibility to ensure a harmonious workplace based on mutual respect; they should be open to all views and opinions and make sure that the merits of staff are properly recognized. They need to provide support to them; this is particularly important when they are subject to criticism arising from the carrying out of their duties. Managers are also responsible for guiding and motivating their staff and promoting their development.

"16. It is natural for managers to be seen as role models and they have therefore a special obligation to uphold the highest standards of conduct. It would be quite improper for them to solicit favours, gifts or loans from their
staff; they must act impartially, without intimidation and favouritism. In matters relating to the appointment or career of others, no international civil servant should try to influence colleagues for personal reasons.

“17. It is naturally incumbent on managers and supervisors to communicate effectively with their staff and share information with them. International civil servants have a reciprocal responsibility to provide all pertinent facts and information to their supervisors and to abide by and defend decisions taken, even when these do not accord with their personal views.

“18. International civil servants have to follow the instructions they receive in connection with their official functions and if they have doubts as to whether an instruction is consistent with the Charter or any other constitutional instrument, decisions of the governing bodies or administrative rules and regulations, they should first consult their supervisors. If they cannot agree, the international civil servant may ask for written instructions. These may be challenged through the proper institutional mechanisms, but any challenge should not delay carrying out the instruction. International civil servants may also record their views in official files. They should not follow verbal or written instructions that are manifestly inconsistent with their official functions or that threaten their safety or that of others.

“19. It must be the duty of international civil servants to report any breach of the organization’s rules and regulations to a higher level official, whose responsibility it is to take appropriate action. An international civil servant who makes such a report in good faith has a right to be protected against reprisals or sanctions.”

4. It should be emphasized that supervisors will be assessed not only on their technical competence but also on the way in which they utilize the staff placed under their direction.

Rule 101.3 (b)

The Secretary-General shall seek to ensure that appropriate learning and development programmes are available for the benefit of staff.

Commentary

As staff are required to uphold the highest standards of efficiency and competence and integrity, it follows that during their careers the Secretary-General must seek to ensure that staff are provided with appropriate learning and development opportunities to assist them in meeting the challenges of responding effectively to the changing mandates of the Organization.

Rule 101.3 (c)

Performance reports shall be prepared regularly for all staff members, including at the assistant secretary-general level and above, in accordance with procedures promulgated by the Secretary-General.
Commentary

Staff rule 101.3 (c) replaces staff rule 112.6 and provides that appraisal will be pursuant to procedures promulgated by the Secretary-General.

V. Standards of conduct for the international civil service, 2001

1. The United Nations and the specialized agencies embody the highest aspirations of the peoples of the world. Their aim is to save succeeding generations from the scourge of war and to enable every man, woman and child to live in dignity and freedom.

2. The international civil service bears responsibility for translating these ideals into reality. It relies on the great traditions of public administration that have grown up in member States: competence, integrity, impartiality, independence and discretion. But over and above this, international civil servants have a special calling: to serve the ideals of peace, of respect for fundamental rights, of economic and social progress, and of international cooperation. It is therefore incumbent on international civil servants to adhere to the highest standards of conduct; for, ultimately, it is the international civil service that will enable the United Nations system to bring about a just and peaceful world.

Guiding principles

3. The values that are enshrined in the United Nations organizations must also be those that guide international civil servants in all their actions: fundamental human rights, social justice, the dignity and worth of the human person and respect for the equal rights of men and women and of nations great and small.

4. International civil servants should share the vision of their organizations. It is loyalty to this vision that ensures the integrity and international outlook of international civil servants; it guarantees that they will place the interests of their organization above their own and use its resources in a responsible manner.

5. The concept of integrity enshrined in the Charter of the United Nations embraces all aspects of behaviour of an international civil servant, including such qualities as honesty, truthfulness, impartiality and incorruptibility. These qualities are as basic as those of competence and efficiency, also enshrined in the Charter.

6. Tolerance and understanding are basic human values. They are essential for international civil servants, who must respect all persons equally, without any distinction whatsoever. This respect fosters a climate and a working environment sensitive to the needs of all. To achieve this in a multicultural setting calls for a positive affirmation going well beyond passive acceptance.

7. International loyalty means loyalty to the whole United Nations system and not only to the organization for which one works; international civil servants have an obligation to understand and exemplify this wider loyalty. The need for a

\footnote{Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 30 (A/56/30), annex II.}
cooperative and understanding attitude towards international civil servants of other United Nations organizations is obviously most important where international civil servants of several organizations are serving in the same country or region.

8. If the impartiality of the international civil service is to be maintained, international civil servants must remain independent of any authority outside their organization; their conduct must reflect that independence. In keeping with their oath of office, they should not seek nor should they accept instructions from any Government, person or entity external to the organization. It cannot be too strongly stressed that international civil servants are not, in any sense, representatives of Governments or other entities, nor are they proponents of their policies. This applies equally to those on secondment from Governments and to those whose services have been made available from elsewhere. International civil servants should be constantly aware that through their allegiance to the Charter and the corresponding instruments of each organization, member States and their representatives are committed to respect this independent status.

9. Impartiality implies tolerance and restraint, particularly in dealing with political or religious convictions. While their personal views remain inviolate, international civil servants do not have the freedom of private persons to take sides or to express their convictions publicly on controversial matters, either individually or as members of a group. This can mean that, in certain situations, personal views should only be expressed with tact and discretion.

10. This does not mean that international civil servants have to give up their personal political views or national perspectives. It does mean, however, that they must at all times maintain a broad international outlook and an understanding of the international community as a whole.

11. The independence of the international civil service does not conflict with, or obscure, the fact that it is the member States that collectively make up (in some cases with other constituents) the organization. Conduct that furthers good relations with individual member States and that contributes to their trust and confidence in the secretariat strengthens the organization and promotes its interest.

12. International civil servants who are responsible for projects in particular countries or regions may be called upon to exercise special care in maintaining their independence. At times they might receive instructions from the host country but this should not compromise their independence. If at any time they consider that such instructions threaten their independence, they must consult their supervisors.

13. An international outlook stems from an understanding of and loyalty to the objectives and purposes of the international organization itself as set forth in its legal instruments. It implies, inter alia, respect for the right of others to hold different points of view and follow different cultural patterns. It requires a willingness to work without bias with persons of all nationalities, religions and cultures; it calls for constant sensitivity to how proposals, events and statements may look to others. It requires punctilious avoidance of any expressions that could be interpreted as biased or intolerant. Working methods can be different in different cultures. International civil servants should not be wedded to the attitudes, working methods or work habits of their own country or region.

14. Freedom from discrimination is a basic human right. International civil servants are expected to respect the dignity, worth and equality of all people without
any distinction whatsoever. Assumptions based on stereotypes must be assiduously avoided. One of the main tenets of the Charter is the equality of men and women, and organizations should therefore do their utmost to promote gender equality.

Working relations

15. Managers and supervisors are in positions of leadership and it is their responsibility to ensure a harmonious workplace based on mutual respect; they should be open to all views and opinions and make sure that the merits of staff are properly recognized. They need to provide support to them; this is particularly important when they are subject to criticism arising from the carrying out of their duties. Managers are also responsible for guiding and motivating their staff and promoting their development.

16. It is natural for managers to be seen as role models and they have therefore a special obligation to uphold the highest standards of conduct. It would be quite improper for them to solicit favours, gifts or loans from their staff; they must act impartially, without intimidation and favouritism. In matters relating to the appointment or career of others, no international civil servant should try to influence colleagues for personal reasons.

17. It is naturally incumbent on managers and supervisors to communicate effectively with their staff and share information with them. International civil servants have a reciprocal responsibility to provide all pertinent facts and information to their supervisors and to abide by and defend any decisions taken, even when these do not accord with their personal views.

18. International civil servants have to follow the instructions they receive in connection with their official functions and if they have doubts as to whether an instruction is consistent with the Charter or any other constitutional instrument, decisions of the governing bodies or administrative rules and regulations, they should first consult their supervisors. If they cannot agree, the international civil servant may ask for written instructions. These may be challenged through the proper institutional mechanisms, but any challenge should not delay carrying out the instruction. International civil servants may also record their views in official files. They should not follow verbal or written instructions that are manifestly inconsistent with their official functions or that threaten their safety or that of others.

19. It must be the duty of international civil servants to report any breach of the organization's rules and regulations to a higher level official, whose responsibility it is to take appropriate action. An international civil servant who makes such a report in good faith has the right to be protected against reprisals or sanctions.

Harassment

20. Harassment in any shape or form is an affront to human dignity and international civil servants must avoid it. They should not engage in any form of harassment and must be above any suspicion of it. International civil servants have the right to an environment free of harassment. It is the responsibility of
organizations to explain their interpretation of the term and to establish rules and provide guidance on what constitutes harassment and how it will be dealt with.

Conflict of interest

21. It can happen that international civil servants are confronted with a question entailing a conflict of interest; such questions can be very sensitive and need to be treated with care. Conflict of interest includes circumstances in which international civil servants, directly or indirectly, would appear to benefit improperly, or allow a third party to benefit improperly, from their association in the management or the holding of a financial interest in an enterprise that engages in any business or transaction with the organization.

22. There can be no question but that international civil servants should avoid assisting private bodies or persons in their dealings with their organization where this might lead to actual or perceived preferential treatment. This is particularly important in procurement matters or when negotiating prospective employment. At times, international civil servants may be required to disclose certain personal assets if this is necessary to enable their organizations to make sure that there is no conflict. They should also voluntarily disclose in advance possible conflicts of interest that arise in the course of carrying out their duties. They should perform their official duties and conduct their private affairs in a manner that preserves and enhances public confidence in their own integrity and that of their organization.

Role of the secretariat

23. International organizations are constituted by member States, and their secretariats have the responsibility for providing services to them. The main function of the secretariat is to assist legislative bodies in their work and to carry out their decisions. The executive head is responsible for directing and controlling the work of the secretariat. Accordingly, when submitting proposals or advocating positions before a legislative body or committee, international civil servants are presenting the position of the executive head, not that of an individual or unit.

24. In providing services to a legislative or representative body, it goes without saying that international civil servants should serve only the interests of the organization. It would not be appropriate for international civil servants to prepare for government or other international civil service representatives any speeches, arguments or proposals on questions under discussion. It could, however, be quite appropriate to provide factual information, technical advice or assistance with such tasks as the preparation of draft resolutions.

25. It is entirely improper for international civil servants to lobby or seek support from government representatives or members of legislative organs to obtain advancement either for themselves or for others or to block or reverse unfavourable decisions regarding their status. By adhering to the Charter and the constitutions of the organizations of the United Nations system, Governments have undertaken to safeguard the independence of the international civil service; it is therefore understood that government representatives and members of legislative bodies will neither accede to such requests nor intervene in such matters. The proper method for
an international civil servant to address such matters is through administrative channels; each organization is responsible for providing these.

Staff management relations

26. Relations between management and staff should be guided by mutual respect. Elected staff representatives have a cardinal role to play in the consideration of conditions of employment and work, as well as in all matters of staff welfare. Freedom of association is a fundamental human right and international civil servants have the right to form and join associations, unions or other groupings to promote and defend their interests. Continuing dialogue between staff and management is indispensable. Management should facilitate this dialogue.

27. Elected staff representatives enjoy rights that derive from their status; this may include the opportunity to address legislative organs of their organization. These rights should be exercised in a manner that is consistent with the Charter, the Universal Declaration of Human Rights and the international covenants on human rights and does not undermine the independence and integrity of the international civil service. In using the broad freedom of expression they enjoy, staff representatives must exercise a sense of responsibility and avoid undue criticism of the organization.

28. Staff representatives must be protected against discriminatory or prejudicial treatment based on their status or activities as staff representatives, both during their term of office and after it has ended.

Relations with member States and legislative bodies

29. It is the clear duty of all international civil servants to maintain the best possible relations with Governments and avoid any action which might impair this; they should certainly not interfere in the policies or affairs of Governments. It is unacceptable for them, either individually or collectively, to criticize or try to discredit a Government. At the same time, it is understood that international civil servants may speak freely in support of their organizations' policies. Any activity, direct or indirect, to undermine or overthrow a Government constitutes serious misconduct.

30. International civil servants are not representatives of their countries, nor do they have authority to act as liaison agents between international organizations and their Governments. The executive head may, however, request an international civil servant to undertake such duties, a unique role for which international loyalty and integrity are essential. For their part, neither Governments nor organizations should place international civil servants in a position where their international and national loyalties may conflict.

Relations with the public

31. For an international organization to function successfully, it must have the support of the public. All international civil servants therefore have a continuing responsibility to promote a better understanding of the objectives and work of their
organizations. This requires them to be well informed of the achievements not only of their own organizations but of the United Nations system as a whole. The opportunity to provide information to the public can arise at any time.

32. There is a risk that on occasion international civil servants may be subject to criticism from outside their organizations; in keeping with their responsibility as international civil servants, they should respond with tact and restraint. They have the right to be defended by their organizations against criticism for actions taken in fulfilment of their duties and they should be confident that this will be done.

33. It would not be proper for international civil servants to air personal grievances or criticize their organizations in public. International civil servants should endeavour at all times to promote a positive image of the international civil service, in conformity with their oath of loyalty.

Relations with the media

34. Openness and transparency in relations with the media are effective means of communicating the organizations' messages, and the organizations should have guidelines and procedures for this purpose. Within that context, the following principles should apply: international civil servants should regard themselves as speaking in the name of their organizations and avoid personal references and views; in no circumstances should they use the media to further their own interests, to air their own grievances, to reveal unauthorized information or to attempt to influence policy decisions facing their organizations.

Use and protection of information

35. The disclosure of confidential information may seriously jeopardize the efficiency and credibility of an organization. International civil servants are responsible for exercising discretion in all matters of official business. They must not divulge confidential information without authorization. Nor should international civil servants use information that has not been made public and is known to them by virtue of their official position to private advantage. These are obligations that do not cease upon separation from service. It is necessary for organizations to maintain guidelines for the use and protection of confidential information, and it is equally necessary for such guidelines to keep pace with developments in communications technology. It is understood that these provisions do not affect established practices governing the exchange of information between the secretariats and member States, which ensure the fullest participation of member States in the life and work of the organizations.

Respect for different customs and culture

36. The world is home to a myriad of different peoples, languages, cultures, customs and traditions. It is self-evident that a genuine respect for them all is fundamental for an international civil servant. Any behaviour that is not acceptable in a particular cultural context must be avoided. However, if a tradition is directly contrary to any human rights instrument adopted by the United Nations system, the
international civil servant must be guided by it. International civil servants should avoid an ostentatious lifestyle and any display of an inflated sense of personal importance.

Security and safety

37. While an executive head must remain free to assign staff in accordance with the exigencies of the service, it is the responsibility of organizations to make sure that the health, well-being and lives of their staff, without any discrimination whatsoever, will not be subject to undue risk. The organizations should take measures to protect their safety and that of their family members. On the other hand, it goes without saying that it is incumbent on international civil servants to comply with all instructions designed to protect their safety.

Personal conduct

38. The private life of international civil servants is their own concern and organizations should not intrude upon it. There can be situations, however, in which the behaviour of an international civil servant can reflect on the organization. International civil servants must therefore bear in mind that their conduct and activities outside the workplace, even if unrelated to official duties, can compromise the image and the interests of the organization. This can also result from the conduct of members of international civil servants’ households and it is the responsibility of international civil servants to make sure that their households are fully aware of this.

39. The privileges and immunities that international civil servants enjoy are conferred upon them solely in the interests of the organizations. They do not exempt international civil servants from observing local laws, nor do they provide an excuse for ignoring private legal or financial obligations. It should be remembered that only the executive head is competent to waive the immunity accorded to international civil servants or to determine its scope.

40. Violations of law can range from serious criminal activities to trivial offences, and organizations may be called upon to exercise judgment in the light of the nature and circumstances of individual cases. A conviction by a national court will usually, although not always, be persuasive evidence of the act for which an international civil servant was prosecuted, and acts that are generally recognized as offences by national criminal laws will normally also be violations of the standards of conduct for the international civil service.

Outside employment and activities

41. The primary obligation of international civil servants is to devote their energies to the work of their organizations. It is therefore improper for international civil servants to engage, without prior authorization, in any outside activity, whether remunerated or not, that interferes with that obligation or is incompatible with their status or conflicts with the interests of the organization. Any questions about this should be referred to the executive head.
42. Subject to the above, outside activities may, of course, be beneficial both to staff members and to their organizations. Organizations should allow, encourage and facilitate the participation of international civil servants in professional activities that foster contacts with private and public bodies and thus serve to maintain and enhance their professional and technical competencies.

43. International civil servants on leave, whether with or without pay, should bear in mind that they remain international civil servants in the employ of their organization and are still subject to its rules. They may, therefore, only accept employment, paid or unpaid, during their leave with proper authorization.

44. In view of the independence and impartiality that they must maintain, international civil servants, while retaining the right to vote, should not participate in political activities, such as standing for or holding local or national political office. This does not, however, preclude participation in local community or civic activities, provided that such participation is consistent with the oath of service in the United Nations system. It is necessary for international civil servants to exercise discretion in their support for a political party or campaign, and they should not accept or solicit funds, write articles or make public speeches or make statements to the press. These cases require the exercise of judgement and, where there is any doubt, should be referred to the executive head.

45. The significance of membership in a political party varies from country to country and it is difficult to formulate standards that will apply in all cases. In general, international civil servants may be members of a political party provided its prevailing views and the obligations imposed on its members are consistent with the oath of service in the United Nations system.

Gifts, honours and remuneration from outside sources

46. To protect the international civil service from any appearance of impropriety, international civil servants must not accept, without authorization from the executive head, any honour, decoration, gift, remuneration, favour or economic benefit of more than nominal value from any source external to their organizations; it is understood that this includes Governments as well as commercial firms and other entities.

47. It is not proper for international civil servants to accept supplementary payments or other subsidies from a Government or any other source prior to, during or after their assignment with an international organization if the payment is related to that assignment. Balancing this requirement, it is understood that Governments or other entities should not make or offer such payments, recognizing that they are at variance with the spirit of the Charter and the constitutions of the organizations of the United Nations system.

Conclusion

48. The attainment of the standards of conduct for the international civil service requires the highest commitment of all parties. International civil servants must be committed to the values, principles and standards set forth here. They are expected to take a positive and active approach in upholding them. They should feel
responsible for contributing to the broad ideals to which they dedicated themselves in joining the United Nations system. International organizations have a particular responsibility to ensure that the necessary guidance or rules are adopted to implement these standards. For their part, member States are expected, through their allegiance to the Charter and other constituent instruments, to preserve the independence and impartiality of the international civil service.

49. For these standards to be effectively applied, it is essential that they be widely disseminated, and that measures be taken to ensure that their scope and importance are understood throughout the international civil service, the member States and the organizations of the United Nations system.

50. Respect for these standards assures that the international civil service will continue to be an effective instrument in fulfilling its responsibilities and in meeting the aspirations of the peoples of the world.
Secretary-General’s Bulletin

Special measures for protection from sexual exploitation and sexual abuse

The Secretary-General, for the purpose of preventing and addressing cases of sexual exploitation and sexual abuse, and taking into consideration General Assembly resolution 57/306 of 15 April 2003, “Investigation into sexual exploitation of refugees by aid workers in West Africa”, promulgates the following in consultation with Executive Heads of separately administered organs and programmes of the United Nations:

Section 1
Definitions

For the purposes of the present bulletin, the term “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. Similarly, the term “sexual abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Section 2
Scope of application

2.1 The present bulletin shall apply to all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations.

2.2 United Nations forces conducting operations under United Nations command and control are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children, pursuant to section 7 of Secretary-General’s bulletin ST/SGB/1999/13, entitled “Observance by United Nations forces of international humanitarian law”.

2.3 Secretary-General’s bulletin ST/SGB/253, entitled “Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment”, and the related administrative instruction set forth policies and procedures for handling cases of sexual harassment in the Secretariat of the United Nations. Separately administered organs and programmes of the United Nations have promulgated similar policies and procedures.

1 Currently ST/AI/379, entitled “Procedures for dealing with sexual harassment”.

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Section 3
Prohibition of sexual exploitation and sexual abuse

3.1 Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.

3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

(a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;

(c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;

(d) Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;

(e) Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;

(f) United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

3.3 The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.

Section 4
Duties of Heads of Departments, Offices and Missions

4.1 The Head of Department, Office or Mission, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Head of Department, Office or Mission shall inform his or her staff of the contents of the present bulletin and ascertain that each staff member receives a copy thereof.

4.2 The Head of Department, Office or Mission shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in section 3.2 above have been violated or any behaviour referred to in section
3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct.

4.3 The Head of Department, Office or Mission shall appoint an official, at a sufficiently high level, to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse. With respect to Missions, the staff of the Mission and the local population shall be properly informed of the existence and role of the focal point and of how to contact him or her. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.2 above.

4.4 The Head of Department, Office or Mission shall not apply the standard prescribed in section 3.2 (b), where a staff member is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.

4.5 The Head of Department, Office or Mission may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

4.6 The Head of Department, Office or Mission shall promptly inform the Department of Management of its investigations into cases of sexual exploitation and sexual abuse, and the actions it has taken as a result of such investigations.

Section 5
Referral to national authorities

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution.

Section 6
Cooperative arrangements with non-United Nations entities or individuals

6.1 When entering into cooperative arrangements with non-United Nations entities or individuals, relevant United Nations officials shall inform those entities or individuals of the standards of conduct listed in section 3, and shall receive a written undertaking from those entities or individuals that they accept these standards.

6.2 The failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

Section 7
Entry into force

The present bulletin shall enter into force on 15 October 2003.

(Signed) Kofi A. Annan
Secretary-General