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Standard Operating Procedure

Boards of Inquiry

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Standard Operating Procedure on Boards of Inquiry

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A. Purpose

1. This Standard Operating Procedure (SOP) is to establish when the convening of a Board of Inquiry (BOI) is mandatory as well as to ensure consistency in the conduct of BOIs convened by Heads of United Nations field
missions, the Under-Secretary-General for Field Support (USG, DFS) or the Under-Secretary-General for Peacekeeping Operations (USG, DPKO).

B. Scope of Application

2. A BOI constitutes an analytical and managerial tool used within the United Nations peacekeeping missions and Special Political Missions (SPM) under the administrative support of DFS to review and record the facts of serious occurrences as per paragraphs 5-6 below, with a view to identifying gaps in procedures and policies, strengthening internal controls and improving financial and managerial accountability. While not their primary purpose, BOIs may be used as a basis for administrative action with regard to responsible individuals. However, the decision as to whether and what kind of administrative and/or disciplinary action should be taken, rests with the managerial structures of the Organization.

3. A BOI is not appropriate in matters involving allegations of misconduct, as defined under the Terms and Definitions, including, in particular, allegations of Sexual Exploitation and Abuse (SEA), that have not resulted in death, serious injury or loss/damage to United Nations Owned Equipment (UNOE), Contingent Owned Equipment (COE) or third-party owned property to the extent specified in paragraph 5 below. Such matters must be referred to the mission Conduct and Discipline Team for further consultation with the Office of Internal Oversight Services (OIOS) as appropriate, in accordance with the provisions contained in Section D of the present SOP.

4. The Convening Authority of a BOI with respect to occurrences in a field mission is the Head of Mission (HOM). A UNHQ BOI can also be convened by USG, DFS, or USG, DPKO at their discretion, when they consider that an occurrence in the field warrants such a review.

5. Convening of a BOI is mandatory in the following circumstances:

   (a) Occurrences, including any type of incident or accident, resulting in the death or serious injury of a mission member, unless under the circumstances identified in Section F, paragraph 43;

   (b) Occurrences, including any type of incident or accident, resulting in the death or serious injury of a third party when a mission member(s) is involved, unless under the circumstances identified in Section F, paragraph 43;
(c) The kidnapping of any United Nations personnel member, irrespective of whether or not it resulted in the death or injury;

(d) Loss or damage to UNOE, assets, supplies and stores or other property (except items of personal issue) in the amount of USD 25,000 or more that cannot be ascribed to wear and tear;

(e) Loss or damage to third party-owned property in the amount of USD 10,000 or more when a mission member is involved;

(f) Loss or damage of contingent-owned equipment (COE) (provided there is no death, serious injury, or major loss or damage to United Nations-owned or third party-owned property) in the following circumstances:

(i) Cases involving the loss or damage of major items of COE as a result of a single hostile action or forced abandonment, where the generic fair market value of the loss or damage equals or exceeds US$250,000;

(ii) Cases involving major or minor loss or damage to COE used by one contingent, but provided by another troop-contributor/troop-contingent; and

(iii) Cases involving major or minor loss or damage to COE in which personnel from more than one contingent are involved;

(g) Given the similarity between the administrative arrangements for the deployment of national troop contingents and Formed Police Units (FPUs), the procedure set forth in (f) above shall also apply in cases involving major loss or damage to FPU equipment.

6. In addition to the above provisions, HOMs may, at their discretion, or at the request of USG, DFS or USG, DPKO, convene a BOI with respect to any occurrence which they consider warrants such review.

C. Rationale

7. The SOP sets out the methodology, format and responsibilities with regard to the conduct of BOIs, both in the field and at Headquarters, as well as the responsibilities of Board members. Compliance with this SOP is mandatory for all categories of personnel.
8. The SOP and its annexes shall be read in conjunction with the DPKO and DFS Policy Directive on Boards of Inquiry of 1 June 2008 and other relevant documents.

9. Nothing in this SOP inhibits the requirement for investigations, in accordance with other sources of policy and/or guidance of the United Nations and/or national legislation.

10. This SOP supersedes the 2011 SOP on BOIs and all earlier guidance and instructions on BOIs that have been issued by circular, facsimile, cable or other methods of communication. It also supersedes Chapter 16 of the Draft Field Administration Manual.

D. Investigations Prior to Convening a Board of Inquiry

Occurrence reporting

11. Mission members are responsible for reporting any occurrence that falls under the provisions of paragraph 5 (a-g) above, without delay to the attention of the officials responsible for initiating the investigation¹. The Head of Mission is responsible for establishing suitable reporting procedures to ensure that such reports reach the responsible officials within 24 hours.

12. Upon receiving a report of an occurrence, the responsible official shall initiate an investigation to obtain and record all factual evidence in accordance with the relevant guidelines. Simultaneously, the official shall notify, among others, the BOI Officer about the occurrence and measures taken in regard thereof.

13. All possible measures shall be taken by mission members on the ground to ensure the protection of the scene of the occurrence within their area of responsibility until the arrival of the investigators so that evidence is not disturbed or lost.

¹ Normally, these are the following officials or their delegates:
(a) The Chief Security Advisor (CSA) and/or the Chief Security Officer (CSO) in cases involving civilian personnel;
(b) The Military Chief of Staff in cases involving military personnel; and
(c) The United Nations Police (UNPOL) Chief of Staff in cases involving police personnel.
Investigations

14. The HOM, in coordination with other relevant officials, is responsible for the establishment of appropriate investigation procedures, including for the distribution of investigation reports, within the mission. The investigations shall commence within 24 hours of the notification of the occurrence and the investigation report shall be completed within two weeks from the time of the occurrence.²

15. The purpose of the investigation is to collect and record all available evidence and documentation as it relates to the occurrence. Particular attention should be given to ensure that information is collected from individuals who may be required to leave the mission area in the near term due to rotation, reassignment or repatriation. United Nations personnel, who are due to leave the mission area, may be required to remain in theatre until their participation in the investigation has been completed.

16. The investigation report shall contain relevant facts and evidence, including but not limited to:

(a) Detailed description of the occurrence, including its place and time and how it became known to the mission;

(b) The names, status and nationalities of any person involved and/or affected by the occurrence and/or the description and estimated value of damage or loss of UNOE, COE or third party owned property;

(c) Duly signed witness statements from all personnel involved in the occurrence or witnesses/experts providing information. Translations of such statements shall be included in either English or French when necessary;

(d) Relevant medical reports and/or other specialized opinions;

(e) Damage/discrepancy reports on all property;

(f) Technical inspection reports on any UNOE, COE, weapons and/or ammunition involved;

(g) Sketches, maps and photographs relating to the occurrence

(h) Relevant information on the chain of custody of evidence; and

(i) Any other relevant documentation.

² Due to the fact that the various investigative bodies (Special Investigation Unit, Force Provost Marshal Office, UNPOL Internal Investigations Unit) refer interchangeably to preliminary and final investigation reports, and that the former does not always lead to the latter, this SOP does not distinguish between the completion of a preliminary and final investigation report.
(j) Any gaps or missing information shall be indicated and explained.

17. In the event of an occurrence involving more than one category of personnel or requiring forensic expertise not available in a particular mission investigative structure, a Joint Investigation Team (JIT) including representatives of other investigative structures of the same mission may be established on an ad hoc basis, to complete the investigation.

18. Mission officials may be assisted by the local police, in accordance with the reciprocal obligations on the part of the field mission and the host government, as set forth in the applicable Status-of-Forces or Status-of-Mission Agreements (SOFA/SOMA) or paragraph 44 of the Model Status-of-Forces agreement for peacekeeping operations (A/45/594), in carrying out necessary investigations into offences in respect of which either or both have an interest. Cooperation between the mission investigative bodies and the local authorities shall be managed in coordination with the senior management of the mission.

19. The investigation report shall be submitted to the HOM and other mission managers concerned, including the BOI Officer. The HOM, in coordination with the relevant departments and units, maintains responsibility and control over the conduct of an investigation.

**Investigation of occupational accidents and incidents**

20. Serious injuries to United Nations civilian personnel and UN Police (UNPOL) members that occur through occupational / workplace incidents and accidents fall within the purview of the Field Occupational Safety Risk Management Group (FOSRM) at UNHQ. While reviewing of occupational accidents and incidents involving uniformed personnel does not automatically fall under the FOSRM Group and its specialists, they will be able to assist and support with review of such occupational accidents, incidents and cases upon specific request.

21. Whenever the circumstances of the occurrence indicates a possibility that it was caused by occupational / workplace related incidents and accidents (non-malicious, non-deliberate incident), the responsible official indicated in paragraph 11 above should immediately bring it to the attention of the Occupational Safety Officer (OSO) or Field Occupational Safety Focal Point (FOSFP). The latter should conduct a fact finding and determine whether the occurrence falls under the definition of occupational accident as defined in the Terms and Definitions established by DPKO and DFS. In such a case, the occupational safety officer shall prepare a report, a copy of which shall be provided to the BOI Unit.
22. The completion of a report by the OSO or FOSFP shall be without detriment to the requirement for the completion of investigation referred to in paragraphs 14 - 19 above, or the BOI proceedings if the occurrence falls under the provisions of paragraphs 5 - 6 above.

Investigation of aviation accidents and incidents

23. Occurrences involving United Nations contracted aircraft shall be investigated by the respective State(s) (State of Occurrence), as stipulated in Annex 13 of the International Civil Aviation Organization (ICAO) convention. Normally, the State of Occurrence shall institute a preliminary and final investigation into the circumstances of the accident and shall be responsible for the conduct of the investigation, but it may delegate the whole or any part of the investigation to another State (i.e. State of Registry) or a regional accident investigation organization by mutual arrangement and consent.

24. Simultaneously, the Director, Logistics Service Division (LSD), DFS shall initiate the Aviation Safety Technical Investigation (ASTI), as stipulated in the DPKO/DFS Aviation Safety Policy and Manual. This procedure is applicable to accidents involving mission aircraft commercially chartered by DFS or operated under Letters of Assist. The ASTI is carried out independently of either the investigation mentioned in Paragraph 23 above and/or the investigation by the mission investigative structures (e.g. SIU, FPM or IIU). It shall be initiated as soon as possible following the occurrence. A DFS representative shall be designated (either a UNHQ, Regional or Mission Aviation Safety Officer) to conduct the ASTI, and will also serve as a technical advisor to the BOI, if required. A BOI may be convened only after the ASTI has been completed.

25. The State-led investigation may take some time; therefore the preliminary ASTI report shall serve as the source of technical information for the BOI. The ASTI report will have two purposes: a) provide analysis of the mission's administrative and operational procedures as possible sources of contributing factors with regard to the flight which resulted in the accident; and b) provide preliminary technical information to the BOI while the State-led investigation could still be in progress. The ASTI report will be periodically updated (as additional information becomes available), and will take into account the findings of the Preliminary State-led investigation report. After the Final Investigation Report is released by the relevant State, the ASTI report will also be finalized and approved by the Director, LSD/DFS.

26. Both the preliminary State and the ASTI reports shall be provided by the Chief, Aviation Safety Section, LSD/DFS to the respective BOI Officer for onward
transmission to the BOI members. In the event that the preliminary State-led investigation is significantly delayed, the Convening Authority may determine to finalize the BOI.

E. Convening of a Board of Inquiry

Timelines

27. In cases where the convening of a BOI is mandatory as per the provisions of paragraph 5 of this SOP, it shall be initiated within two weeks following the submission of the investigation report to the HOM with the exception of aviation cases, as stipulated in paragraphs 23 – 27 above. All efforts shall be made to finalize the BOI report within the timelines stipulated in the Convening Order, preferably within 90 days from the date of the occurrence.

Convening Order and Terms of Reference

28. Upon being informed of an occurrence that warrants the convening of a BOI and after receipt of the investigation report from the relevant mission structures, the BOI Officer, in consultation with the Legal Advisor/Officer, as appropriate, shall prepare the Convening Order and draft the Terms of Reference (TORs) for the signature of the HOM.

29. The Convening Order presented for approval by the HOM shall contain the names of the individual who is to serve as the BOI’s Chairperson as well as at least two other mission members, plus the Secretary. The Convening Order shall state the deadline by which the BOI report is to be completed.

30. The TORs constitute an integral part of the Convening Order and provide the framework within which the Board operates and defines the facts and issues that the Board will address. The TORs shall be as specific as possible and shall act as a limit to the Board’s scope of inquiry. In particular, the TORs shall always specify that Board members are prohibited from making recommendations regarding compensation, disciplinary action and legal liability.

Composition of the Board of Inquiry

31. Considering that a need to convene a BOI always happens unexpectedly, missions should maintain a roster of individuals qualified to serve as BOI members. A BOI roster shall be updated every four months by the BOI Office.
The BOI Officer shall draft a memorandum for the signature of the HOM, directing heads of components, contingents and units to nominate mission members under their supervision or command with good analytical and communication skills, who will be ready to serve on a BOI during the following four-month period.

32. To avoid any delays in the completion of BOI proceedings, Board members should not, unless authorized by the HOM due to exceptional circumstances, proceed on annual leave or other travel. Consequently, in managing the roster of available Board members, the BOI officer shall pay special attention to the leave and travel plans of the mission members on the roster. If required, the HOM may relieve Board members from their regular duties to enable them to dedicate themselves, on a full-time basis, to the completion of the BOI proceedings. The BOI Office shall also be responsible for conducting periodic trainings for the individuals on the roster, preparing them to perform these duties.

33. Composition of a BOI should reflect the nature of the occurrence to ensure a reasonable level of understanding by the Board members of the subject matter under review. At the same time, when selecting Board members, due care should be taken to exclude any conflict of interest, actual or potential. Any BOI member finding him/herself in such position in the course of inquiry should recuse him/herself. In such cases, BOI Officer should document the recusal and the Board should be re-convened with a new composition. Due consideration shall be given to geographic and gender representation.

34. The Chairperson of the Board, whose name shall be identified in the Convening Order, shall be at all times of a grade/rank equal to, or higher than the most senior mission member involved in the occurrence under review. If the occurrence involves predominantly civilian matters, the Chairperson of the Board shall be civilian. If troop contingent members or other military personnel are involved in the occurrence, the Chairperson of the Board shall be military, but not from the same contingent or of the same nationality as those involved in the occurrence. If the case involves an UNPOL officer or an FPU contingent member, the Chairperson shall be a police officer, but shall not be of the same nationality as those involved in the occurrence.

35. At least one member of the Board reviewing a case with military or police involvement shall be a United Nations civilian staff member. Military or police personnel can be appointed to serve on Boards reviewing civilian cases.

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3 The composition of the Board shall not necessarily be limited to individuals on the roster. In case of need any mission member may be asked to serve on a BOI so long as he/she is available.
depending on the nature of the case. A case involving Locally Recruited Staff should include at least one Locally Recruited Staff member.

36. All BOI members shall serve on the Board in their individual capacity and shall act independently for the purpose of fulfilling these duties. The HOM shall ensure that no undue pressure is exerted on them in the context of the BOI proceedings. Should such pressure occur, it must be documented and duly reported to OIOS.

37. Neither the Chairperson of the Board, nor members thereof shall be selected from a unit or office that had the responsibility for the safe-keeping of any item of equipment, property nor other asset involved in the occurrence under review. Every Board shall have a Secretary, who is not considered a member of the Board.

38. Individuals who have taken part in the investigation of the occurrence, or who are likely to have a role in reviewing findings made by a BOI, such as staff members of the Legal office or mission's investigative mission structures, shall not serve as members of a BOI.

39. Normally, Board members shall be mission members. A mission may, however, request that the USG/DFS or the USG/DPKO nominate external members of the Board. In such cases the mission, shall bear all expenses associated with the external members' participation in the BOI proceedings.

40. Members appointed to serve on a Board shall be required to do so unless they can show reasonable cause for being unable to serve. Any BOI member who becomes unable to serve due to unforeseen circumstances shall immediately inform the HOM through the BOI Officer. In particular, should a BOI member find him/herself in conflict of interest, he/she should recuse him/herself. In such cases, an amendment to the convening order shall be prepared by the BOI Officer, stating the change of Board members and the reason therefor, for the HOM's approval. In appointing a new Board member to replace the member unable to serve, the HOM shall endeavour to maintain the original gender and component balance of the Board.

41. Depending on the nature of the occurrence, the Board may require expert advice in a related area. For example, in cases of occupational accidents, an occupational safety officer should provide specific subject matter expertise. In the same manner, medical personnel should provide expertise in medical cases. BOI related to major human rights should avail of expert advice from human rights staff. In the cases involving use of firearms or explosives, the Board should also seek expert knowledge of such matters. Subject experts shall be arranged by the BOI Officer with due regard to excluding conflict of interest with either the
individuals or mission components under review. Such experts shall not be considered Board members.

F. Head of Mission Reports

42. Head of Mission may, under certain circumstances, forego a BOI and submit a Head of Mission (HOM) report.

43. A HOM report does not require the selection of Board members, nor does it require the issuance of a Convening Order or Terms of Reference. The submission of a HOM report in lieu of BOI proceedings may be proposed by the BOI officer for approval by the mission senior management under the following circumstances:

(a) Under exceptional circumstances beyond the mission control (including, but not limited to ongoing hostilities or other serious threats, natural disasters, particularly during the mission early deployment or downsizing phases) or lack of resources;

(b) Cases of illness-related death of mission personnel, which occurred in a medical facility, and wherein the reports of the investigators and medical personnel do not present issues that require further review and/or inquiry;

(c) Cases of serious injuries or deaths of mission members, that take place during any type of personal leave outside the mission area, including R&R, CTO, home leave, family travel, etc., wherein the mission has either not been provided with investigation/medical reports or the latter clearly indicate that the occurrence is not attributable to service for the United Nations.

44. The HOM report shall contain a well-documented account of the occurrence reflecting the following:

(a) Investigation report of the occurrence prepared by mission investigative structures;

(b) In cases of death, proper documentation of the cause(s) by qualified medical personnel, if feasible, based on the results of autopsy reports;
(c) Proper analysis of the underlying cause(s) of the occurrence⁴;

(d) If applicable, an opinion regarding the individual responsibility for the occurrence, magnitude thereof and whether the matter has been brought to the attention of the Conduct & Discipline Team;

(e) The measures taken by the mission in connection with the occurrence to minimize the likelihood of its repetition;

(f) Whether the death or serious injury was directly attributable to the performance by the victim of duties on behalf of the United Nations.

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G. NOTICAS Procedures

45. In accordance with the Standard Operating Procedure on Notification of Casualties (NOTICAS) in Peacekeeping Operations and Special Political Missions, in the event of death or serious injury of a mission member a NOTICAS is generated by the Mission and sent to UNHQ within 12 hours of the occurrence. Once the occurrence is investigated, a Board of Inquiry is convened to determine the cause of it and to establish whether the death or serious injury was directly attributable to the performance by the victim of duties on behalf of the United Nations (service-related). Should the Convening Authority decide to forgo the convening of the BOI, the determinations regarding the cause of occurrence and whether or not it was service-related shall be contained in the Head of Mission report compiled in accordance with the provisions of Section F of the current SOP.

46. Within 90 days from the date of occurrence, based on the conclusions contained in the Board of Inquiry or Head of Mission report, NOTICAS Confirmation is sent to UNHQ by the Mission.

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H. UNHQ Boards of Inquiry

47. Whenever USG, DFS or USG, DPKO decides, at his or her discretion, to convene a UNHQ BOI to review an occurrence, the proceedings of the BOI shall be governed by the relevant provisions of this SOP, as applicable. The decision

⁴ In relation to the death of mission members that occur while outside the mission area, there could be cases wherein the cause of death could be attributable to the service with the mission, e.g. due to stress or illness through prior exposure to mission environment.
to convene a UNHQ BOI shall be communicated to the HOM via Code Cable from the USG, DPKO and/or USG, DFS.

48. In coordination with the DFS BOI Unit, Mission BOI Unit shall compile a list of relevant staff, external individuals and/or officials, who could be interviewed by the Board members. The Convening Order and the Terms of Reference shall be prepared by the DFS BOI Unit in consultation with the Office of Legal Affairs (OLA), UNHQ, as appropriate and shall be shared with the HOM, also via Code Cable.

49. Board membership shall be coordinated with the relevant substantive offices of DFS/DPKO as appropriate and/or shall be drawn from the existing membership roster on file.

**Entry/Exit Briefings**

50. Prior to the commencement of the proceedings, USG, DFS or USG, DPKO may conduct an entry conference for the Board members to briefly outline the scope of the Inquiry.

51. Following the completion of the proceedings, Board members may be asked to conduct an exit briefing for the USG, DFS or USG, DPKO to summarize the main findings of the inquiry.

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**I. Functional Responsibilities**

**BOI Officer**

52. The mission BOI Officer, who may also serve in the capacity of BOI Secretary, is responsible for all matters with regard to coordinating the convening of a BOI and ensuring the efficient functioning of the Board. To this effect, he/she fulfils the following functions:

(a) Maintain and periodically update the roster of qualified mission members nominated for BOI membership;

(b) Conduct periodic training for mission members nominated for BOI membership, in particular, on procedures set by the present SOP and BOI Policy Directive, confidentiality issues within the BOI context and techniques for collecting witness statements;

(c) Receive and review investigation reports from the investigative structures of the mission;

(d) Provide a procedural briefing for the Board members;
(e) Prepare the Convening Order listing the names of a BOI Chairperson, at least two members, and the Secretary and draft, in consultation with the Legal Adviser, as appropriate, case specific TORs for HOM approval. A Convening Order template and generic TORs are attached as Annex I and II, respectively;

(f) Maintain all BOI records and case files;

(g) Review the draft BOI report for quality control and format compliance before submission to the Legal Officer;

(h) Follow up on the implementation of the recommendations approved by the HOM;

(i) Provide quarterly updates on the implementation of BOI recommendations to the Board of Inquiry Unit in the Audit Response and BOI Section, DFS;

(j) Provide statistics on a monthly basis to the BOI Unit, DFS on all outstanding BOI/HOM cases that have been initiated but not yet completed; and

(k) Administer and maintain the BOI Tracker as follows:

i. Upload all case files (BOI and HOM reports) and their supporting documentation;

ii. Enter all relevant information into the applicable fields prior to transmitting to the BOI report to UNHQ;

iii. Input all recommendations, clearly stating the party/parties responsible for implementing each recommendation/s and the target date by which the implementation has to be completed;

iv. Provide comments and relevant documents in support of the implementation of a recommendation;

v. Ensure that all comments and support documents regarding the implementation of recommendations are uploaded into the Tracker by the quarterly deadlines set by the BOI Unit, DFS.

Secretary

53. The Secretary shall provide day-to-day administrative assistance to Board members. The Secretary should have expert knowledge of all BOI procedures, guidelines and rules. While not a BOI member, the Secretary shall sign the final report. The Secretary shall be responsible for the following:
(a) Provide policy and administrative advice and support to Board members (in consultation with the BOI Officer, if applicable) throughout the BOI proceedings, advising on relevant procedures and arranging expert advice on applicable United Nations Regulations and Rules as needed;

(b) Administer the Undertaking of Confidentiality to the Board members in accordance with the format attached as Annex III;

(c) Set up the initial briefings (BOI and Legal) for the BOI members;

(d) Arrange meetings with individuals identified by the BOI who would be able to provide witness statements, for the purpose of corroborating details of an occurrence;

(e) Assemble relevant documentation from different mission components;

(f) Prepare and participate in on-site visits;

(g) Keep minutes of witness statements;

(h) Assemble all inputs from the Board members and draft the BOI report for review by the Board members, BOI Office and Legal Office;

(i) Review the draft BOI report for quality control and format compliance before submission to the BOI Officer;

(j) Coordinate the review of the BOI report by the BOI Officer and the Legal Adviser;

(k) Present the views of the Legal Advisor to the Board for its consideration, as appropriate;

(l) Obtain final signatures of the Board members and present the BOI report for Legal Opinion;

(m) Compile the report case file and submit the BOI report package, including the Legal Adviser’s memorandum, as set forth in paragraph 54 (d) below and all annexes for the HOM approval (in the case of UNHQ reports, the Secretary will compile the same, including the Executive summary, signed by the Chairperson, for the approval of USG, DFS or USG, DPKO);

Legal Adviser

54. The Mission Legal Adviser is responsible for the following functions:
(a) Review, as appropriate, the TORs drafted by the BOI Officer to ensure that they properly address all critical aspects of the case and provide feedback to the BOI officer within three business days;

(b) Conduct a legal briefing for the Board, ensuring that they understand their responsibilities and outlining any points of clarification with regard to the legal aspects of the TORs, as required;

(c) Review the draft BOI report to ensure that the findings and conclusions of the Board are properly supported by the evidence; that the draft report addresses all the TORs; that it complies with the BOI procedures and other relevant United Nations Regulations and Rules, and provides related advice to members of the Board;

(d) Upon receiving the final BOI report, provide the Convening Authority with a written legal opinion;

55. The Legal Advisor does not serve as a clearing authority for BOI reports. Neither does he/she address format and/or editorial aspects of the BOI report.

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J. Proceedings of a Board of Inquiry.

Responsibilities of Board Members

56. In its inquiry, a BOI members shall:

   (a) Receive the Convening Order and the TORs;

   (b) Receive procedural and legal briefings from the BOI Officer and the Legal Adviser, respectively;

   (c) Obtain and analyse all investigation reports and other relevant source materials regarding the occurrence, including, inter-alia: the investigation reports and/or technical assessments, witness statements, expert opinions, medical reports and evaluations, and any other documents required by the BOI to conduct its proceedings;

   (d) Obtain, if necessary to supplement the evidence previously collected, additional statements from witnesses to the occurrence5, and conduct any necessary additional site visits, or further inquiries;

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5 This, however, shall be done only when the Board Members decide that the evidence contained in the personnel, external observers and experts’ statements previously recorded by investigators is insufficient or contradictory.
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(e) If no such persons are available in the mission, seek explanations or clarifications of technical or specialized reports or other evidence of a technical or specialized nature from experts or specialists, as appropriate;

(f) Establish facts from the whole body of available evidence and review the circumstances of the occurrence in a comprehensive manner;

(g) For UNHQ BOIs, draft an "Executive Summary" to the Convening Authority, signed by the Chairperson on the main findings, conclusions and recommendations of the Board;

(h) Present, within the deadline specified in the convening order, a written report to the Convening Authority, setting forth in a clear, logical, and objective manner the BOI's facts, findings, conclusions, and recommendations.

(i) While the BOI may determine responsibility for the occurrence, it is not the role of the Board to establish whether the actions of any individual involved constituted misconduct.

Interviewing witnesses and collecting supporting information

57. United Nations personnel, including members of national military contingents and FPUs, have a duty to cooperate and provide statements to a BOI. Any other person, including local citizens and local police or military officers, may be requested to provide a statement to the Board or answer its questions, but is under no obligation to do so.

58. Due consideration shall be given to witnesses and victims of occurrences, especially minors, to protect them from unnecessary repeat conversations that could be intimidating or re-traumatizing, and to uphold the principles of do no harm and confidentiality.

59. Principles of fairness and due process shall apply to all aspects of the BOI proceedings, including the collection of witness statements. The Board shall not be bound by any witness statement, if it deems it irrelevant based on the analysis of previously collected evidence. Any witnesses shall be informed during the course of the interview of any evidence or allegations made against him/her and be given a reasonable opportunity to respond. This shall include the opportunity to present countervailing evidence and to suggest the names of relevant witnesses to be interviewed by the BOI. Where the Board decides not to call a

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6 While the UN might in practice face difficulties in ensuring the cooperation of UN personnel who left the mission or the Organization, it should take the view that ex-UN personnel are under duty to cooperate in respect of incidents that occurred while they were serving with the UN.
witness who had been suggested by another witness, it shall make an explicit statement to that effect in the “Deliberations” part of the report and give the reasons for its decision.

60. If necessary, UN personnel, external witnesses and experts who have previously provided information shall be questioned again by the Board to clarify any ambiguities in their accounts and to indicate to what extent, if any, they have knowledge of relevant facts, not previously mentioned in their accounts.

61. If UN personnel, external witnesses and experts, including non-UN personnel, refuse to make or sign witness statements to the Board, the Board shall record that fact.

62. UN personnel, external witnesses and experts shall be questioned in the language they naturally use, resorting to interpretation when necessary.

63. UN Personnel, external witnesses and experts shall be questioned by Board members individually. At no time, however, there should be less than two members of the Board conducting an interview. The BOI Secretary should also be always present during the interview.

64. The Board shall question a minor in the presence of a parent, guardian or, if neither are available, an adult of the minor’s choosing. Where possible, there should be present an appropriate officer from the mission with experience in dealing with children, ideally, a Child Protection Officer or Human Rights Officer.

65. UN personnel, external observers or experts shall be informed of the subject matter of the inquiry and the reasons why he/she has been called to appear before the Board. The BOI shall then ask them to identify themselves, their role in the subject matter, and state any information he/she is aware of regarding the occurrence. Following that, the Board members may ask questions. Additional practical advice on interviewing witnesses is contained in the “Guidelines on the Conduct of Inquiries”. (Annex IV)

66. While the meeting progresses, a written record shall be taken of the witness statement(s) provided. The standard witness statement form shall be used, for which a template has been attached herewith as Annex V. Interpreters speaking on behalf of individuals shall also be required to sign this form. Translation into a working language of the United Nations shall be provided, if necessary.

67. After a witness statement has been provided, UN personnel, external observers or experts shall be familiarized with the transcript and asked if he/she wishes to amend it. Once they are satisfied with their statement, he/she shall be
asked to sign and date the document. A thumb impression may be used in lieu of a signature. The one of the BOI members shall also counter-sign the statement.

68. To ensure the full cooperation of all United Nations personnel, external witnesses or experts, who appear before it, BOI shall take measures to protect their confidentiality, which may include referencing their identity in an Annex, as opposed to in the main body of the BOI report.

_Deliberations_

69. The Board shall consider carefully all evidence, facts and findings it has collected.

70. In determining the cause(s) of an occurrence, Board Members shall consider which of the facts it has established, single or in combination with others, triggered the unfolding of events, resulting in the occurrence. No assumptions shall be made. At the same time, reasonable inference is admissible and shall be practiced.

71. Board Members shall be particularly careful in apportioning personal responsibility for the occurrence. This shall always be based on hard evidence. Persons concerned shall be given an opportunity to present their version of events leading to the occurrence.

72. While formulating their recommendations, Board Members shall focus them at the elimination of the cause(s) of the occurrence in question. Board members shall be prohibited from making recommendations regarding compensation, disciplinary action or legal liability.

_Re-convening of BOIs_

73. In circumstances, wherein new evidence comes to light after a BOI has been finalized, and if this new evidence may impact the findings, conclusions and recommendations of the previous BOI report, the Convening Authority may re-convene the BOI with the same or other members. The report would retain the same BOI report number and shall be considered an addendum to the previous BOI report.

74. In particular, in the cases of aviation accidents and incidents the Convening Authority should re-convene the BOI if the final State Investigation report, which is usually released after a significant amount of time from the preliminary State Investigation report, contains major findings that substantially differ from the ASTI and/or the preliminary State report.
K. Format of BOI Report

75. The BOI shall prepare a report in the following format:

(a) **Constitution** shall cite the convening order, its date, the period during which the Board conducted its proceedings, as well as the venue thereof;

(b) **Description of occurrence** shall contain a purely factual description of the occurrence under review. It shall not include any extraneous information, analysis, conclusions and/or recommendations;

(c) **Facts** shall respond to all issues cited in the TOR;

(d) **Deliberations** shall contain an account of how the facts and findings related to the occurrence were assessed by the Board and shall specify the reasons relied upon by the Board in reaching the conclusions and recommendations in the case;

(e) **Conclusions** shall draw upon the findings generally follow the issues cited in the TOR;

(f) **Recommendations** shall be specific, feasible and directed at the elimination of the cause(s) of the occurrence in question. Board members are prohibited from making recommendations regarding compensation, disciplinary action or legal liability;

(g) **Observations** shall be an optional section of the report, reserved for additional matters not covered by the TOR, but believed by Board members to be significant and relevant to the subject matter of the inquiry;

(h) **Signatures** shall be affixed by Board members only upon the review of the draft report by the Legal Adviser, once legal comments have been considered by the Board. A dissenting member shall not be obliged to put his/her signature on the report, but shall explain the abstention in a separate document addressed to the HOM, which shall become an integral part of the case file;

(i) **Annexes** shall contain documents relevant to the subject matter of the inquiry, which have been considered by Board members in the course of the proceedings.
76. The numbering of a BOI report shall be as follows: a mission\(^7\) acronym/ four digit number for the year in which the Board was convened – not the year in which the occurrence took place - a three digit number in chronological order. Missions are to use a single sequential numbering format regardless of whether the report is being issued as a BOI or HOM report. For example, UNXX_2015_001; UNXX_2015_002. A fresh set of numbers shall begin each New Year.

Confidentiality

77. Board Members shall consider whatever information they became privy to during the Board proceedings as confidential, and, unless specifically authorized to do so by the Convening Authority or his / delegates, shall not share it with any other individual(s), other than those directly involved with the Board of Inquiry.

L. Review of BOI Report Prior to its Submission to Convening Authority

78. The BOI Secretary, on behalf of the Board, shall submit a typed draft report to the BOI Officer, together with all the necessary annexes.

79. The BOI Officer shall review the draft report before sending it to the Legal Advisor to ensure that it is written in clear and coherent language and that the report complies with the established format and contains all the relevant information and supporting documentation. If necessary, the BOI Officer shall render assistance to the Board in addressing any shortcomings with respect to the above. Once the BOI Officer is satisfied that the draft meets the required standards, including for language and formatting, he/she shall forward the draft report to the Legal Adviser.

80. For cases requiring specific expertise, the BOI Officer shall ensure that the draft report is reviewed by a subject matter expert to ensure that it properly reflects technical matters prior to it being transmitted to the Legal Adviser for review.

81. The Legal Adviser shall review the draft BOI report to ensure that it complies with the BOI procedures; all TORs have been properly addressed; and that all facts and findings are supported by evidence. If necessary, he/she shall provide written comments and recommendations to the Board in respect of the

\(^7\) UNHQ, in case of the BOI convened by USG, DFS or USG, DPKO
above only. It is not the responsibility of the Legal Adviser to address formatting or editorial matters.

82. Having received the Legal Adviser's comments, Board members shall finalize the draft, taking into consideration these comments, as appropriate. The Board members and Secretary shall then sign the report with their full signatures and return it, through the BOI Officer, to the Legal Adviser for the provision of the legal opinion to the Convening Authority. At this point, no further changes/edits are to be made on the BOI report by the Board members.

83. The Legal Adviser shall draft a memorandum to the Convening Authority communicating the Legal Office's opinion on the final, duly signed, BOI report. This memorandum shall become an integral part of the BOI case file.

84. The mission BOI Officer shall draft a transmittal memorandum from the HOM to the USG, DFS. This memorandum shall indicate the extent to which the report's conclusions and recommendations have been accepted by him/her and what measures, if any, have been taken in the mission to implement these recommendations. The transmittal memorandum will become an integral part of the BOI case file.

M. Monitoring and Compliance

85. Except for recommendations relating to UNHQ action, the primary responsibility for monitoring and ensuring the implementation of BOI recommendations remains with the field missions. Board of Inquiry recommendations that have been endorsed by the HOM and specifically referred to UNHQ for action shall be reviewed by USG, DFS and tasked to substantive areas of DFS, DPKO and other UNHQ departments, as appropriate. The overall monitoring of the implementation of recommendations approved by the Boards shall also be undertaken by the DFS BOI Unit on a quarterly basis, along with identification of trends in management deficiencies, gaps in policy, procedures and guidelines as well as emerging or future problems or issues for the Headquarters and missions to address. Mission BOI Unit shall update the status of recommendations in the Tracker, on a quarterly basis, for further review by the DFS BOI Unit. Each recommendation shall contain sufficient supporting documentation so that it may be deemed closed by the DFS BOI Unit.

86. Each field mission is responsible for establishing the necessary administrative and reporting arrangements to implement the requirements set out
in these procedures. USG, DFS is responsible for establishing the necessary arrangements at Headquarters.

87. The missions and UNHQ, as appropriate, shall request at least two BOI focal points from each Office/Section/Division, whom shall have access to the BOI Tracker and can update the status of the recommendations as it pertains to their respective areas. Alternatively, the BOI Officers within each mission may undertake this task, ensuring that all relevant documentation and information is gathered from the appropriate Office/Section/Division and update the Tracker in a timely fashion, including all necessary documentation needed in order to close the recommendation(s).

88. The BOI Office shall report to the HOM on the status of the implementation of BOI recommendations through the established reporting lines of the mission.

89. It is the responsibility of the HOM upon reviewing a BOI report, to direct it to the relevant mission components, as appropriate, for their further information, review and/or action.

90. For recommendations falling under the purview of UNHQ action, it is the responsibility of the DFS BOI to direct the recommendations to the appropriate BOI focal points within the relevant Office/Section/Division for review and/or action.

91. The DFS BOI Unit shall oversee the implementation of this SOP and ensure compliance, in cooperation with substantive stakeholders.

N. Dissemination and Release of a Board of Inquiry Report

92. BOI and HOM reports are confidential internal documents of the United Nations which contain sensitive information and are generally not made available to outside entities. Care shall be taken in the assembly of the information contained in the reports and in determining the security classification to be given to the reports in accordance with guidance contained in the Secretary-General’s Bulletin ST/SGB/2007/6

Within the Mission

93. Access to BOI reports shall be provided in their entirety or in part on a need-to-know basis to bodies that require them for their actions, such as Heads
of components concerned with the implementation of recommendations approved by the Convening Authority. Annexes may be provided on a discretionary basis. Witness statements given by UN personnel members shall be withheld, however, to protect their interests and to preserve the confidentiality factor.

94. Distribution of a BOI report shall be restricted to those substantive areas that need to be aware of the BOI's recommendations for the purposes of taking corrective or remedial actions.

95. A copy of the BOI report with all annexes shall be retained in the mission BOI Office or mission archives unit, until the closure of the mission.

**UNHQ**

96. Upon receipt of a BOI report at the USG, DFS Office, it shall be reviewed for issues to be addressed at the UNHQ level.

97. Access to the report shall be provided in its entirety or in part on a need-to-know basis as appropriate to structures within the United Nations Secretariat.

98. The original report shall be retained in the DFS BOI unit for three calendar years, following which it shall be archived. The BOI electronic file shall be stored in the database indefinitely.

**Outside Entities**

99. USG, DFS and USG, DPKO or their delegates shall have the discretion to make reports available to Member States, particularly in cases that involve the personnel of that country and that may have implications for that country's procedures, training or other actions. The supporting documentation attached as annexes to such reports shall normally be held back. If such documentation is requested, then, in coordination with OLA, it can be decided whether to make such available, if appropriate. Requests for BOI reports must be made by the relevant Member State to USG, DFS or USG, DPKO.

100. In cases where a report is being shared with a Permanent Mission, it shall be accompanied by a Note Verbale that includes the following sentence:

   "This report is an internal document of the United Nations and is being made available for official use only; it is not to be made public in any form, either in whole or in part, including for judicial, legislative or other proceedings. This report is provided on a
voluntary basis and without prejudice to the privileges and immunities of the United Nations”.

101. Board of Inquiry reports shall not be shared with other third party entities (e.g. families of victims and/or their legal representatives). Upon request, a summary factual account of the occurrence based on a BOI report may be shared with such entities. Such factual accounts shall not contain any extraneous details, analysis, conclusions or recommendations usually found in a BOI report. Requests of this nature must be approved in writing by USG, DFS or USG, DPKO and coordinated with OLA.

102. In deciding whether to make a report or a witness statement of the occurrence available to an outside entity, USG, DFS or USG, DPKO may seek the advice of OLA, especially in cases that might impact on the privileges and immunities of the Organization and/or where issues of confidentiality arise.

O. External Communications on BOI findings

103. With regard to high-profile cases of heightened political sensitivity that garner public or media interest it may be deemed in the best interests of the Organization to release to the public a summary of inquiry findings. The prerogative of making decisions in this regard shall rest with the HoM for the inquiries initiated at the mission level, or the USG, DFS or USG, DPKO for the inquiries initiated by them. Utmost discretion shall be exercised in making a judgement on the scope of the information to be released taking into account specific issues arising from each case. The summary shall be coordinated with the mission Legal Adviser or OLA, UNHQ as appropriate and delivered to the public by a designated spokesperson.

P. Terms and Definitions

Allegations of misconduct - Any alleged criminal act or breach of the United Nations standards of conduct applicable to mission members or breach of discipline, when allegedly committed by any mission member

ASTI- Aviation Safety Technical Investigation
BOI / Board members - Mission members appointed by Head of Mission to conduct an inquiry, whose names appear on the Convening Order

CDT - Conduct and Discipline Team

COE - Contingent-owned equipment

DFS - Department of Field Support

DMS - Director of Mission Support

DPKO - Department of Peacekeeping Operations

FOSRM - Field Occupational Safety Risk Management

FPU - Formed Police Unit

HOM - Head of Mission

MEDEVAC - Medical Evacuation

Mission Member(s) - Any member of the civilian, military or police component of the mission, including United Nations Volunteers (UNVs) and individual contractors.

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. Misconduct may lead to the institution of a disciplinary process and the imposition of disciplinary measures. Similar provisions apply to all other categories of UN peacekeeping personnel.

Natural Death - Death primarily attributed to an illness or internal malfunction of the body and is not caused by an act of violence or an accident.

Ordinary Negligence - A failure to exercise or an absence of such care and diligence as a person of ordinary care, precaution, and diligence.

OIOS - Office of Internal Oversight Services

SEA - Sexual Exploitation and Abuse: “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.

**Serious Injury or Illness** - An acute, life threatening, medical or surgical condition that may lead to death or significant and permanent loss of bodily functions.

**SOFA/SOMA** - Status-of-Forces Agreement / Status-of-Mission Agreement

**SOP** - Standard Operating Procedure

**TOR** - Terms of Reference

**UNOE** - United Nations-owned Equipment

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**P. Dates**

104. This SOP shall become effective on 1 December 2016. This SOP shall be reviewed no later than 1 December 2019.

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**R. Contact**

105. The Unit Chief of Boards of Inquiry in the Audit Response and BOI Section, DFS shall be contacted regarding this SOP.

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**S. History**

106. This SOP supersedes the previous SOP on BOI dated 1 March 2011. It should be read in conjunction with the DPKO/DFS Policy Directive on Boards of Inquiry, dated 1 June 2008.
Q. Annexes

Annex I

Board of Inquiry Convening Order

[Name of Mission]

Date: ______________

To: [distribution]
From: [name and title of Head of Mission]
Subject: Board of Inquiry [mission acronym, number]

1. In accordance with the DPKO/DFS Policy Directive and Standard Operating Procedure on Boards of Inquiry, a Board of Inquiry is hereby convened to consider and prepare a report on the [brief description of occurrence] which took place on the [date] at [time] hours at [place].

2. The Terms of Reference of this Board of Inquiry is attached.

3. An initial legal briefing shall be provided to the Board on its responsibilities immediately prior to commencement of its deliberations. Copies of the investigation report and other relevant documentation will be forwarded to the Board members prior to the initial briefing. Attendance at the initial briefing and any subsequent briefings/meetings is mandatory. The Members of the Board shall not proceed on leave unless special permission has been granted by the Head of Mission.

4. Composition:

   Name           Title
   Chairperson
   Member
   Member
   Member

5. The Chairperson shall submit the final BOI report, reviewed and finalized by [date], in accordance with Standard Operating Procedure on Boards of Inquiry, established by Department of Field Support.

Distribution:
Chairperson, Members of the Board
Legal Officer
BOI Officer
Annex II

Terms of Reference of [mission acronym] Board of Inquiry [number]
[brief description of occurrence] which took place on the [date] at [time] hours at [place]

Attention: the following Terms of Reference are generic and represent the most typical issues confronted by a BOI. BOI Officer in consultation with Legal Adviser, as appropriate, shall prepare case specific TOR depending on the circumstances of each occurrence.

1. **The mandate of the Board of Inquiry shall be as follows:**

   1.1. Obtain all investigation reports and other relevant source materials regarding the occurrence, including, *inter-alia*: Security Incident Report(s), Military Police Report(s), technical assessments, witness statements, expert opinions, medical reports and evaluations, and any other documents required by the BOI to conduct its deliberations.

   1.2. Collect any relevant additional statements from witnesses, and conduct any necessary additional site visits, interviews, or further investigations.

   1.3. Seek explanations or clarifications of technical or specialized reports or other evidence of a technical or specialized nature from experts or specialists, should it be deemed necessary by the BOI to enable it to address all relevant issues.

   1.4. Establish facts from the whole body of available evidence presented and review the circumstances of the occurrence in a comprehensive manner.

   1.5. Within the deadline specified in the convening order, present a written report to the Convening Authority, setting forth in a clear, logical, and objective manner the BOI's findings, conclusions, and recommendations.

2. **The Board of Inquiry shall establish the following facts:**

   2.1. Date, time and place of occurrence.
2.2. Factual and comprehensive account of the occurrence and the events leading thereto.

2.3. Identification of UN and non-UN investigators, if applicable.

2.4. Full names of all individuals involved in the occurrence, their nationality and (for mission members) status and UN ID/index number.

2.5. When, how and by whom were the mission structures informed of the occurrence?

2.6. What standing procedures, if any, were engaged in the mission following the notification of the occurrence? When, and by whom?

2.7. When, how and by whom was the search and rescue operation / MEDEVAC carried out, (if relevant)?

2.8. By whom and for how long was the occurrence site preserved?

2.9. Who maintained custody of the chain of evidence?

2.10. Have the remains of all of the victims been identified? How were the remains identified, (if relevant)?

2.11. Whether or not any court action (prosecution or law suit) has been initiated.

In cases of death, illness or injury

2.12. Time, date and place of death or injury.

2.13. Where and when hospitalized, (if applicable)?


2.15. The initial and final diagnosis.

2.16. The course of treatment, medicines and procedures administered.

2.17. Cause of death or injury as per death certificate or autopsy report.

In cases of traffic accident

2.18. Identification of vehicle(s) involved.
2.19. Weather, lighting and road conditions.

2.20. Whether a car log was operational in the UN vehicle and, if so, what it showed with regards to exact speed, location and time of accident.

2.21. Identification of damage to vehicles and other property.

2.22. Actual or estimated cost of repairs to vehicle(s) involved.

2.23. Name(s) and address(es) of insurer(s) of vehicle(s) involved.

In cases of a hostile action


2.25. Were the affected mission members briefed about security threats in the area?

2.26. What precautionary measures, if any, and by whom have been put in place to anticipate the occurrence or mitigate its effects?

2.27. The roles of each of the mission members UN personnel involved in the incident.

2.28. Identification (to the extent possible) of attackers.

In cases of loss/damage to property or equipment

2.29. Identification of those responsible for custody of property or equipment in question;

2.30. Identification of protective measures, if any, which were put in place to ensure the safekeeping of property or equipment, which went missing. Did these measures comply with appropriate UN rules and regulations?

2.31. Whether the theft is suspected and whether police authorities were notified and, if so, details regarding such notification.

2.32. The value of the missing article(s) or cost of repairing equipment;

2.33. Name and address of insurer, if any;
In cases of an air crash

The following information should be provided as per ASTI or final report on the technical investigation conducted by the authorities of the State of Occurrence:

2.34. Make, model, registration number, year of manufacture, and call sign of the aircraft.

2.35. Did the aircraft have a valid Certificate of Registration?

2.36. Which Civilian Aviation Authority issued the Certificate of Registration?

2.37. Did the Certificate of Registration conform to applicable international regulations, rules, standards and recommended practices, in particular with Annex 7 of the Convention on International Civil Aviation?

2.38. Did the aircraft carry a valid Certificate of Airworthiness?

2.39. Which Civilian Aviation Authority issued the Certificate of Airworthiness?

2.40. Did the aircraft comply with all appropriate airworthiness requirements?

2.41. Was the maintenance of the aircraft carried out regularly and in accordance with applicable manuals, rules and procedures? When was the last time a "scheduled" or "unscheduled" maintenance was carried out on the aircraft? A copy of maintenance records should be appended to the BOI report.

2.42. Did the contractor company possess and maintain a valid National Air Operator Certificate and an appropriate authorization from the local Civil Aviation Authority to conduct air transport operations in the country?

2.43. Was the Air Operator Certificate or equivalent document issued under laws and regulations which conform to applicable international regulations, rules, standards and recommended practices, in particular, Annex 6 to the Convention on International Civil Aviation?

2.44. Did the aircraft carry a valid Certificate of Insurance?

2.45. Does the contractor company maintain a comprehensive third party liability insurance policy to cover all persons and cargo authorized by the UN to be transported on the aircraft?
2.46. Was the crew licensed to fly the type of aircraft in question?

2.47. How long had the crew been in the mission? Was the crew's training experience and maintenance of flight proficiency commensurate with operating conditions in the mission and with the type of aircraft?

2.48. Was the flight crew and maintenance personnel medically fit in accordance with Annex 1, Chapter 6 to the Convention on International Civil Aviation?

2.49. Was the crew adequately rested prior to carrying out the mission?

2.50. Did the flight crew contain at least one pilot fluent in "technical aviation English"? Did this pilot possess an "English Language Proficiency Certificate"?

2.51. Did the flight approval process conform to all UN regulations and procedures?

2.52. Who tasked the aircraft? Did the flight tasking procedures comply with all relevant UN regulations and procedures? A copy of the tasking order should be attached to the BOI report.

2.53. Did any parties, entities or organization outside the UN play a role in the planning or tasking of the flight and if so, what role did they play?

2.54. Was the flight conducted in accordance with the tasking order? If not, how and why did the flight deviate from the tasking order?

2.55. Were standard routes, altitudes and approach, and departure procedures established for traveling to and from each leg of the flight?

2.56. Was the crew briefed about the mission in accordance with UN procedures? If so, by whom?

2.57. Did the crew (or the crew's employer/supervisor) express any concerns or raise any objection to carrying out the flight as tasked?

2.58. Did the crew file a flight plan? Was the flight plan in accordance with applicable procedures and/or with the UN tasking order?

2.59. What was the weather en route and was the crew given appropriate information on it for the safe execution of the flight? Were any other extraneous factors (e.g. other aircraft, hostile fire, political, operational or other factors) that caused the flight to be undertaken in a non-routine manner?
2.60. What was the performance of the aircraft during the flight?

2.61. What was the total weight and volume of cargo onboard the aircraft at the time of takeoff?

2.62. Was all cargo on board the aircraft adequately stowed and secured?

2.63. Was there any dangerous cargo on board the aircraft?

2.64. Were any personal weapons carried on board by anyone?

2.65. Was any electronic equipment (other than the aircraft's own equipment) carried on board by anyone? If so, was it being used for personal or official purpose?

2.66. Who authorized the travel of each of the passengers? Copies of the flight authorization (Movement of Personnel) for each of the passengers should be appended to the BOI report.

2.67. Were relevant UN procedures, rules and regulations adequate? Were they followed properly?

2.68. In cases where the occurrence involves death or serious injury, did the death, injury or illness was directly attributable to the performance by the victim of duties on behalf of the United Nations?

2.69. Were the passengers manifested so as to ensure that an accurate passenger manifest for each leg of the flight was immediately available? A copy of the passenger manifest should be appended to the BOI report.

2.70. Did the crew brief the passengers on the safety features of the aircraft prior to take-off? Did the briefing conform to standard requirements?

2.71. Were safety features engaged?

3. The Board of Inquiry shall provide its judgment on the following:

3.1. What caused the occurrence?

3.2. Was anyone responsible for the occurrence, if so, who, and to what extent?
3.3. Whether any United Nations rules and regulations were contravened? If so, identify the contravened rules and regulations and the particular aspects thereof;

3.4. Whether any individual(s) has/have been victimized by the occurrence and whether the negative effect of the occurrence was directly attributable to the performance by the victim of duties on behalf of the United Nations (service incurred);

3.5. Whether the relevant UN procedures, regulations and in place at the time of the occurrence were adequate and properly followed.
UNCLASSIFIED

Annex III

UNDER TakIng OF CONFIDENTIALITY

I, the undersigned, undertake that, in the performance of my duties as a Chairperson/ Member/Secretary (underline as appropriate) of [mission acronym] Board of Inquiry #, shall exercise the utmost discretion in all matters relating to the Board proceedings, and I shall not, at any time, use for private advantage or communicate any information relating to the Board proceedings to any person or institution, within or outside the Mission, without the authorisation of the Head of Mission of [mission acronym].

I undertake that all evidence, files, statements, maps, drawings, photographs, discs, plans, reports, recommendations, estimates, documents and any other data or information compiled or received by me as a result of my association with the Board of Inquiry shall be treated as confidential, shall be delivered only to the Board of Inquiry Officer of [mission acronym] and shall not be retained by me in any form. I shall ensure that I have returned all documents and other information and materials to the Board of Inquiry Office after completion and submission of the Board of Inquiry Report and have not retained any copies in any form.

Print name: ____________________________

Signature: ____________________________

Date: _________________________________
Annex IV

Guidelines for BOI Members on the Conduct of Inquiries

1. General

When the Board of Inquiry (BOI or Board) is convened by the Head of Mission (HOM), it will receive, along with a Convening Order, its Terms of Reference (TOR), together with the report of the preliminary investigation and other document files assembled by the Mission Board of Inquiry Unit. The Board will also receive initial briefings by the Mission BOI Officer and the Legal Adviser/Officer.

When the Board members have been able to peruse the documents, they shall meet and determine the internal procedure by which they will operate, in particular deciding which persons shall be called as witnesses. Minutes of the meetings shall be kept throughout the proceedings, and should include a record of times, names and places, relevant to the occurrence in question.

2. Interviews

3. Before interviewing witnesses, the Board, at its preliminary meeting, should assess whether it is necessary to re-interview those who have already provided information and decide what issues on the TOR it will need to address with particular persons. While it will be, from time to time, inevitable that a person is called back more than once, the process of recalling witnesses should be avoided as much as possible, notably with respect to victims and witnesses who are minors. Interviews with victims and witnesses must be carried out in accordance with the principles of do no harm, confidentiality and informed consent. Interviews with minors must follow specific procedures including, inter alia, being conducted in the presence of a parent, guardian or, if neither are available, an adult of the minor’s choosing.

The Board Members should decide, in advance of each interview, the member who will lead it. At the beginning of the interview, this person should explain the mandate of the Board to the witness, introduce the Board Members and request the Secretary to administer the attestation. After the witness has signed it, he/she should be requested to state, initially, what he/she knew about the occurrence in question. The interviewers should be careful not to ask “leading questions”, i.e., questions which suggest an answer. For instance, “Tell us what happened about these vehicle parts” is usually much better than: “Is it right that the auto parts went missing last Thursday?” In other words, the evidence should be the witness’s and not the Board’s.
When the witness has finished with the narration and the leading interviewer has completed her/his initial questioning, he/she will request other Members to ask questions, as they think appropriate. Finally, the witness shall be asked whether he/she wishes the Board to hear the evidence of any other particular persons or review any other evidence.

The above may seem simple, but it is not. The art of interviewing is not easily acquired. While leading questions should not be asked initially, this does not mean that the Board should accept vague and unhelpful answers. The Board should obtain clear answers as much as possible. However, there is a fine line that must be drawn between pressing a witness for a clear answer and harassing him/her. Clearly, the latter would contravene UN regulations and rules and is unacceptable.

4. Evidence

The Board should acquire the best evidence. It should note that original documents are better than copies, if they are available. Documents should always be identified by the witness by exhibit numbers, such as “Exhibit no. ...” and referred to in the witness’s statement, saying, for example, “I am shown a receipt (Exhibit no. 3) which I recall was given to me on ....” If the best document is a copy, “I am shown a copy of a receipt (Exhibit no. 3), the original of which was given to me on ......”; in other words, care and accuracy should be applied at all times.

Similarly, it is always preferable to hear what Mr. B actually says, rather than hear Mr. A's account of what Mr. B has supposedly said. This is always the case when it comes to deciding the truth of what actually happened, although there may be occasions when hearing what a witness has said before might be important to test his consistency. Inconsistency may sometimes indicate an unreliable witness.

5. Analysis of evidence

The Board should arrive at conclusions based on evidence that it has considered carefully and found credible. No assumptions should be made. If the evidence is simply not there, the Board must say so. At the same time, reasonable inference is admissible and should be practiced. For example, if some goods go missing and there is only one person who had access to the goods at that particular time, deciding that that person took the goods is not assuming anything; it is drawing a reasonable inference from the facts. Of course, in this kind of situation, the inquiry would concentrate on whether the evidence was clear that this person was the only one who had access, or whether it is reasonably possible that somebody else could have taken the goods in question.
In determining the cause(s) of an occurrence, Board Members should consider which of the facts it has established, single or in combination with others, triggered the unfolding of events, resulting in the occurrence. Conversely, a cause is a deficiency which, if corrected, eliminated, or avoided, could have prevented the occurrence. A cause may be an act, an omission, a condition, or a circumstance and it either starts or sustains the accident sequence. A cause may be an element of human or mechanical performance. An environmental condition may be a cause if it was not foreseeable or avoidable.

Board Members should be particularly careful in apportioning personal responsibility for the occurrence. This should always be based on hard evidence. Persons concerned should be given an opportunity to present their version of events leading to the occurrence.

Very often the issue facing a Board of Inquiry, especially in death or disability cases, is to determine whether the negative effect of the occurrence was directly attributable to the performance by the victim of duties on behalf of the United Nations. Board members will need to examine the specific circumstances of the occurrence, in order to determine this factor. In this context, two aspects should be considered carefully: a) whether the victim was at liberty to decline from participating in the activity which resulted in the occurrence without violating Terms of Reference of his/her position; b) whether the negative effects of the occurrence have been brought about by the victim’s lawful use of mission premises, means of transportation, consumption of mission-provided rations, water, medicines etc, or exposure to mission environment. For example, a trauma received by a TCC member would be service related if it was inflicted during a physical training exercise, which was a part of the unit drill or an officially organized sports event. On the other hand, the same kind of trauma received during an improvised match would be non-service related as the participants were at liberty to decline participating therein.

6. Writing a report

The report of a BOI should be based on evidence derived from the Investigation Report, prepared by mission security or military police investigators as well as evidence obtained by the Board throughout its proceedings. It should cover all points of the Board's TOR.

The section “Constitution” should cite the convening order, its date, the period during which the Board conducted its proceedings, as well as the venue thereof.
Under the title “Description of Occurrence” the Board should provide a summary of purely factual description of the occurrence under review. It should not include any extraneous information, analysis, conclusions and/or recommendations. It should be kept in mind that this section of the report is commonly used for informing the extraneous parties about the occurrences, including the victims’ families.

In the section “Facts” the Board should respond to all issues cited in the TOR. The objective of this paragraph is to present a clear statement of all relevant facts. The Board can choose to present them in either chronological order, starting with what is considered to be the first significant event, or follow the order of questions in the TOR. The most important factor is that all issues are fully addressed. The Board should avoid expressing its opinions and conclusions on the cause(s) of the occurrence in this section unless they form an essential part of the description of the accident. Adjectives “adequate”, “appropriate”, “inadequate”, etc. should be saved for the section “Conclusions”.

The “Deliberations” section is regarded as a “bridge” between the “Facts” and the two following sections. In this section, the Board should explain how all facts and evidence were analysed to arrive at the conclusions on the causes of the occurrences and the recommendations it wishes to make. The Board should describe each aspect that was considered and explain its significance. The reasoning of the Board should be based on the evidence adducted. Its members’ best judgment or expert opinion and should be explained in detail, as well as be supported by references to statements of witnesses and/or exhibits. If there is conflicting evidence, the Board should state why it is not prepared to accept the evidence that it does not use. If there is conflicting evidence, the Board should state why it is not prepared to accept the evidence that it does not use. While determining whether the occurrence was service related, the Board should specify the facts and explain the reasons relied upon in reaching such a conclusion. The same applies to the issue of responsibility. In particular, in cases where the Board is of the opinion that negligence is present, it should indicate in what particular respect the person concerned failed to act as a reasonable adult human being or failed in his or her duty. The latter necessitates clear evidence as to exactly what duties the person was entrusted with (job description, post terms of reference, etc). The same applies to rules and regulations. If those were violated, the report should be specific as to what rule was violated and in what respect. If the Board concludes that the occurrence was caused by internal malfunctioning of the Organization, it should clarify where the procedures were inadequate and in what respect.

The “Conclusions” section of the report should generally follow the issues cited in the TOR. However, should the Board arrive at conclusions other than those requested in the TOR, they could also be included in the report. The
reasoning of the Board should be based on its members' best judgment or
expert opinion and should be explained in detail, as well as be supported by
references to statements of witnesses and/or exhibits.

"Recommendations": These should be specific, feasible and directed at the
elimination reduction mitigation of the cause(s) of the occurrence in question.
An important aspect to bear in mind is that Board Members are prohibited
from recommending administrative or disciplinary action, even if they
conclude that an individual(s) exhibited negligence or gross negligence, or
otherwise breached UN Regulations, Rules and other Administrative
Issuances or standards of conduct applicable to a particular category of
mission members. Likewise, the recommendations regarding compensation
or legal liability should never be made by the Board. These are matters
outside the purview of a BOI and should be addressed by the Head of
Mission.

"Observations": This is an optional section of the report. If, during the course
of its deliberations, the Board’s attention is drawn to additional matters of
significance, not covered by the TORs, but relevant to the subject matter of
the inquiry, BOI members can point them out in this section of the report.

"Signatures": BOI members should initial the draft before submitting it for
review by the BOI Officer and the Legal Adviser. Once the report is finalized
with due regard to the BOI Officer’s and the Legal Adviser’s comments and
recommendations, the Board members should sign it with their full signatures.
A dissenting member is not obliged to put his/her signature on the report, but
should explain the abstention in a separate document addressed to the HOM,
which becomes an integral part of the case file.

"Annexes": The following documents should be typically annexed to BOI
report:

I. Convening order and TOR;

II. Investigation report with original attachments, including photos;

III. List of persons present or involved in the occurrence, giving names,
UN ID/index numbers, positions (if civilian); ranks and units (if
military or police), addresses and occupations (if non-UN);

IV. Statements and attestations by witnesses;

V. Maps or sketches of the scene of the occurrence;

VI. Medical reports and technical inspection reports (e.g., weapon
inspection reports, vehicle inspection reports);
VII. Claims, local police reports, pending proceedings or actual decisions of local courts;

VIII. Detailed description of property destroyed or damaged, with attachments of available damage/discrepancy reports; and

IX. Any additional relevant documents, statements, photos, etc.

7. Finalizing the report

Members of the Board remain the sole authors of their report. As such, they are under no obligation to follow the Legal Adviser’s recommendations made after reviewing the draft report. However, they should realise that the Convening Authority’s position on the report will be greatly influenced by the Legal Adviser’s opinion communicated in a memorandum attached to the report. Thus, the recommendations of the Legal Adviser should be treated with the utmost respect and attention.

8. After the inquiry

Board Members should consider whatever information they became privy to during the Board proceedings as strictly confidential, and should not share it with any other individual(s), other than those directly involved with the Board of Inquiry.
Annex V

Witness Statements

Statement to Board of Inquiry No.

The Statement of:

Name of UN Personnel Member/Individual

Index No. (if UN staff member):

Position of UN staff member:

Address and Occupation (if non-UN witness):

I do affirm that the evidence I give to this Board of Inquiry shall be the truth, and to the best of my knowledge and/or recollection.

Signed:

Date:

Witness Attestation

I have reviewed my above statement. I have been told that I may amend it or add anything I wish. The statement is true. I make it of my own free will, knowing that if I have wilfully stated in it anything that I know to be false, or do not believe to be true, I may be liable to administrative and/or disciplinary action.

Signature of Witness

Date

Signature of Chairperson

Date