



# General Assembly

Distr.: General  
12 June 2007

Original: English

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## Sixty-first session

### **Report of the Special Committee on Peacekeeping Operations and its Working Group on the 2007 resumed session\***

**New York, 11 June 2007**

At its 200th meeting, held on 11 June 2007, the Special Committee on Peacekeeping Operations adopted the following conclusions and recommendations:

1. By its resolution 61/267 of 16 May 2007, the General Assembly requested the open-ended Ad Hoc Working Group of Experts of the Special Committee on Peacekeeping Operations to continue consideration of the revised draft model memorandum of understanding at a resumed session to be held no later than June 2007.
2. The open-ended Ad Hoc Working Group of Experts, meeting from 29 May to 1 June 2007 and on 11 June 2007, finalized the revised draft model memorandum of understanding in the form of amendments to the model memorandum of understanding contained in chapter 9 of the "Manual on Policies and Procedures Concerning the Reimbursement and Control of Contingent-Owned Equipment of Troop/Police Contributors Participating in Peacekeeping Missions (COE Manual)" (A/C.5/60/26, annex).
3. At its 200th meeting, the Special Committee considered the revised draft model memorandum of understanding and decided to recommend to the General Assembly that it request the Secretary-General to incorporate in the model memorandum of understanding the amendments contained in the annex to the present report.
4. At the same meeting, the Special Committee adopted the present report.

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\* The present document is an advance version of the report of the Special Committee on Peacekeeping Operations and its Working Group on the 2007 resumed session, held at United Nations Headquarters on 11 June 2007. It will appear in final form, together with the reports of the Special Committee on Peacekeeping Operations and its Working Group on the second resumed session of 2006 (A/61/19 (Part I)) and the 2007 substantive session (A/61/19 (Part II)), in *Official Records of the General Assembly, Sixty-first Session, Supplement No. 19 (A/61/19)*.



## Annex

### **Revised draft model memorandum of understanding\***

1. *In article 2, after the reference to annex G, insert a reference to annex H as follows:*

H. United Nations standards of conduct: We Are United Nations Peacekeeping Personnel

2. *Amend article 3 to read as follows:*

#### **Article 3 Purpose**

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

3. *After article 7, insert the following new articles:*

#### **Article 7 bis United Nations standards of conduct**

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

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

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

#### **Article 7 ter Discipline**

1. The Government acknowledges that the commander of its national contingent is responsible for the discipline and good order of all members of the contingent while assigned to [United Nations Peacekeeping Mission]. The Government accordingly undertakes to ensure that the Commander of its national contingent is vested with the necessary authority and takes all

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\* The revised draft is presented in the form of amendments to the model memorandum of understanding contained in chapter 9 of the annex to document A/C.5/60/26.

reasonable measures to maintain discipline and good order among all members of the national contingent to ensure compliance with the United Nations standards of conduct, mission-specific rules and regulations and the obligations towards national and local laws and regulations in accordance with the status-of-forces agreement.

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

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

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

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

#### **Article 7 quater Investigations**

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

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

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

The United Nations shall provide a complete report of its preliminary fact-finding inquiry to the Government at its request without delay.

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

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

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

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

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

evidence not under the ownership and control of the national contingent, is obtained from the host nation competent authorities.

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

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

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

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

#### **Article 7 quinquies**

##### **Exercise of jurisdiction by the Government**

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

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

**Article 7 sexiens**  
**Accountability**

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

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

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

(b) Exercise effective command and control; or

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

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

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

4. *In annex F, insert the following six additional definitions:*

28. **Misconduct** means any act or omission that is a violation of United Nations standards of conduct, mission-specific rules and regulations or the obligations towards national and local laws and regulations in accordance with

the status-of-forces agreement where the impact is outside the national contingent.

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

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

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

32. **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.

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

5. *At the end of chapter 9, insert the following new annex:*

**Annex H**  
**We Are United Nations Peacekeeping Personnel**

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

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

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

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

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

We will always:

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

We will never:

- Bring discredit upon the United Nations, or our nations through improper personal conduct, failure to perform our duties or abuse of our positions as peacekeeping personnel;
- Take any action that might jeopardize the mission;
- Abuse alcohol, use or traffic in drugs;
- Make unauthorized communications to external agencies, including unauthorized press statements;
- Improperly disclose or use information gained through our employment;
- Use unnecessary violence or threaten anyone in custody;
- Commit any act that could result in physical, sexual or psychological harm or suffering to members of the local population, especially women and children;
- Commit any act involving sexual exploitation and abuse, sexual activity with children under 18, or exchange of money, employment, goods or services for sex;

- Become involved in sexual liaisons which could affect our impartiality, or the well-being of others;
- Be abusive or uncivil to any member of the public;
- Wilfully damage or misuse any United Nations property or equipment;
- Use a vehicle improperly or without authorization;
- Collect unauthorized souvenirs;
- Participate in any illegal activities, corrupt or improper practices; or
- Attempt to use our positions for personal advantage, to make false claims or accept benefits to which we are not entitled.

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

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