

## **CHAPTER V**

# **Compliance with Security Policies and Procedures**



## **Section E**

### **BOARDS OF INQUIRY (BOI)**

**Promulgation Date:** 8 November 2012  
**Technical Review:** 1 May 2017

## A. Introduction

1. Using Boards of Inquiry as an analytical as well as a managerial tool to review investigation reports and record the facts of serious incidents is a well-established administrative practice in many organizations, including within the United Nations. Boards of Inquiry have proven to be useful in identifying gaps or deficiencies in procedures and policies and in strengthening internal controls to avoid recurrence and to improve managerial accountability. Recommendations of Boards of Inquiry can provide managers with a proposed course of action.
2. There is a corresponding need for a similar mechanism within the United Nations Security Management System (UNSMS) to review critical security and safety incidents involving the personnel and property of its member organizations. This mechanism would support the Framework of Accountability for the United Nations Security Management System and identify lessons learned to strengthen Security Risk Management (SRM) policy<sup>1</sup> and procedures and address operational gaps in SRM.

## B. Purpose

3. The purpose of this policy is to establish a common framework within the UNSMS for convening and executing a Board of Inquiry (herein referred to as “a Board”) following the investigation of a critical security incident that involves member organizations.

## C. Application/Scope

4. The policy is applicable to all member organizations of the UNSMS and all their personnel (herein “United Nations personnel”) as defined in Chapter III of the *Security Policy Manual* (SPM) (“Applicability of United Nations Security Management System”).

## D. Conceptual Framework

5. A Board of Inquiry is neither an investigative nor a judicial process and does not make recommendations on questions of compensation, legal liability or disciplinary action. A Board of Inquiry is convened after the investigators of the affected organizations have completed their investigation of the incident in accordance with their applicable legal framework. In appropriate cases, organizations affected will consider coordinating their pre-Board investigations with the view to gain maximum efficiency and preservation of evidence.
6. A Board of Inquiry is an analytical and managerial tool to review investigation reports and record the facts of critical security incidents involving organizations of the UNSMS, including whether the occurrence took place as a result of the acts or

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<sup>1</sup> Please refer to Security Policy Manual, Chapter IV, Section A, Security Risk Management, which entered into effect on 18 April 2016.

- omissions of any individual(s). The purpose of a Board of Inquiry is to identify gaps or deficiencies in SRM policy, procedures or operations, to SRM controls (lessons learned) and to improve accountability for SRM.
7. For the purpose of this policy, a “critical security incident” is defined as a significant occurrence caused by hostile action that results in death or serious injury of multiple personnel, generally of more than one UNSMS organization.
  8. A Board of Inquiry is not appropriate in matters principally involving allegations of misconduct by any United Nations personnel. Such matters are to be handled by the relevant UNSMS organization in accordance with its internal policies and procedures.
  9. Nothing in this policy inhibits the requirement for investigations, which might exist in certain cases, in accordance with other sources of policy and/or guidance of UNSMS organizations and national legislation.

#### **E. Convening a Board of Inquiry**

10. The Under-Secretary-General for Safety and Security will consult with the Executive Head(s) of the UNSMS organizations involved in an incident to determine together whether they consider that a Board of Inquiry is warranted. Where it is determined that such an inquiry is warranted, the Under-Secretary-General for Safety and Security shall proceed to convene the Board of Inquiry for that purpose.
11. The Board shall be established, and its members appointed, with a Convening Order signed by the Under-Secretary-General for Safety and Security after consultation with the Executive Head(s) of the UNSMS organization(s) involved in the incident, as per paragraph 10 above.<sup>2</sup> When necessary, the Under-Secretary-General for Safety and Security can consult the Executive Group on Security<sup>3</sup> before issuing a Convening Order.
12. The Terms of Reference of the Board constitutes an integral part of the Convening Order. The Terms of Reference is the framework within which the Board operates and defines the facts and issues the Board is to address. The Terms of Reference shall be as specific as possible and must provide a clear limit to the Board’s scope of review. In particular, the Terms of Reference shall always specify that Board members are prohibited from making recommendations regarding compensation, disciplinary action or legal liability.<sup>4</sup> The Convening Order, including the composition of the Board, and the Terms of Reference shall be determined by the Under-Secretary-General for Safety and Security in consultation with the UNSMS organizations affected.

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<sup>2</sup> Annex A provides a template for the Convening Order.

<sup>3</sup> See *Security Policy Manual*, Chapter II, Section B, “Executive Group on Security”.

<sup>4</sup> Annex B provides a template for developing Terms of Reference.

**F. Composition of a Board of Inquiry**

13. A Board of Inquiry shall comprise at least four (4) members, including a Chairperson. Due consideration shall be given to geographic and gender representation. A Board should generally not comprise more than six (6) members, including the Chairperson.
14. The Chairperson of the Board, whose name shall be identified in the Convening Order, shall be an individual with present or past United Nations system senior management experience, considering the provisions of paragraph 18 below.
15. At least one member of the Board shall be appointed from individuals recommended by the UNSMS organizations involved in the incident, considering the provisions of paragraph 17 below.
16. At least one member of the Board shall have practical and policy knowledge and experience of the UNSMS, considering the provisions of paragraph 17 below.
17. No person shall be appointed as a member of the Board if he or she
  - (a) Has a perceived or actual conflict of interest with either the individuals or components involved in the incident under review;
  - (b) Is from a unit or office that had the responsibility for security management of the location or office involved in the incident under review; or
  - (c) Has taken part in the investigation of the occurrence, is a material witness, is an accused person, is a suspect from that investigation or is likely to have a role in reviewing the findings of the Board.
18. All Board members shall serve on the Board in their individual capacity and shall be independent for the purpose of this duty. Managers or supervisors of Board Members shall ensure that no undue pressure is exerted on them in the context of the Board's proceedings.
19. Depending on the nature of the occurrence, the Board may require expert advice in a related area. Subject experts shall be arranged by a Board Support Officer (see paragraph 22 below) with due regard to excluding conflict of interest with either the individuals or organizational components under review. Such experts shall not be considered Board members.

**G. Support to the Board**

20. The Board of Inquiry shall be supported by a Board Support Officer and a Secretary.

21. The Board Support Officer shall be responsible for all matters with regard to coordinating the convening process and ensuring the efficient functioning of the Board.
22. The Board Support Officer shall be appointed from the United Nations Department of Safety and Security or from one of the UNSMS organizations involved in the incident.
23. The Board Support Officer fulfils the following functions:
  - (a) Draft the Convening Orders listing the names of the Board Chairperson and members and preparing, when necessary in consultation with the United Nations Office of Legal Affairs, incident-specific Terms of Reference for approval by the Under-Secretary-General for Safety and Security;
  - (b) Administer the “Undertaking of Confidentiality” in accordance with the approved format;<sup>5</sup>
  - (c) Provide administrative and logistical advice and support to Board members throughout the Board’s proceedings;
  - (d) Review the Board’s draft report for quality control and format compliance;
  - (e) Coordinate the review of the Board’s report by the United Nations Office of Legal Affairs;
  - (f) Submit the Board’s report package and all annexes for approval by the Under-Secretary-General for Safety and Security;
  - (g) Maintain all records related to the Board’s review.
24. The Board Support Officer shall not be considered a Board Member.
25. A Secretary shall be appointed from the United Nations Department of Safety and Security or from one of the UNSMS organizations involved in the incident to serve the Board by providing day-to-day administrative assistance to its members, including the following:
  - (a) Set up the initial briefings for the Board members;
  - (b) Advise on Board procedures and arrange expert advice on applicable United Nations rules and regulations;
  - (c) Arrange interviews with individuals who may have relevant information to provide;

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<sup>5</sup>See Annex D.

- (d) Assemble relevant documentation from different sources;
- (e) Prepare and participate in on-site visits;
- (f) Keep minutes of interviews and deliberations;
- (g) Draft the report for review by the Board members, the Board Support Officer, the United Nations Office of Legal Affairs and, in appropriate cases, other relevant offices;
- (h) Obtain signatures of Board members, and of those who were formally interviewed by the Board, on the report case file documents; and
- (i) Compile the report case file.

26. The Secretary shall not be considered a Board Member. However he/she shall be one of the signatories to the final report.

#### **H. Proceedings of a Board of Inquiry**

27. In its inquiry, a Board of Inquiry shall be responsible for the following:

- (a) Receive the Convening Order and Terms of Reference;
- (b) Receive a procedural briefing from the Board Support Officer and a legal briefing from the United Nations Office of Legal Affairs;
- (c) Obtain all available investigation reports and other relevant source materials regarding the occurrence, including, *inter alia*: Security Incident Report(s), Military or Police Report(s), UNSMS organization investigation reports, technical assessments (including threat assessments and security risk assessments of the SRM process), witness statements, expert opinions, medical reports and evaluations and any other documents required by the Board to conduct its deliberations;
- (d) Collect any relevant additional statements from any individual involved or affected by the incident, and conduct any necessary additional site visits, interviews, or further inquiries;
- (e) Seek explanations or clarifications of technical or specialized reports or other information of a technical or specialized nature from experts or specialists, should it be deemed necessary by the Board to enable it to address all relevant issues;
- (f) Establish facts from the whole body of available information presented and review the circumstances of the occurrence in a comprehensive manner; and

- (g) Within the deadline specified in the Convening Order, present a written report to the Under-Secretary-General for Safety and Security, setting forth in a clear, logical and objective manner the Board's findings, conclusions and recommendations.
28. United Nations personnel, as described in paragraph 4 above, have a duty to assist the Board of Inquiry by providing information they may have related to the incident. Any other person, including local citizens and local police or military officers, may be requested to make a statement to the Board or answer its questions, but are under no obligation to do so.
  29. Due consideration shall be given to all individuals who were affected by or witnessed the incident – especially minors, particularly in sensitive cases – to protect them from unnecessary repeat interviews that could be intimidating.
  30. Principles of fairness and due process shall apply to all aspects of the Board's proceedings. Any person interviewed can suggest the names of others who may have information relevant to the inquiry. The Board shall not be bound by any individual's suggestion, if it deems it irrelevant based on the analysis of previously collected information. Where the Board decides not to interview any person who has been suggested by another, it shall make an explicit statement to that effect in the "Deliberations" part of the report and give the reasons for its decision.
  31. If necessary, persons who have previously provided information to an investigation may be questioned again by the Board to clarify any ambiguities in their statements and to indicate to what extent, if any, they have knowledge of relevant facts not previously mentioned in their statements.
  32. If an individual, including non-United Nations personnel, provides information to the Board but refuses to make or sign a statement, the Board shall record that fact.
  33. Individuals shall be interviewed in the language they naturally use, resorting to interpretation when necessary. In such cases, the "Undertaking of Confidentiality" shall be administered to the interpreter in accordance with the format attached herewith as Annex D.
  34. Individuals providing information to the Board shall be questioned by the Board without the presence of other persons.
  35. 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 United Nations system with experience dealing with children, ideally, a Child Protection Officer.
  36. When United Nations personnel are called to provide information to the Board, the attestation at the beginning of the standard form statement (Annex E) shall be read to him/her in the language that the personnel naturally use. Following that, the



- individual shall sign the form and date it before proceeding to answer any questions. A thumb impression may be used in lieu of a signature.
37. All individuals interviewed by the Board shall be informed of the subject matter of the inquiry and the reasons why he or she has been called for an interview. The Board shall then ask the person to state any information he/she is aware of regarding the occurrence. Following that, the Board members may ask questions. Additional practical advice on interviews is contained in the Guidelines for Board members on the Conduct of Inquiries. (Annex F)
  38. While the interview progresses, a record shall be taken of the information provided by the individual in the form of a statement. Translation into a working language of the United Nations shall be provided, if necessary.
  39. Following the interview, the individual shall be familiarized with the transcript and asked if he/she wishes to amend anything. Once he/she is satisfied with the statement, he/she shall be asked to sign and date the statement. A thumb impression may be used in lieu of a signature. In the case of a third party providing information, the reference to administrative and/or disciplinary action shall be removed from the attestation text. The Board Chairperson shall also sign the statement.

## **I. Deliberations**

40. The Board shall consider carefully all information and findings of fact it has collected.
41. 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.
42. While formulating their recommendations, Board Members shall focus them at the cause(s) of the occurrence in question. Board members shall be prohibited from making recommendations regarding compensation, disciplinary action or legal liability.

## **J. Timelines**

43. The process to initiate and convene a Board of Inquiry shall be in accordance with the provisions of paragraph 10 and 11 above within two weeks of the results of the investigation of the incident being presented to the Under-Secretary-General for Safety and Security. All efforts shall be made to finalize the Board's report within the timelines stipulated in the Convening Order, preferably within six weeks.<sup>6</sup>
44. In the event that the Board cannot submit the report within the specified timeline, the Chairperson of the Board shall submit a written request for an extension to the

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<sup>6</sup>Annex C provides a format outline for a Board report.



Under-Secretary-General for Safety and Security, stating the reason for not meeting the timeline.

## **K. Dissemination of a Board’s Report**

45. Board reports are to be treated as confidential documents. Access to a Board report and its annexes shall be provided in their entirety to the Executive Head of the affected UNSMS organization. Access to a Board report and its annexes shall be provided in their entirety or in part on a need-to-know basis to other officials of UNSMS organizations that require them for their deliberations. Special consideration shall be given to the protection of interests of individuals who provided information to the Board.
46. A copy of the Board report with all annexes shall be retained by the Department of Safety and Security for three calendar years, following which it shall be archived.
47. All Board reports that have implications in relation to issues of alleged misconduct or breach of discipline by United Nations personnel shall be forwarded to the appropriate office of the UNSMS organization concerned for review and follow-up.
48. Board reports shall, in principle, not be made available to parties other than the membership of the UNSMS. However, the Under-Secretary-General for Safety and Security shall, in consultation with the concerned organizations, have the discretion to make reports available to Member States, particularly in cases that involve the personnel of that country. Such reports may be redacted as appropriate.
49. When a Board report is shared with a Member State, 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.”
50. Board reports shall not be shared with other third party entities (e.g., families of victims). Upon request, and in consultation with the concerned organization(s), a summary factual account of the occurrence based on a Board report may be shared with such entities. Such factual accounts shall not contain any extraneous details, analysis, conclusions or recommendations usually found in a Board report. Requests of this nature must be approved in writing by the Under-Secretary-General for Safety and Security.
51. In deciding whether to make a report or a factual account of the occurrence available to a non-UNSMS entity, the Under-Secretary-General for Safety and Security shall seek the advice of the Office of Legal Affairs and, where relevant, other offices, on a case-by-case basis, especially in cases that might impact the privileges and immunities of the organizations and/or cases where issues of confidentiality arise.

## **L. Follow-Up Action and Lessons Learned**

52. The United Nations Department of Safety and Security will collate all agreed-upon recommendations contained within the Board's report to address SRM-related operational, management and/or policy gaps or deficiencies. It is the responsibility of each UNSMS organization to implement agreed-upon recommendations applicable to them.
53. The United Nations Department of Safety and Security will also collect and analyse lessons learned and present to the Inter-Agency Security Management Network recommendations for reviewing UNSMS policies, procedures and measures based on this analysis.

#### **M. Final Provisions**

54. This policy is to be made available to all United Nations personnel.
55. This policy enters into effect on 08 November 2012.

**Annex A**Board of Inquiry  
Convening Order

Date: \_\_\_\_\_

To: [distribution]

From: [Under-Secretary-General for Safety and Security]  
[Executive Head of Organization #1]  
[Executive Head of Organization #2]

Subject: Board of Inquiry for [incident]

1. In accordance with United Nations *Security Policy Manual* (SPM), Chapter V, Section G, 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 are 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.

4. Composition:

Name Title  
Chairperson  
Member  
Member  
Member

5. The Chairperson shall submit the final report, reviewed and finalized by [date].

Distribution:  
Chairperson, Members of the Board  
Legal Officer  
Board Support Officer

**Annex B**

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

*[Attention: the following Terms of Reference is generic and represents the most typical issues confronted by a Board of Inquiry. The Board Support Officer, in consultation with the appropriate Legal Advisers, shall prepare incident-specific Terms of Reference depending on the circumstances of each incident.]*

The mandate of the Board of Inquiry shall be as follows:

- (a) 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 (including threat assessments and security risk assessments of the Security Risk Management process), witness statements, expert opinions, medical reports and evaluations and any other documents required by the Board to conduct its deliberations;
- (b) Collect any relevant additional statements from any individual involved or affected by the incident, and conduct any necessary additional site visits, interviews, or further inquiries;
- (c) Seek explanations or clarifications of technical or specialized reports a technical or specialized nature from experts or specialists, should it be deemed necessary by the Board to enable it to address all relevant issues;
- (d) Establish facts from the whole body of available information presented and review the circumstances of the occurrence in a comprehensive manner;
- (e) Within the deadline specified in the convening order, present a written report to the Under-Secretary-General for Safety and Security, setting forth in a clear, logical, concise and objective manner the Board's findings, conclusions and recommendations.

The Board shall establish the following facts:

- (a) Date, time and place of occurrence;
- (b) Factual and comprehensive account of the occurrence and the events leading thereto;
- (c) Identification of United Nations and non-United Nations investigators, if applicable. Full names of all individuals involved in the occurrence, their nationalities, statuses and United Nations ID/index numbers;
- (d) When, how and by whom were the United Nations Security Management System structures informed of the occurrence;
- (e) What standing procedures, if any, were implemented following the notification of the occurrence? When, and by whom;
- (f) When, how and by whom was the search and rescue operation/MEDEVAC carried out (if relevant);
- (g) By whom and for how long was the occurrence site preserved;
- (h) Who maintained custody of the chain of evidence during investigation(s);
- (i) Have the remains of all of the victims been identified? How were the remains identified (if relevant);
- (j) Whether or not any court action (prosecution or lawsuit) has been initiated;
- (k) Residual security risk, SRM and Minimum Operating Security Standards (MOSS) in force at the time and place of the occurrence;
- (l) Were the affected United Nations personnel briefed about security threats in the area;
- (m) What precautionary measures, if any, and by whom have been put in place to anticipate the occurrence or mitigate its effects;
- (n) The roles of each of the United Nations personnel involved in the incident;
- (o) Identification (to the extent possible) of attackers.

The Board shall provide its judgment on the following:

- (a) What caused the occurrence?
- (b) Were relevant United Nations Security Management System SRM procedures, rules and regulations adequate? Were they followed properly?

- (c) Did the occurrence take place as a result of the acts or omissions of any individual(s)?
- (d) Did the death or injury occur in the course of a performance of official duties on behalf of their organization, or was the death or injury otherwise connected to the performance of such official duties?

The Board shall, based upon its conclusions, provide its recommendations concerning any actions, steps or measures that it considers should be taken by United Nations Security Management System organizations to properly manage security risks from potential future incidents and avoid future casualties in such incidents (e.g., compliance with previous Board recommendations and/or lessons-learned exercises, additional security precautions or administrative actions such as amending policies, rules, instructions or procedures, etc.).

For ease of reference the following outline format of a Board report is provided:

- A. CONSTITUTION
  - B. DESCRIPTION OF OCCURRENCE
  - C. FINDINGS OF FACT
  - D. DELIBERATIONS
  - E. RECOMMENDATIONS
  - F. OBSERVATIONS
  - G. SIGNATURES
  - H. ....AN
- NEXES

## Annex C

### Format of Board of Inquiry Report

The Board 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 factual description of the occurrence under review. It shall not include any extraneous information, analysis, conclusions and/or recommendations;

C. Findings of Fact shall respond to all issues cited in the Terms of Reference;

D. Deliberations shall contain an account of how the findings of fact 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 generally follow the issues cited in the Terms of Reference. At a minimum, the Board shall be expected to reach a conclusion on the following:

(a) Cause(s) of the occurrence;

(b) Whether the occurrence took place as a result of acts or omissions of any individual(s) or non-compliance with existing UNSMS policies<sup>7</sup>;

(c) Whether the death or injury occurred in the course of performance of official duties on behalf of an organization or was otherwise connected to the performance of such official duties.

F. Recommendations shall be specific and feasible with the focus on possible policy and operational measures with the aim to address the cause(s) of the occurrence and improve management accountability. 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 Terms of Reference, 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. 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 Under-Secretary-General for Safety and Security, which shall become an integral part of the case file.

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<sup>7</sup>As contained in the *Security Policy Manual*



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.

**Annex D****UNDERTAKING OF CONFIDENTIALITY**

I, the undersigned, undertake that, in the performance of my duties as a Chairperson /Member/Secretary (underline as appropriate) of [name] United Nations Security Management System 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 United Nations, without the authorization of the Under-Secretary-General for Safety and Security.

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 Support Officer 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 Support Office after completion and submission of the Board of Inquiry Report.

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Annex E**

Statement to United Nations Security Management System Board of Inquiry [Reference No. \_\_\_\_\_]

The Statement of: \_\_\_\_\_  
Name of Individual

Index No. (If UN personnel): \_\_\_\_\_

Position of UN personnel: \_\_\_\_\_

Address and Occupation \_\_\_\_\_  
(If non-UNSMS individual) \_\_\_\_\_  
\_\_\_\_\_

I do solemnly, sincerely, and truly declare and affirm that the information I give to this Board of Inquiry shall be the truth, the whole truth and nothing but the truth.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

- 1.
  - 2.
- Etc.

**Attestation of Individual Providing Information**

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 Individual

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Chairperson

\_\_\_\_\_  
Date

## **Annex F**

### **Guidelines for Board Members on the Conduct of Inquiries<sup>8</sup>**

#### **A. General**

1. When the United Nations Security Management System Board of Inquiry (herein “the Board”) is convened by the Under-Secretary-General for Safety and Security and the Executive Head(s) of the United Nations Security Management System organizations involved in the incident, it will receive, along with a Convening Order, its Terms of Reference, together with the report of the preliminary investigation and other document files assembled by the Board Support Officer. The Board will also receive initial briefings by the Board Support Officer and the United Nations Office of Legal Affairs.
2. 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 for interviews. 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.

#### **B. Interviews**

3. Before starting interviews, the Board, at its preliminary meeting, should decide what issues on the Terms of Reference 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 re-interviewing individuals should be avoided as much as possible.
4. 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 interviewee, introduce the Board members and request the Secretary to administer the attestation. After the interviewee 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 from your perspective in this incident” is usually much better than: “Is it right that there were three attackers?” In other words, the information should be the interviewee’s and not the Board’s.
5. When the interviewee 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 interviewee shall be asked whether

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<sup>8</sup>This Annex is directly based on United Nations Department of Peacekeeping Operations and Department of Field Support “Standard Operating Procedure – Boards of Inquiry”, Annex III.

he/she wishes the Board to hear the information of any other particular persons or review any other lines of inquiry.

6. The above may seem simple, but it is not. The art of questioning 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 an interviewee for a clear answer and harassing him/her. Clearly, the latter is unacceptable.

### **C. Information**

7. The Board should acquire the best information. It should note that original documents are better than copies, if they are available. Documents should always be identified by numbers and referred to in statements. Care and accuracy should be applied at all times.
8. 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 an individual has said before might be important to test that individual's consistency. Inconsistency sometimes indicates unreliable information.

### **D. Deliberations**

9. The Board should arrive at conclusions based on information that it has considered carefully and found credible. No assumptions should be made. If the facts are simply not there, the Board must say so. At the same time, reasonable inference is admissible and should be practiced.
10. 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 can be a deficiency that, 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.
11. One of the conclusions Boards are usually expected to make is whether or not the death or injury of a United Nations personnel occurred in the course of performance of official duties on behalf of their organization, or was the death or injury otherwise connected to the performance of such official duties? Unfortunately, organizations do not have a clear, unambiguous and precise definition of "official duty". For the purpose of Board proceedings, the following should be kept in mind. Absent information to the contrary, it is generally assumed that the official duty of United Nations personnel is usually limited by official working hours. Traveling to

or from work (but not deviations from the usual route for shopping, restaurants, clubs, etc.) would clearly be in connection with official duty. However, the real issue facing a Board is to make a sensible judgment on whether the occurrence is “in connection with official duty”. The Board should arrive at a conclusion in this regard on the basis of assessment of the specific circumstances of the occurrence. Very often the issue facing a Board is to make a sensible judgment on whether the involvement of the person in occurrence was “service related”. Board members will need to examine the specific circumstances of the occurrence to determine this. “Non-service related” activities would be ones where the participants were at liberty to decline participating therein.

## **E. Writing a Report**

12. The report of a Board should be based on evidence derived from the Investigation Report, as well as facts obtained by the Board throughout its proceedings. It should cover all points of the Board’s Terms of Reference.
13. 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.
14. Under the title “Description of Occurrence” the Board should provide a purely factual description of the occurrence under review. It should not include any extraneous information, analysis, conclusions and/or recommendations.
15. In the section “Finding of Fact” the Board should respond to all issues cited in the Terms of Reference. 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 Terms of Reference. 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”.
16. The following section, “Deliberations” is a “bridge” between the “Findings of Fact” and the two following sections. In this section, the Board should analyze all findings of fact and explain how it arrived at conclusions on the causes of the occurrences and the recommendations it wishes to make to avoid any repetition of the event, cited in the preceding section. The Board should describe each aspect that was considered and explain its significance. 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 interview statements, documents or other exhibits. If there is conflicting information, the Board should state why it is not prepared to accept the information that it does not use. While determining whether personnel involved in an occurrence were performing official duties on behalf of their organization or the occurrence was otherwise connected to the performance of such official duties, the Board should specify the facts and explain the reasons

- relied upon in reaching such a conclusion. In cases where the Board is of the opinion that rules and regulations 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.
17. The “Conclusions” section of the report should generally follow the issues cited in the Terms of Reference. However, should the Board arrive at conclusions other than those requested in the Terms of Reference, they could also be included in the report.
  18. “Recommendations” should be specific, feasible and directed at the elimination 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. Likewise, the recommendations regarding compensation or legal liability should never be made by the Board. These are matters outside the purview of a Board and should be addressed by the individual’s organization.
  19. “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 Terms of Reference but relevant to the subject matter of the inquiry, the Board can point them out in this section of the report.
  20. “Signatures”: Board members should initial the draft before submitting it for review by the Board Support Officer and the appropriate Legal Advisers. Once the report is finalized with due regard to the Board Support Officer’s and the appropriate 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 Convening Authorities, which becomes an integral part of the case file.
  21. “Annexes” The following documents should typically be annexed to a Board report:
    - I. Convening order and Terms of Reference;
    - II. Investigation report with original attachments, including photos;
    - III. List of persons present or involved in the occurrence, giving names, United Nations ID/index numbers, positions (if civilian); addresses and occupations (if non-United Nations);
    - IV. Statements and attestations by those providing information;
    - V. Maps or sketches of the scene of the occurrence;
    - VI. Medical reports and technical inspection reports;



- VII. Claims, local police reports, pending proceedings or actual decisions of local courts;
- VIII. Detailed descriptions of property destroyed or damaged, with attachments of available damage/discrepancy reports; and
- IX. Any additional relevant documents, statements, photos, etc.

#### **F. Finalizing the Report**

- 22. Members of the Board remain the sole authors of their report. As such, they are under no obligation to follow the recommendations of Legal Advisers made after reviewing the draft report. However, they should realize that the Under-Secretary-General for Safety and Security's position on the report will be greatly influenced by the opinions of Legal Advisers communicated in a memorandum attached to the report. Thus, the recommendations of Legal Advisers should be treated with the utmost respect and attention.

#### **G. After the Inquiry**

- 23. 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.