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NOMINATION OF JANE HOLL LUTE

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

OF THE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

NOMINATION OF JANE HOLL LUTE TO BE DEPUTY SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

MARCH 26, 2009

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NOMINATION OF JANE HOLL LUTE—2009

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NOMINATION OF JANE HOLL LUTE

THURSDAY, MARCH 26, 2009

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Akaka, Landrieu, Burris, Collins, Coburn, and Voinovich.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. Good morning and welcome to the nomination hearing of Jane Holl Lute to be Deputy Secretary of the Department of Homeland Security (DHS). We welcome you, Ms. Lute, and there is a familiar looking gentleman behind you in uniform. I know your husband, General Doug Lute. The two of you have really given extraordinary service to our country, and I thank you both very much for that. I am also glad to welcome the other people who are behind you and here to support you.

You have extraordinary credentials, really a remarkable professional history and very broad national security and management experience. It is really hard to imagine somebody, in my opinion, better suited to become Deputy Secretary of Homeland Security than you are based on the range of experiences you have had.

You have earned five degrees, including a Ph.D. and a law degree. You have had a distinguished career in the military, served as the European specialist at the National Security Council during the first Bush and Clinton Administrations, and spent 3 years as a professor at West Point. That is quite a record.

As Assistant Secretary-General of the United Nations (U.N.) for the past several years, you have managed a large and complex Peacekeeping force with responsibility for hundreds of thousands of military and civilian personnel in over 30 countries, including real hot spots, trouble spots, such as Kosovo, the Congo, and Darfur. This was no small accomplishment. Your leadership has helped to ensure the security and welfare of countless people around the globe.

Managing the Department of Homeland Security, as you well know, is also a demanding job which requires a strong, steady, and smart hand, heart, and head. The Deputy Secretary position carries with it diverse responsibilities, ranging from overseeing efforts to prevent and, if necessary, respond to a weapon of mass destruc-

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tion (WMD) attack to ensuring on an entirely different level that the employees of this Department have adequate office space in which to serve our country.

As you know, the Department of Homeland Security has worked hard, sometimes struggled, to gain solid footing over the course of its short life. But I believe, and I am happy to note, that each year, it has become stronger, and I do not think there is any question that the country is safer as a result of the Department's efforts. But the Department is still not where we want and need it to be, and I am confident that your leadership will help us get there.

I am going to ask that the rest of my remarks be put in the record as if read and call now on our distinguished Ranking Member, Senator Collins.

[The prepared statement of Chairman Lieberman follows:]

PREPARED STATEMENT OF SENATOR LIEBERMAN

Good morning and welcome to the nomination hearing of Jane Holl Lute to be Deputy Secretary of the Department of Homeland Security. Welcome, Mrs. Lute. We're happy to have you before us today.

Mrs. Lute, you have outstanding credentials, a remarkable professional history, and broad national security and management experience, all of which is more than ample training for the position to which you have been nominated.

You have earned five educational degrees—including a Ph.D. and a law degree—have had a distinguished career in the military, served as the European specialist at the National Security Council during the first Bush and Clinton Administrations, and spent 3 years as a professor at West Point.

As Assistant Secretary-General of the United Nations for the past several years, you have managed a large and complex Peacekeeping workforce, with responsibility for hundreds of thousands of military and civilian personnel in over 30 countries, including hotspots such as Kosovo, the Congo, and Darfur, to name just a few. This was no small accomplishment. Your leadership has helped to ensure the security and welfare of people around the globe living in unaccommodating and hostile circumstances.

Managing the Department of Homeland Security is also a demanding job, which, much like the U.N., requires a smart and steady hand. The Deputy Secretary post carries with it diverse responsibilities that range from overseeing preparations to respond to a nuclear terrorist attack to ensuring that DHS employees have adequate office space.

As you know, the Department of Homeland Security has struggled to gain solid footing over the course of its short life. Each year it becomes stronger, I am happy to note. And I do not think there is any question that the country is safer as a result of the Department's efforts.

But the Department has a difficult and varied mission and its work is central to the security of all Americans. So, we must continue to press forward to improve upon its capabilities.

I am working to draft the Senate's first authorization bill for the Department as a means of laying out what I believe should be its priorities and to make the Department more efficient and effective in its missions. Needless to say, we will be seeking input from the Administration.

I do want to take a moment to mention a couple of my greatest concerns. One of the biggest problems the Department faces is its management of acquisitions. Some of the Department's largest and most troubled acquisition programs—Deepwater, SBINet, radiation detection portal monitors—need stronger oversight and more decisive leadership than they have gotten in the past.

Furthermore, the Department's heavy reliance on contractors to perform basic services raises serious questions about whether DHS is building sufficient internal capacity and institutional knowledge. Right now, DHS still has insufficient capacity to develop requirements and evaluate the technical feasibility of contractors' proposals. I look forward to hearing your plans for improvement in this area.

The Department's new initiative to strengthen the security of Federal information technology systems—the Comprehensive National Cybersecurity Initiative—is another project critical to the security of the American people that I have been overseeing with great interest. Given the Administration's emphasis on transparency, I hope you will encourage increased openness and information sharing with Congress,

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the private sector, and the American public on this key project to ensure that it is a success.

Clearly, as the Administration's announcement and the Secretary's travel schedule this week indicate, southern border security has become a central focus for the Department. I intend to request additional resources and personnel for Customs and Border Protection and Immigration and Customs Enforcement to help stem the flow of drugs and people moving north into the United States and guns and money moving south into Mexico. I look forward to a close collaboration with the Department in this area.

As you know, there are many other challenges facing the Department that must be met and conquered if DHS is to succeed in its ultimate mission of protecting the Nation from terrorism and natural disasters. This Committee has always worked cooperatively with the Department and will continue to do so to ensure its success.

If confirmed, you will play a large part in setting the Department on course to overcome these challenges. Again, thank you for your many years of service, and I hope you will serve your Nation for many more.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. I want to join the Chairman in welcoming Jane Lute to our Committee today as we consider her nomination to be Deputy Secretary of the Department of Homeland Security. It is certainly a credit to her that Mayor Bloomberg has taken the time from his busy schedule to travel to Washington to introduce her today, and it is certainly a testament to her that she has such strong support from our Nation's leading first responder organizations.

The Deputy Secretary of DHS wields considerable power over the day-to-day operations of the Department. The Deputy has historically played an important role in the management of the Department, from acquisition policy to personnel management. These responsibilities are in addition to the many other challenges associated with the operation of a Department with some 210,000 employees and a mission to secure our borders, to protect our Nation's critical infrastructure, and to help prevent, prepare for, and respond to all hazards.

Last year alone, the Department spent more than $14 billion in contracts for goods and services, and the Department has encountered significant challenges in managing those contracts, particularly in the area of information technology. The Chairman and I, along with other Members of this Committee, have worked hard to strengthen and reform Federal contracting laws, but strong management is also required.

Ms. Lute has experience dealing with the troubled acquisition process at the United Nations. I will be asking her this morning about that experience and in particular whether a non-competitive contract award could have been avoided through better planning.

I would note that Ms. Lute does have extraordinary experience in resolving interagency conflicts. DHS gets involved in those types of conflicts all of the time, and I look forward to discussing that issue with her, as well.

The protection of our Nation's critical infrastructure, the reauthorization of port security and chemical facilities security laws, and emerging threats will also be important priorities for the next Deputy Secretary.

I am going to follow the Chairman's lead and ask that my entire statement be entered into the record so that we can hear from the Mayor of New York City, who I know has a busy schedule. So, Mr.

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Chairman, I am going to follow your lead, but I do look forward to questioning our witness today for this very important post.

[The prepared statement of Senator Collins follows:]

PREPARED STATEMENT OF SENATOR COLLINS

I join the Chairman in welcoming Jane Holl Lute to our Committee today as we consider her nomination to be Deputy Secretary of the Department of Homeland Security. It is a credit to her that Mayor Bloomberg has taken the time to introduce her today and that she has strong support from our Nation's first responder organizations.

The Deputy Secretary of DHS wields considerable power over the day-to-day operations of the Department. The Deputy has historically played an important role in the management of the Department—from acquisition policy to personnel management. These management responsibilities are in addition to many other challenges associated with the operation of a Department with 210,000 employees and the mission to secure our borders, protect our Nation's critical infrastructure, and to help prevent, prepare for, and respond to all hazards.

Last year alone, the Department spent more than $14 billion in contracts for goods and services. The Department has faced significant challenges in many of its major acquisition programs, particularly in information technology programs. These acquisitions will need immediate and frequent attention from the Deputy Secretary to get them on track.

Senator Lieberman and I have been strong advocates for reforms that have resulted in greater competition, accountability, and transparency to Federal contracting. Strong management, however, is also required.

Ms. Lute has experience dealing with a troubled acquisition process, such as the intensely criticized one at the United Nations. I will be asking her about this experience, including whether a non-competitive award requested by the U.N. Department of Field Support could have been avoided through better planning.

From her time at the National Security Council and the U.N., Ms. Lute also has experience resolving interagency conflicts within the U.S. Government and disputes between foreign governments and other stakeholders. If she is confirmed, Ms. Lute will need all these skills, and more, as she attempts to forge consensus and close collaboration among the Department's components. She will have to ensure that the Department's views and equities are forcefully represented in interagency negotiations with the dozens of departments and agencies that play a role in our Nation's homeland security efforts.

The protection of our Nation's critical infrastructure from emerging threats will also be an important priority for the next Deputy Secretary. Among the significant challenges in this area are the need to enhance security at the Nation's biological laboratories and throughout our cyber-infrastructure. Laws that I co-authored to improve the security of seaports and chemical facilities will need to be reauthorized during this Congress.

The next Deputy Secretary will also play a key role in the Department's emergency preparedness efforts. The Deputy must have a close collaborative relationship with the FEMA Administrator, so that FEMA continues to work well within DHS to ensure that as a Nation we are prepared for the next major disaster, whether natural or man-made. Planning, training, and exercising are important areas in which DHS has made much progress but still has more work to do. The Deputy Secretary must also ensure that its many partners at the State and local level and in the private sector are fully involved with DHS initiatives.

I look forward to working with the Secretary and the next Deputy Secretary to continue to strengthen the Department.

Chairman LIEBERMAN. Thanks very much, Senator Collins.

It really is a great honor to welcome Mayor Bloomberg here. It is most unusual and, I think, speaks to the extraordinary qualities of the nominee.

The term "great American" is tossed around here a lot, but in my opinion, Mayor Bloomberg really is a great American.

Mr. BLOOMBERG. My mother agrees with you. [Laughter.]

Chairman LIEBERMAN. Yes. Actually, she wrote my introduction. [Laughter.]

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Chairman LIEBERMAN. Why? Because he speaks to all the opportunity that America offers. He has obviously been an extraordinary success as a result of very hard work and great creativity, and he then has given back enormously to our country, both in terms of the fruits of his success and an extraordinary history of philanthropy, but also in taking on the tough job of being Mayor of New York City and doing it with great success, to the benefit of the city.

I am proud to call him a friend. I am honored to introduce him now. I hope I do not offend anybody else if I introduce you as America's Mayor.

TESTIMONY OF HON. MICHAEL R. BLOOMBERG, MAYOR, CITY OF NEW YORK, NEW YORK

Mr. BLOOMBERG. You are nice to say so. Thank you, Senator. Mr. Chairman, Ranking Member Collins, Senator Akaka, Senator Coburn, Senator Voinovich, thank you for having me and good morning.

Usually these days, it seems like mayors and other executives come before Congress asking for something. Today, I am pleased to actually be bringing you something instead, the President's sterling nominee for Deputy Secretary of the U.S. Department of Homeland Security, Jane Holl Lute.

With more than 30 years of experience, ranging from the highest levels of government to the heart of international conflict, Ms. Lute really does have a deep understanding of what it takes to secure our homeland and protect us against terrorism. I have long known of Ms. Lute's reputation and have come to know her personally in the last few years. During that time, it has become abundantly clear to me that she really is a dedicated public servant, a skilled manager, and a visionary thinker, and she is precisely the kind of leader that I think we need at the Department of Homeland Security.

I am sure Ms. Lute's background is well known to Members of this Committee. She began her career in public service as an officer in the U.S. Army and was deployed to the Gulf during Operation Desert Storm, where she served on Central Command staff. She went on to serve two Presidents at the National Security Council, and she more recently served as the Assistant Secretary-General of the United Nations.

At United Nations Peacekeeping, she ran operations support for the second-largest deployed military presence in the world. She has led and developed the most significant reform and realignment of U.N. headquarters operations since the U.N. Department of Peacekeeping Operations was established in 1992. She consolidated business practices and strengthened existing structures to meet field demands that have quintupled over the past decade. She also effectively managed the growth of United Nations Peacekeeping from a $1.8 billion endeavor to a nearly $8 billion operation.

Now, I realize that some have questioned the effectiveness of the United Nations, but to me, there is no question about the competency, leadership, and judgment of Jane Holl Lute. She brings to this job a lifetime of experience confronting the issues at the core of the Department's mission. She has managed crisis and emergency support, operations in some of the most difficult and dan-

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gerous places in the world, including Sudan, Timor, Congo, and the war in Lebanon.

There is no doubt that she will bring to the Department a deep and broad understanding of what it takes to effectively prepare for and rapidly respond to emergencies and contingencies of all kinds, and that is of particular concern to the citizens of New York, who have experienced the pain and devastation of terrorism firsthand.

Every day, we depend on a strong line of defense involving Homeland Security, the Coast Guard, Customs and Immigration, and have a strong partnership between our Federal Government, State Government, and our local government, and we simply just cannot afford to let our guard down. And with Ms. Lute as part of the executive team, I am confident that we will not.

Mr. Chairman, Members of the Committee, thank you for the opportunity to share my unconditional support for this phenomenally talented nominee. As Mayor of New York City, I know what it takes to manage a crisis, and I am confident that she really does have the management skills and the dedication and the willingness to serve this country that we desperately need.

She is a lifelong public servant, a strong and tested leader. She knows how to get things done, and my admiration is not just for her, but for her family. We all talk about service to this country. Both Ms. Lute and her husband have devoted their lives to service to this country, and I just wish we had more role models like them. It is a family that all of us should admire and try to copy, and I am just extremely proud and deeply supportive of the President's nomination for her for this critical position, and I would certainly urge you to consider it carefully.

We need experience in this agency. We need dedication. We need somebody who is willing to be accountable and knows how to get things done. Jane Holl Lute is all of those things.

I am going to head back to New York and make sure that the city is still there. Senator Coburn, you have a child there, as I remember.

Senator COBURN. I do.

Mr. BLOOMBERG. I am going back just to take care of her.

Senator COBURN. I am very appreciative of that. [Laughter.]

Mr. BLOOMBERG. And my daughters, as well.

Thank you very much for your consideration. This is as good an appointment as I think has ever come before Congress. She has all the skills for this job, and I would just urge you to consider it very carefully, and thank you for your time.

Chairman LIEBERMAN. Mayor, thanks a lot. Your endorsement, your introduction means a lot to us on the Committee. You have a lot of experience with people working for you and with you, so your willingness to come here to testify on behalf of Ms. Lute really means a lot.

I was thinking as you were speaking, your presence here means a lot to me because when you are here, it greatly increases the number of elected officials who are Independents. [Laughter.]

Mr. BLOOMBERG. I am happy to be able to do that. [Laughter.]

Now I am going back to New York, where I will be one of the few. [Laughter.]

All the best. Thank you.

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Chairman LIEBERMAN. Take care. Thank you.

Mr. BLOOMBERG. Good luck. All the best.

Chairman LIEBERMAN. Safe travels.

We will now proceed. Jane Holl Lute has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had her financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record, with the exception of the financial data, which are on file and available for public inspection in the Committee offices.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath, so Ms. Lute, I would ask you to please stand and raise your right hand.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. LUTE. I do.

Chairman LIEBERMAN. Thank you very much. Please be seated, and we would now welcome your opening statement. If there are people here you would like to recognize, this would be a good time to do it.

TESTIMONY OF JANE HOLL LUTE[1] TO BE DEPUTY SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. LUTE. Well, thank you very much, Mr. Chairman. Mr. Chairman, Ranking Member Collins, Members of the Committee, I am deeply honored by the President's nomination and the opportunity to appear before you today.

I want to thank the Mayor for those very kind words. I have been told repeatedly a nominee is advised not to make news in a confirmation hearing. I fear we may have already made some. It is not often you hear a New Yorker say such nice things about a Jersey girl. [Laughter.]

So on behalf of Jersey girls everywhere, I want to thank the Mayor for his very nice remarks.

But in all seriousness, despite my roots across the river, I have been a proud New Yorker for some time and have had a front row seat watching Mayor Bloomberg lead New York City in the shadow of September 11, 2001. I want to thank him for his leadership and for making the trip down here today.

Mr. Chairman, Ranking Member Collins, Members of the Committee, I am also honored to be joined today by my husband, General Douglas Lute, whom some of you know, and the other members of my family, our eldest daughter, Amy Kyleen Lute; my brother, John; his son, John; my sister, Adele; our dear friend, Grace Carman; my sister-in-law, Noelle; her daughter, Brittany; my brother-in-law, Miles; my husband's sister, Pat Lute; and her husband, Charles Smith. Our other daughters——

Chairman LIEBERMAN. Is there anyone here not related to the nominee? [Laughter.]

[1] The prepared statement of Ms. Lute appears in the Appendix on page 39.

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Ms. LUTE. My parents, God rest their soul in heaven, I think are here, as well. Our daughters, Adellyn and Camryn, are not here. Adellyn is away at school, and Camryn would steal the show.

A special word about my husband, Doug. He told me a moment ago he felt like a prop. Maybe he is, but he is my prop. He is the loving husband this morning, and I could not imagine my life without him and without his support. I am deeply blessed.

My husband and I, as the Mayor said, Mr. Chairman and Ranking Member Collins and Members of the Committee, are public servants. My husband and I were called to service some time ago—a long time ago, it turns out—as soldiers in the U.S. Army, and that service brought me to Berlin, Germany, at the height of the Cold War, to the Middle East for Operation Desert Storm, to the National Security Council staff under both President George H.W. Bush and President Clinton, to U.N. Peacekeeping, where I ran support operations for the second-largest deployed military presence in the world.

That call to service has also brought me here today before you. I am deeply honored by President Obama's nomination and by Secretary Napolitano's confidence, and if confirmed, I will continue this tradition of service.

Sitting here, I am struck by the breadth and weight of the challenges that confront the Department of Homeland Security, but I am also deeply impressed by the men and women who have made the work of securing the American homeland their calling. I am struck, too, by the collective knowledge, experience, and wisdom in this room. Few understand the challenges facing the Department of Homeland Security better than you, the Members of this Committee, and few understand the challenges of protecting and preparing the American people better than the first responders, fire fighters, law enforcement, those in emergency response and management and at State, local, and Tribal governments that span this great Nation.

In the process of preparing for this hearing, I have reached out to many of these groups and sought their guidance, wisdom, and input. Many have joined us today, and I am honored by their presence.

Let me thank Harold Schaitberger, President of the International Association of Fire Fighters; Sheriff Kennard of the National Sheriffs Association; Mary Fetchet, Founding Director of the Voices of September 11; and representatives from the International Association of Fire Chiefs, the International Association of Chiefs of Police, the International Emergency Managers Association, who are here today and who have already provided invaluable counsel. I will work to strengthen the Department's relationship with these communities and with the State, local, and Tribal officials, as well.

I have spent my entire adult life working on the issues at the heart of the Department of Homeland Security, the heart of its mission—protection, prevention, preparedness, response, recovery, and resilience. As part of that experience, I have spent a great deal of time around many different borders and their many issues, in peace ending conflict, where a balance must be struck between maintaining safety and security while permitting, while indeed encouraging, legitimate trade and travel.

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I know what it is like to be responsible for preparing for and responding to emergencies when the need to gain accurate information, mobilize critical resources, and manage the coordination of those resources under the pressure of crisis is real. I know what it is like to be the officer in charge of support to hundreds of thousands of people in far-flung operations from diverse national, institutional backgrounds, each with legacies, traditions, cultures, and languages. I know the imperative of creating an integrated, coherent culture while respecting the individuality and uniqueness of its parts.

While a new Administration brings change, some things will not change. The Department of Homeland Security must remain fully committed to its mission of keeping America and Americans safe, and we must do that while protecting the highest values and principles that define this great country. The Department must be responsible and responsive, proactive and engaged, robust and efficient. It must keep us prepared for the majestic force and might of Mother Nature, and it must protect us from the cruelty of those who target civilians.

If confirmed, I will continue that path to keep our country safe, to keep the population secured and prepared and protected, and to keep our borders secure.

America is at its best when Americans stand proud and confident, with a confidence that reflects clearly the deep values and traditions that built this great Nation.

In conclusion, Mr. Chairman, let me underscore how deeply honored I am by the President's nomination and how deeply honored I am to appear before this Committee today. And with that, Mr. Chairman, I would be delighted to answer any questions the Committee may have.

Chairman LIEBERMAN. Thank you very much for an excellent opening statement.

I will begin with the standard questions we ask of all nominees. First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. LUTE. No.

Chairman LIEBERMAN. Do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. LUTE. No.

Chairman LIEBERMAN. And do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed?

Ms. LUTE. I do.

Chairman LIEBERMAN. Thank you very much.

Before we start the first round of questioning, I do want to note, in addition to the distinguished people that you have introduced, that the Committee has received several letters in support of your

nomination, and unless there is any objection, I am going to place them in the record.[1]

Chairman LIEBERMAN. We are going to now start with the first round of questions, limited to 7 minutes per member.

I want to build really from your resume and from some of the things you have said in your opening statement, Ms. Lute, which is to ask you a two-part question. The first is, in a general sense, not too discursive, in all the administrative experience you have had, what are some of the lessons you draw that you think will best help you fulfill your responsibilities in this job?

And second, from what you know of the Department, what do you think it needs most in this next chapter? It is a work in progress. It has made great progress, but there is still more to be done. So give us an answer to those two questions.

Ms. LUTE. Thank you, Mr. Chairman. I would say, overwhelmingly, the most important lesson I have learned has to do with people. People are the most important resource any enterprise or organization has. They need to feel valued, and they need to be able to be given the opportunity to contribute value. It is the responsibility of leadership and management to bring out the best that people have to offer.

I have learned the importance of active listening, of reaching out to all the stakeholders who have firsthand knowledge of what are very complex issues and doing it in a way that does not have to interfere with getting a job done. You can be inclusive in your consultation process, but you can also be decisive.

These are, I suppose, two of the biggest lessons that I have learned. Treat people with respect. Value the people who are doing this job who have made the work their calling. And listen actively and engage all the stakeholders, but in a systematic way to move issues forward.

As I have come to learn over the course of preparation for this hearing, as I mentioned, Mr. Chairman, I am very impressed by the commitment of the men and women in the Department of Homeland Security. It is a young Department, many people have said. It just celebrated its sixth birthday. But in my view, as you mentioned, the time has come. People have a right to expect that this Department has its feet under it, that it is very clear about the centrality of its missions, the resources it needs to get those missions done, and again working with all stakeholders at State and local levels, with the Members of this Committee, to move that mission forward.

Chairman LIEBERMAN. Let me ask the follow-on to that, if in your discussions with Secretary Napolitano she has identified any particular areas that she wants you to focus on.

Ms. LUTE. The Secretary and I have discussed this, Mr. Chairman. It is her vision, and it is certainly one that I would fully support if I am confirmed, that I would form part of the leadership team of this Department, working very closely with her, being fully cited on all of the operational issues, all of the priorities that are established, overseeing day-to-day, but also ensuring that the stra-

[1] The letters of support referenced by Chairman Lieberman appear in the Appendix on page 430.

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tegic development of the Department, the increasing coherence and integration of its various parts continues.

Chairman LIEBERMAN. Yesterday, the Committee held a hearing on the Mexican drug cartel violence, both what is happening there inside Mexico and what we can do to help President Calderon, and then the effects of the violence here. I will tell you that there was some evidence that the staff picked up that—and, of course, earlier this week, Secretary Napolitano announced the redeployment of some DHS and Justice Department resources to the border, and personnel—there is not enough coordination at this point between the Department of Homeland Security, the Department of Justice, and the Department of State in implementing all of these programs.

I do not know whether you are in a position to have heard about that, if you have any thoughts about it. It just seemed to me that it may be something that you as Deputy could play a hand in, perhaps even putting together a more formal interagency working group, because this is a serious problem. Yesterday, the Department of Justice representative, the Deputy, told us that today, in addition to the overflow of some violence and kidnapping from Mexico into the U.S. border areas, the Mexican drug cartels are the No. 1 organized crime threat in America.

So have you heard about those problems? If so, do you have any ideas about how to overcome them?

Ms. LUTE. Mr. Chairman, I have certainly heard about these problems. I am aware of the steps that the Administration and the Department are taking to strengthen the posture, the safety and security at the border. I am very aware of the importance that the Administration places on the support of the efforts of the Mexican government to break the back of these cartels and to deal with this problem that, as Secretary Napolitano has said, every American needs to be aware of and engaged with.

This is an area, too, where I think my experience in the interagency process that I have had before and my experience with the intelligence community will complement Secretary Napolitano's experience. As a former governor of a border State, she knows these issues very well, and I would certainly, if confirmed, look forward to working very closely with her on this important priority.

Chairman LIEBERMAN. One more question in the time I have remaining, another substantive question, and that is about cyber security. This Committee has been concerned about our cyber security. We know that we are under regular attack, both for reasons of security and also to the commercial and industrial infrastructure of our country. There is a lot going on in the government. I know there are reviews going on in the new Administration. Here, too, there seems not to be a clear focus point of coordination, and I wanted to ask you to speak, to the extent you want, on how you assess the cyber security problem, and second, if you have any ideas going in about what the role of the Department of Homeland Security should be in our government in making sure that we are defending against cyber security attacks.

Ms. LUTE. This is an issue area, Mr. Chairman, where the White House does have a study going on right now to look comprehen-

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sively across the Federal Government about what actions are being taken to safeguard the cyber networks of this country.

Again, in my own experience, I know how important high-fidelity, reliable, safe and secure data and communications systems are. They do form part of the critical infrastructure of this country. The Department of Homeland Security is a key player in the cyber security framework to protect this country as part of its critical infrastructure, and I know the study that the White House is conducting is looking comprehensively to make recommendations about strengthening not only the Department's role, but the overall approach to keeping our Nation secure.

Chairman LIEBERMAN. Well, I appreciate your answer to that and your other answers. We are going to really rely on you and the Secretary to advise this Committee and particularly to let us know whether you are receiving the resources and the authority to do what you need to do to protect the cyber infrastructure of the United States, which we have reason to believe, unfortunately, by the nature of unconventional warfare these days, might be one of the areas of our homeland that would be most likely to be attacked from afar.

So I thank you for your answer, your focus, and now I would yield to Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Ms. Lute, you may be aware that our Committee did an in-depth investigation into the failed response to Hurricane Katrina. It took most of a year. We did several hearings, issued a report with recommendations for all levels of government. And we also wrote the Post-Katrina Emergency Management Reform Act, which was signed into law. It significantly strengthened the Federal Emergency Management Agency (FEMA), and since that time, I know the Chairman takes great pride in the fact, as do I, that FEMA's response to natural disasters has improved enormously.

Nevertheless, there are some critics who are still calling for FEMA to be taken out of the Department of Homeland Security to become an independent entity. Now, I would note that all of the first responder groups sitting behind you who are indeed on the front lines agree with the conclusion that this Committee reached, which is that FEMA needed to be strengthened but kept within DHS.

What are your thoughts on the location of FEMA?

Ms. LUTE. Thank you, Ranking Member Collins. I am aware of the issues that have been raised about this and certainly aware of the conclusions of this Committee, the position of the groups that are represented here. I am aware of the issues that exist on both sides of this question. There are some who say that FEMA is indeed strengthened by its location in the Department, with the ability to mobilize resources from other parts of the Department quickly, put them at the disposal of the emergency response anchored by FEMA, for example, as illustrated in Hurricanes Gustav and Ike, and there are others who think that FEMA needs degrees of freedom, perhaps, that an independent status would offer it.

Secretary Napolitano has said that what we really need to focus on is a strong FEMA, able to discharge its core responsibilities of protecting and preparing this country for all hazards, and that is

her focus and certainly one that I would, if I am confirmed, look to reinforce, as well.

Senator COLLINS. Thank you. We look forward to continuing to talk with you about that very important issue.

I would now like to turn to the matter that I alluded to in my opening statement. You and I have discussed at length the procurement failures at the U.N., but I think it is very important for the public record for me to ask you a series of questions.

The U.N. has the equivalent of an Inspector General. It is called the Office of Internal Oversight Services (OIOS). In a report dated January 2 of this year, this office was highly critical of U.N. procurement activities, and in particular it criticized the lack of acquisition planning and contract management involving a sole source contract that your office requested be directed to a subsidiary of Lockheed Martin.

First of all, let me ask what your response is to the criticisms leveled against your office or your management of this contract by the Inspector General.

Ms. LUTE. Thank you, Senator Collins. It will not surprise you to learn that I think that some of the criticisms were not justified. The context of this particular contract is important to establish. It was a unique recommendation by me and my staff through the appropriate authorities in the United Nations, fully consistent with the rules and regulations, in order to address the exigencies of the violence that was unfolding in Darfur. I do not agree with the assessment in this report that there was inadequate planning.

The political circumstances surrounding this deployment were extremely volatile over a period of many months. As many of you know, concurrent to the indecision regarding the international community's response to Darfur, there were a number of governments, including the U.S. Government, including many members of this body, who were urging the rapid deployment of Peacekeepers to Darfur. This recommendation was made fully consistent with the rules, fully in the context of evaluation of the circumstances on the ground for a very small part to facilitate that deployment.

Senator COLLINS. During your time at the U.N., did you make any other requests for non-competitive contracts to be awarded in excess of $1 million?

Ms. LUTE. I did not, Senator.

Senator COLLINS. What exactly was your responsibility for procurement at the U.N.?

Ms. LUTE. My responsibilities were to lead the support operations to Peacekeeping and peace operations worldwide—personnel, finance, logistics, supply chain management, aviation, communications electronics, information technology, and transportation. The Procurement Division rested in the Department of Management. One of the citings also, I believe, in the OIOS report was the difficulty in cross-departmental coordination. It is a problem that exists. I did not have procurement negotiating authority or contract award authority at all.

Senator COLLINS. Did contracting officers report to you?

Ms. LUTE. Contracting officers at headquarters reported to the Department of Management, and in the field, they reported through their respective mission chains to the head of their mis-

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sion. There was an earlier time when the support in the field had a dual report to my office and to the heads of mission, but since the Department of Field Support was established, that dual report was eliminated, and the field contracting officers report through their chain into the mission leadership.

Senator COLLINS. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Collins.

We will call, as is our custom, Senators in order of their arrival, which is Senators Akaka, Coburn, Voinovich, and Burris. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman.

I want to thank you for taking the time to meet with me, Ms. Lute. I congratulate you on your nomination and welcome you here today, and not only you, but your extended family that are here.

Ms. LUTE. Thank you.

Senator AKAKA. It is great to know that you have these supportive relationships.

I want to tell you that your job as the Deputy of DHS, and you know this, is among the most demanding positions in government. DHS represents, besides that, the most serious management challenge in the Federal Government today. Senior leaders of the Department must be ready and eager to take on the challenges that will face them. Your background, without question, is an impressive one that qualifies you well for the challenge that is ahead.

I want to mention, too, that I really appreciated your remarks on the importance of investing in people. I want to further urge you to focus on the Department's management and integration as they are central to improving operational functions. You must ensure that DHS invests in the workforce, empowers the Under Secretary for Management, encourages strategic planning, and upholds our civil rights and civil liberties in all circumstances.

Before I move to my questions, Mr. Chairman, I want to ask that my full statement be made part of the record.

Chairman LIEBERMAN. Without objection.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF SENATOR AKAKA

Mr. Chairman, I am pleased to join you in welcoming Jane Holl Lute, the President's nominee to be Deputy Secretary of the Department of Homeland Security. Ms. Lute, I welcome you and your family today.

The job for which you have been nominated is among the most demanding positions in government. DHS represents the most serious management challenge in the Federal Government today. Senior leaders of this Department must be ready and eager to take on the challenges that will face them.

Your background is an impressive one that qualifies you well for this challenge. As an officer in the U.S. Army, you served your country overseas and learned the lessons of good leadership and management. Your time on the National Security Council staff undoubtedly left you with a broad understanding of coordinating policy across large, complex organizations and building consensus in an interagency setting. Finally, your service as an Assistant Secretary-General at the U.N. has allowed you to demonstrate your leadership skills on a global basis, working with a diverse United Nations staff and many nations' peacekeeping forces, especially in areas facing imminent crisis.

As you may know, implementing and transforming the Department of Homeland Security has been on the Government Accountability Office's (GAO) "high-risk list" since 2003. I am pleased that since being confirmed, Secretary Napolitano has put

management among her top priorities. Just last month, she began a department-wide efficiency review initiative, which may help lead to programmatic improvements and greater accountability. If you are confirmed, I urge you to focus on the Department's management and integration, as they are central to improving its operational functions. I would like to share with you a few of my top DHS concerns.

DHS must invest in its workforce. For instance, the Department needs to recruit more acquisition professionals to better develop and oversee contracts. DHS also must strive to make itself an employer of choice. The most recent Partnership for Public Service Best Places to Work survey ranked DHS second to last among large Federal agencies as being an employer of choice based on employee satisfaction and engagement. Strengthening employee collective bargaining rights and building a labor-management partnership would help DHS address employee concerns that undermine morale. Toward that end, I support President Obama in granting collective bargaining rights to Transportation Security Officers. By having a workforce with the right skills, high morale, and strong employee protections, DHS can improve our security while it strengthens its internal operations.

In addition, I hope you will partner with the Under Secretary for Management to improve contract oversight and ensure strategic planning occurs before major acquisitions are undertaken. The U.S. Customs and Border Protection's Secure Border Initiative ("SBInet") virtual fence has suffered both from inadequate planning before the initial contracting decisions were made as well as the failure to correct problems as they arose. Also, the Domestic Nuclear Detection Office (DNDO) needs to focus more on strategic planning to counter the threat of nuclear smuggling to better protect our security. For instance, DNDO set aside its plan to deploy a variety of Advanced Spectroscopic Portal (ASP) radiation monitors to detect dangerous nuclear materials on rail cars, at seaports, at airports, and on mobile platforms to focus on one type of ASP system. This system has not yet received final certification and, according to GAO, it may have lifecycle costs well over $1 billion more than anticipated by DNDO.

Finally, we must ensure that our Constitutional freedoms are not considered as an afterthought. DHS's unique security role requires that it embraces civil rights and civil liberties in all its actions. I believe that the Department's policy at the border, which allows the search of laptops and other electronic equipment, needs to be reviewed with privacy concerns in mind. There is also the REAL ID Act. Along with imposing serious costs and burdens on States, this Act raises significant privacy concerns. The current law does not protect adequately personal information that would be contained on REAL ID cards and in linked State databases. Also, I believe that the National Applications Office should more fully resolve civil liberties concerns and compliance with privacy standards before DHS moves forward with making intelligence community assets available for domestic purposes such as law enforcement and homeland security.

Ms. Lute, your long career in public service, including your willingness to take on the most challenging assignments in the U.N., serves as an excellent example of putting service before self. I want to congratulate you on your nomination, and I look forward to working closely with you to improve our Nation's homeland security.

Thank you Mr. Chairman.

Senator AKAKA. Ms. Lute, according to the most recent Partnership for Public Service Best Places to Work survey, DHS ranks second to last among Federal agencies based on employee satisfaction and engagement. DHS must treat its workforce as its most valued asset. Therefore, it should work to address recruitment and retention challenges and ensure that its employees have collective bargaining rights, which will lead to better labor-management relationships. Will you please discuss your priorities for investing in the Department's workforce and making DHS a better place to work?

Ms. LUTE. Thank you, Senator. I am aware of this survey and I recognize that it represents a challenge for the Department. I am also aware that the Department has been viewed and rated as the most improved over time, as well. But we still have a long way to go.

I mentioned before that people, to me, are the most important resource an organization has. I am not a person for whom people have to earn respect. Human beings deserve respect. You do not have to earn my respect. You deserve that. People have a calling when they come to Homeland Security. We cannot let it just become a job. We need to build on that calling, build on that commitment and work. Do they have the tools they need to do the job? Do they have the training? Are their front-line supervisors well trained and invested? Do they feel like they are adding value? Do they feel valued in return?

I think, comprehensively, this is an area that, if I am confirmed, I would want to work at, and I would look to work with and engage the workforce, the representatives of the workers that exist in the Department of Homeland Security, to chart a strong way forward.

Senator AKAKA. Ms. Lute, DHS policy allows laptops and other electronic devices to be searched at the border without suspicion. Courts have ruled that the Constitution permits this. Nevertheless, these searches may have significant privacy implications, as many people keep sensitive information, such as medical and financial records and work documents, on their laptops. Some companies have started taking expensive precautions to protect data when their employees travel abroad. Do you plan to review this policy? At a minimum, I hope you will ensure that any policy on border searches of electronic equipment includes strong privacy protections.

Ms. LUTE. Senator, I am aware of the issues that have been raised and aware of the concerns. The searches have been relatively few in number, and the Department has taken steps to improve its accounting, keeping records of when this does occur and ensuring that all the rules and regulations of this country are observed.

The recent appointment of a noted privacy expert to that position is a testimony to the commitment that the Secretary has, and if I am confirmed, certainly I would support in ensuring that all the privacy and civil liberties and civil rights of people are maintained, even as we discharge our duties to secure the borders.

Senator AKAKA. Thank you for that, Ms. Lute.

Executive Order 13434, issued in May 2007, established the National Security Professionals Development Program. Among other things, this program was created to help develop National Security Professionals by providing them training, education, and experiences to improve interagency coordination and collaboration. How do you foresee this program impacting DHS's workforce and Department-wide integration?

Ms. LUTE. I am aware of this program, Senator. I am also aware that it is designed to create a robust pool and cadre of professionals who can work across agencies in the national security field. I am aware that some already at the Department of Homeland Security have, in fact, been certified as National Security Professionals, and if I am confirmed, I would look at this program to understand how it can benefit the Department and how our engagement can strengthen it across the board.

Senator AKAKA. Well, thank you so much for your responses. I really appreciate it.

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Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Akaka.

Before I call on Senator Coburn, I do want to respectfully amend something that Mayor Bloomberg said. If I am not mistaken, while your daughter pursues her extraordinary career in New York, her residence is in Connecticut.

Senator COBURN. Unfortunately, she has two residences now——

Chairman LIEBERMAN. All right.

Senator COBURN [continuing]. One in New York and one in Connecticut. [Laughter.]

She pays New York City income taxes, let me put it that way.

Chairman LIEBERMAN. Thank you.

Senator COBURN. And Connecticut taxes.

Chairman LIEBERMAN. We are grateful. [Laughter.]

Senator Coburn.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Thank you. Ms. Lute, thank you for being here. I enjoyed our visit. I want to thank you and your husband, your family for the dedicated service you have given, not only to our country but to our world.

As I told you in my office, I believe you have a lot to account for in your actions at the U.N., and I am going to go through a series of questions and will use a second round, if necessary, because I think the facts are not fully exposed as to some major failures under your leadership at the U.N. I also would ask that the OIOS report be entered into the record.[1]

Chairman LIEBERMAN. Without objection, so ordered.

Senator COBURN. I also would note that every report we have that measures operations under your leadership has documented serious mismanagement issues. There is not one report that we can have that has any performance reports that document steps that you took to respond to the problems, whether there were improvements as a result of those responses. Without this documentation, I think our Committee is going to have a difficult time measuring your performance to determine if you truly are qualified to manage a Department the size of DHS and the security of the United States.

A major campaign promise from President Obama is to identify and eliminate wasteful and duplicative government programs, and I applaud him for that. I am still waiting for him to do that, but I applaud him. I know that is in his heart and it is something he wants to do.

Yet when I asked you to report which Peacekeeping missions you managed that were wasteful or duplicative or should be deauthorized, you chose not to answer my question. If you were unwilling to identify waste at the U.N., how do we know you will be willing to identify and eliminate waste and duplication at the Department of Homeland Security?

Ms. LUTE. Dr. Coburn, thank you, and also for our chat, which I appreciate. I am a real believer in the responsibility of manage-

[1] The OIOS reports submitted for the Record by Senator Coburn appear in the Appendix on page 449.

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ment not only to achieve its mandates, but to be able to ensure that operations are run effectively and to account for the resources that have been entrusted to it. As I worked in the Department of Peacekeeping in charge of support to Peacekeeping operations around the world, this was an area across the board, in the area of personnel, where we were doing our best to reduce times necessary to recruit personnel, where we were putting in place training programs to ensure that the personnel that we did recruit had the training they needed so we did not have to recruit again, a wasteful exercise, in my judgment.

I am very aware that resources in personnel and in missions and operations do constitute investments, and this is an area that I worked on very closely. And if I am confirmed, I would expect to bring the management experience that I have to the Department of Homeland Security in a responsible way.

Senator COBURN. Will you make a statement to this Committee that you will comply faithfully on a timely basis to the Federal Accountability and Transparency Act?

Ms. LUTE. Yes, Senator.

Senator COBURN. In the areas under your control, is there any report that you can share with the Committee that documents where you recommended or took action to eliminate waste?

Ms. LUTE. In many of the OIOS reports, Senator, that you cited, there are management responses of which I was a part and author, where we agreed with a great deal of the recommendations of OIOS, and where we disagreed, those were noted in the public reports of OIOS.

Senator COBURN. Well, no. I am asking specifically, where is the report that showed in response to problems that were raised that problems were solved?

Ms. LUTE. In those reports, also, Senator, it reflects in part the management response to the findings that were raised by OIOS, which indicate that management has taken on board, has eliminated waste. For example, there are reports where OIOS pointed out excess spare parts inventory and noted that management had taken steps following those findings under my authority to reduce those excess inventories and put in place a system to ensure that they are not repeated.

Senator COBURN. Would you be happy to supply those reports to the Committee?

Ms. LUTE. Senator, I have supported the request for the documents that have been requested, the public reports that are available through the U.N. website, and others.

Senator COBURN. It raises a problem that we all should be concerned about. There is absolutely no transparency at the U.N. for us to even get information with which to evaluate a nominee who is going to hold a high position in our government. The information we have is all leaked reports that the average citizen of this world cannot have access to unless it is leaked, which tells us that we have great problems.

Let me move on. In several of your responses to my pre-hearing questions, you diverted responsibility for many of the management failures documented in U.N. audits and reports. For example, U.N. auditors found that you failed to apply consistent accountability

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standards for the Peacekeeping personnel you recruited, trained, and deployed into the field. Your response was you blamed rapid growth of the department and inexperienced mission personnel.

Leaked U.N. memos reveal that, despite having 18 months to plan, the contract that Senator Collins discussed with you was pushed through, increasing the risk for fraud and abuse. You blamed, and your words were, "unfolding genocide in Darfur," even though that tragedy was in the mix and ongoing for several years and even though the U.N. Security Council had reported about it 2 years prior. You blamed the remote and dangerous conditions of Darfur.

U.N. auditors found that 43 percent of Peacekeeping procurement that was audited was tainted by bid rigging, kickback schemes, and other fraud. You again blamed difficult and challenging environments of Peacekeeping operations. You also blamed the Security Council for issuing difficult mandates that made it hard to follow the rules. I do not have any doubt about that. I am sure that was a high hurdle. I know the difficulty.

There are not many similarities between Peacekeeping and homeland security, but they both deal with environments and operating conditions. If you are confirmed and are managing procurement and operations for programs such as FEMA, should we expect you to excuse management failures or procurement fraud due to difficult circumstances, such as natural disasters or terrorist attacks?

Ms. LUTE. Dr. Coburn, I believe that my record at the U.N. shows that I am very associated with efforts not only to implement mandates on the ground, but to ensure proper oversight and accountability. I was often very closely associated with OIOS, with its engagement to oversee operations, inviting them in. I was a strong proponent of the establishment of the Procurement Task Force. I was a strong voice for making that task force permanent, recognizing that the operating conditions, which you have described and which I have described, represent challenges that have to be met to be sure, but we also have to ensure that the proper controls are in place, as well, and I am associated with that effort. It is clear while improvement still has to be made, that we have come a long way, as OIOS has recognized.

Senator COBURN. I have gone over on my time. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Coburn. Next is Senator Voinovich.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you, Mr. Chairman.

I want to echo the thanks of this Committee and others for your service to our country and for the service of your husband to our country, and I am very pleased that you have been willing to continue your service in the Department of Homeland Security.

Senator Akaka and I have been working quite aggressively to deal with transformation of the Department. It is the most challenging reorganization to get 22 agencies and more than 200,000 people to move forward as a Department. I consider you to be part of the third chapter. The transformation of the Department is on

the High-Risk List, and one of the things that we have been trying to do is to get an agreement on the metrics that we would use to determine whether transformation actually is taking place. There was a great deal of work done by the Office of Management and Budget (OMB), DHS, and the Government Accountability Office (GAO) to reach consensus on what those are.

First, are you familiar with the transformation strategic plan that was put in place to move forward with the transformation in the Department, and second, if you are, when are we going to get back from the three agencies some agreement on metrics so we can better determine whether or not the transformation is indeed taking place?

Ms. LUTE. Thank you, Senator. I am aware. I also do know, as I mentioned earlier, that while many people continue to say that the Department of Homeland Security is a young department, it is also time for the Department to get on with its business, to get on with consolidating, integrating its various functions, and if I am confirmed, I would look forward very much to delving deeper into this across the board and to working with you and the other Members of this Committee to ensure that we make forward progress.

Senator VOINOVICH. Well, I remain interested in receiving the piece of paper that shows the agreed upon metrics so we have something to objectively measure the performance of the Department because many of the things that have gone wrong have gone wrong because we have not moved forward with that transformation. That is why it is on the High-Risk List. It seems to me that one of the goals of the Department should be to get itself off the High-Risk List because if it does that, it means DHS has successfully completed its transformation. I am going to be focusing in on that with Senator Akaka because I think that is the only way that we are going to eliminate some of the things that have gone wrong in the Department.

We now have a Chief Management Officer in the Department, and Senator Akaka and I would like to see a 5-year term for that individual, so we have somebody that can continue the transformation. I would like you to look into that. I am pleased that we were able to get the Chief Management Officer, but I would like to have that individual have a term just like I would like to have it over in the Defense Department. Sometimes I wish you were going to the Defense Department instead of this Department——[Laughter.]

Because they need a whole lot of help, too. So I would like you to look at that issue of having a term.

Ms. LUTE. Yes.

Senator VOINOVICH. As Ranking Member on the Appropriations Subcommittee on Homeland Security, one of the things that struck me in my initial review of the budget was that we are spending an enormous amount of money on securing the border. Mr. Chairman, I think it is really important that we get a better understanding of where the money is going.

There is no way that we will be ever able to afford to really secure the border without immigration reform in this country. Today, we have 33,000 beds around the country where people are brought

in, kept for 5 or 6 days, and we pay for their medical care, process them, and send them back to their country.

It is an enormous cost to us, and I look at that cost relative to other costs in the Department and say to myself, how far can we go with spending money on this particular issue? And if we were able to get immigration reform, what impact would that have on reducing those costs? Because that is our problem.

So I would really like you to look at that issue and the whole issue of where are we spending the money in the Department. What are the priorities? There are only X-number of dollars that you have. I would like to have the Secretary come back and say to us, I have done an examination of all these things and here is where I think the dollars could be spent where we could get a better return on the investment we are making, considering that we have limited resources.

One of the other two things that I talked to you about in my office was the Visa Waiver Program that has been very important to this country in terms of improving our national security and our public diplomacy. I would like you to look into the program and get back to me on where that is. There has been legislation introduced and referred to the Judiciary Committee that would gut the program, and I would like you to look at that.

The other one was the PASS Program. We are trying to get legislation passed that would allow the PASS Card to meet the documentation requirement for people to travel to Canada and to the other Caribbean countries instead of a passport.

In closing we are all concerned about the management of the Department. I like your words, empower people, listen, quality management, and so on and so forth. You have the right nomenclature. We are hopefully going to see how it all works out.

Ms. LUTE. Thank you, Senator.

Chairman LIEBERMAN. Thank you very much, Senator Voinovich. Senator Burris.

OPENING STATEMENT OF SENATOR BURRIS

Senator BURRIS. Thank you, Mr. Chairman, and congratulations to you for your nomination, Ms. Lute.

I am concerned about an experience that I had when I came in as a cabinet officer of a governor back in 1972, where we had merged several agencies. I just heard Senator Voinovich raise that question about transformation. One of the biggest problems I had, Ms. Lute, was trying to deal with all of those agencies that did not want to give up their turf, and it got to be quite a situation. As the Deputy Secretary of Homeland Security, I would imagine that the Secretary is going to put a lot of that transformation in your lap. If I am wrong, let me know. But I think that there are still some areas of consolidation and reorganization and transformation that has to take place in Homeland Security in order to make that agency up, running, and functional.

Have you done any assessment of this, and would you know whether or not this is going to be a major responsibility of yours?

Ms. LUTE. Thank you, Senator. I am certainly aware of the challenges that have existed, the challenges that were present when the Department was created from 22 agencies and various parts of

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the government coming together, and the efforts that have been made over these past 6 years to further the integration, to reduce duplication, and to strengthen add comparative advantages.

My experience with integration and standing up a new department, as I was charged with in creating the Department of Field Support at the United Nations, is to do it in a way that reflects not only a respect for the legacies and traditions and the practices and the roles of the individual elements, but really does insist on the greater sum of the parts, that people make forward progress toward the integration that is called for by law, that has been called for by policy, as well.

And if I am confirmed, I would expect to be given a leading role in ensuring that the integration of the Department, the further coherence of the Department, the proper engagement of the Department with the other Federal agencies across the interagency proceeds in a constructive way, and I would also hope to be able to work with this Committee very closely in ensuring that we stay on track.

Senator BURRIS. So do you know whether or not you will be having any of these direct responsibilities for trying to complete the transformation process? Have you talked with the Secretary?

Ms. LUTE. The Secretary and I have spoken, Senator, about that. She, if I am confirmed, would consider me a full part of the leadership team of the Department, charged with maintaining not only the operational picture awareness, but movement on the priorities that the Secretary has herself. So yes, I would expect to be charged with responsibilities in this area, if I am confirmed.

Senator BURRIS. I have not read all your background, but did you have disaster experience at your other positions?

Ms. LUTE. In my previous position, Senator, in fact, I was charged with leading support operations for Peacekeeping worldwide. In the course of that, I was also the Officer in Charge of Peacekeeping during the war in Southern Lebanon that happened in 2006, managing the emergency evacuation of personnel in that situation and in other situations, as well. We have had to respond to massacres and killings of U.N. Peacekeepers, for example, and I am associated with that, and also associated in mobilizing the Peacekeeping support element of other crisis response operations. And in that context, as I mentioned in my opening statement, I am very aware of the imperatives of establishing a clear information picture, mobilizing the proper resources, getting those resources where they need to be on the ground, and then managing the integration of those resources in the performance of a crisis response.

Senator BURRIS. Ms. Lute, we had another issue in dealing with our Southern borders. Of course, we have to be concerned a little bit about our Northern borders, as well. I think the Canadian border is even bigger than the Southern border. And the question is, in terms of the drug trafficking that is coming in, do you have any type of experience with communities where all of these drugs end up, end users in our communities, Chicago, Centralia, or Mattoon, Illinois, or anywhere in America, because the small-town communities are really getting inundated, as well, with these drugs that are coming in, which will also be a part of Homeland Security's interdiction, I would assume?

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Ms. LUTE. Senator, here is an area where I think my experience would complement the experience of Secretary Napolitano. I have had a lot of experience over the course of my professional life, indeed, beginning in my professional life, in and around borders—borders during the Cold War, contested borders in the Middle East and in other areas. In Africa, for example——

Senator BURRIS. When you say your experience, what do you mean by your experience with borders? What do you mean?

Ms. LUTE. As a young lieutenant, I was assigned to Berlin. The border of the Cold War——

Senator BURRIS. When were you in Berlin? What years?

Ms. LUTE. Nineteen-seventy-eight to 1982.

Senator BURRIS. Nineteen-seventy-eight to 1982. The war was still there, right?

Ms. LUTE. Yes, Senator, it was.

Senator BURRIS. Yes, because I studied in Germany, so I was a little concerned in terms of that.

Ms. LUTE. But I am aware of the effects of conflict, the effects of the illegal trafficking in weapons, in cash, in illicit contraband and other commodities, the effects that it has on impoverished communities internationally, and if I am confirmed, I would expect to bring my experience to complement that of Secretary Napolitano, who has first-hand experience dealing with these issues in the domestic context as the former governor of a border State.

Senator BURRIS. Thank you very much, and good luck to you.

Ms. LUTE. Thank you.

Senator BURRIS. God bless you.

Ms. LUTE. Thank you.

Chairman LIEBERMAN. Thanks, Senator Burris.

It is actually a tribute to you and an indication of the importance in which Members of the Committee hold your nomination that we have more than our normal attendance today, so with that, Senator Landrieu, it is all yours.

OPENING STATEMENT OF SENATOR LANDRIEU

Senator LANDRIEU. Thank you, Mr. Chairman.

I would not have missed this hearing. I think this is one of the most important nominations that our President has made, and I have had the pleasure, Ms. Lute, to meet with you privately at some length about some of the very pressing issues that are so important not only to our country, but to the State that I represent and to the region.

Let me begin, Mr. Chairman, by saying I continue to be extremely impressed with the quality of the nominees that have come through my office as well as the offices of many other Senators, whether it is in the Department of Education, the Department of Housing and Urban Developmen (HUD), or the Department of Homeland Security. Just the level of your academic achievements, of your broad and deep experience, and all of that will come in handy to run an agency that needs a tremendous amount of work and effort. Despite the good work of the leadership of this Committee, there are serious problems, in my view, with Homeland Security, and I think that your experience will—you will need all of it to get the job done from where I sit.

But let me ask you this specifically, and then I will go more broadly. As we previously discussed, you may be aware of a GAO report that has indicated that while we have allocated from the Federal Treasury $120 billion for the recovery efforts in the Gulf Coast over the last 4 years (it will be 4 years this August), maybe 40 percent of that money was wasted. Some of it is because of inability at the local level, but most of it, according to this report, is because of the poorly constructed and ill constructed avenues that FEMA had either not established or had atrophied. Not only was the money wasted and lots of it unaccounted for, in terms of poor training, etc., but the real sad part of it is that thousands of eligible individuals and families went unserved.

So since I represent 4.5 million people that this travesty happened to, my question is, as we attempt to fix pieces of this, and we have fixed some but there are some that still have to be fixed, there are currently several billion dollars that are caught up in a now 4-year dispute between FEMA and the folks on the ground in New Orleans and Baton Rouge and Houma and many other places in our State. Despite repeated efforts in the past, FEMA rejected any effort to fix it. So I recently added a provision to the stimulus package to establish an arbitration panel.

What is your understanding of how that will work? Are you committed to making it work? If so, when will those regulations be in place to basically move out the $4 to $5 billion that we think are stuck in the pipeline, as we say, between the Federal Government and local officials that are desperate for these funds to hit the ground?

Ms. LUTE. Thank you, Senator. Secretary Napolitano, as you know, together with the Secretary of Housing and Urban Development, recently made a trip to the Gulf Coast, and the Secretary reiterated her commitment and the commitment of the Department of Homeland Security to the recovery of the region and of the State. The recent extension of the Office of Gulf Coast Recovery, as well, is a further sign of the commitment of the Administration to follow through on this.

I am aware of the strengthening of FEMA as a result of the Post-Katrina Emergency Management Reform Act and the efforts that FEMA has been taking and the Department has been taking to further strengthen not only FEMA in the performance of its duties, but its relationship with State and local officials. And if I am confirmed, Senator, I would expect to look at this area very closely in the context that you outlined, working together with you and the Members of this Committee to ensure that the statutes that are put in place and the performance of the Department and of FEMA is what you expect.

Senator LANDRIEU. And the reason I pursue this line of questioning, and I do have two more brief questions, is because I have just completed with the good support of this Committee a 9-month investigation. We conducted over 90 to 120 interviews with individuals, and thousands of documents were reviewed, and what we found were many failings between FEMA and HUD for lack of a comprehensive housing recovery plan should a large population be displaced, and that is the subject for another hearing.

But the point is this, that our report also showed that the person who held your job before—I think it was Deputy Secretary Michael Jackson, is that correct? The report shows that decisions made at this level, from your position, prevented some of the requests that FEMA was making to interpret the Stafford Act in a more flexible way that would have actually brought aid, saved money, and spared a lot of pain and suffering.

So I bring it to you because if FEMA is going to stay in Homeland Security, then we have to have faith that the people running Homeland Security will give FEMA the attention it needs to get the job done when we have a potential flood, like right now in North Dakota and Minnesota, and when we have more hurricanes in the Gulf or the Atlantic.

My second question is actually about the Coast Guard. They were the one agency of the Federal Government that actually responded and performed magnificently, and that story will be written and it will be a proud moment for the Coast Guard. I understand they had to do a lot of things outside of the chain of command to get the job done, but that is for another story. They got it done.

But the Coast Guard has now been tasked with coming up with new rules and regulations to govern offshore vessels, and while I am very supportive of that and Thad Allen is a great Commandant of the Coast Guard, I want you to be mindful that the offshore oil and gas industry, which exists only in the Gulf of Mexico, with big vessels and big ships, is very different than the cargo vessels that come in and out of all of our ports, including Louisiana's. And I want to call to your attention that this industry is being threatened by regulations that refuse to treat them in a different way than these large cargo vehicles.

Do I have your commitment to look into this issue, report back to me within a few weeks about what you or the Secretary can do to give some relief, appropriately without bending any security rules, for the offshore oil and gas industry?

Ms. LUTE. Senator, if I am confirmed, you certainly have my commitment to look at these issues, to work with you as part of the outreach of the Department not only to State and local governments, the private sector is an important partner, as well, and you certainly have my commitment.

Senator LANDRIEU. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much, Senator Landrieu.

We will go to a second round now. I want to follow up, Ms. Lute, on some of the questions that Senator Coburn asked about your time at the United Nations. As I understand it, these United Nations reports are typically confidential unless a member state specifically requests a report or reports. Am I right in what I have heard, which is that after meeting with Senator Coburn and hearing his desire to see these reports, you requested that the U.N. release the particular reports that Senator Coburn had in mind, or you requested our government to request the reports?

Ms. LUTE. I wrote a request to the Under Secretary-General for Management at the United Nations——

Chairman LIEBERMAN. Right.

Ms. LUTE [continuing]. Fully supporting the release of all the material that was requested. Some of the reports are available publicly when the member state requests them. I am not a member state. Some of them are internal management documents that remain under the control of the United Nations.

Chairman LIEBERMAN. So the problem with the reports and their openness is not obviously yours. This is the United Nations policy.

Ms. LUTE. Senator, yes.

Chairman LIEBERMAN. Yes. And if we are troubled by it, we may want to do something about that more generally, but I wanted to get on the record that you have tried your best to get those reports made public.

I suppose the relevant follow-on question is whether as Deputy Secretary you would support open and transparent oversight of the Department of Homeland Security by the Inspector General (IG), GAO, Congress, and others?

Ms. LUTE. Yes, Mr. Chairman, I would.

Chairman LIEBERMAN. Senator Coburn referred to a specific OIOS report and additional reports more generally. If I understand this correctly, much like an IG report, these reports noted concerns or problems, which that office investigated. Those reports then typically offer specific recommendations for corrective actions. So if I heard you correctly, it was that in your responses to those when it was relevant, you indicated what you thought of the findings and what you were intending to do about it.

Ms. LUTE. That is correct, Mr. Chairman. We prepare our detailed management responses to these reports when they come out. The Office of Internal Oversight Services takes portions of the management response, incorporates it into its final report, which is then issued.

Chairman LIEBERMAN. So let me ask you a general question, which is, because we do not have the documents, would you say that it was typical more often than not that you agreed with those recommendations and directed people under your supervision to take corrective actions?

Ms. LUTE. Yes, Mr. Chairman, overwhelmingly.

Chairman LIEBERMAN. Again, I am going to ask you to go from your memory, since you do not have the documents. Can you provide some examples of steps that you took to improve the acquisitions process at the Department of Peacekeeping Operations?

Ms. LUTE. In direct response to not only concerns raised by OIOS, but our own operational concerns that the system was being overwhelmed, I sought a senior level meeting, and we established a senior-level engagement on specifically this question. I instituted a requirements review panel. I instituted a mission start-up, a monitoring process, what we called the traffic lights process—red, yellow, green—to have senior-level attention of the key support issues that were unfolding at the time of the mission start-up, which is a critical time. I worked with the Department of Management. My staff worked with them to expand the core requirements list to facilitate direct procurement on the ground where a lot of it occurs. We also worked with OIOS to bring them in at mission start-up so that they could be present.

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As I mentioned, Mr. Chairman, I was a strong supporter of the Procurement Task Force, of making that task force permanent, and of instituting policies within the Department to be responsive to the Procurement Task Force and OIOS.

Chairman LIEBERMAN. In regard to the Procurement Task Force, I do want to note that there is a very relevant and, I would say, remarkable letter[1] filed with the Committee by Robert M. Appleton, former Chairman of the United Nations Procurement Task Force—that was a task force set up by the Secretary General of the U.N. in 2006, following the Iraqi Oil for Food scandal. Mr. Appleton says of you, "Ms. Lute continuously supported the task force's investigations and our efforts to minimize the risks posed to the organization as a result of the significant amount of funds used for DPKO," the Department of Peacekeeping Operations, "procurement. While program managers in the U.N. are not formally required to follow or accept the conclusions and recommendations of oversight bodies," which is quite interesting itself, "Ms. Lute nevertheless reacted swiftly and responsibly and took immediate corrective action where we found corruption, fraud, or violations of internal rules or procedures of the U.N."

I mean, that is from an outside investigator, and then there is another letter[2] filed with the Committee by Christopher Burnham, an American citizen who was then at the U.N. as Under Secretary-General for Management. I happen to know Mr. Burnham. I did not know he wrote the letter until just now. But he does not offer these superlatives too often. "Jane Lute was not a good manager, she was a great manager. Inheriting the single most difficult mission at the entire U.N., Peacekeeping, she supported my efforts at good governance and controls and advocated for even stiffer controls within Peacekeeping, such as the creation of an Inspector General within Peacekeeping."

I understand the questions that are being raised, but I do think that these are very significant statements filed on your behalf, and I appreciate the answers that you have given to my questions. Thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Let me continue with this line of questioning because I am trying to sort out here exactly what your responsibilities were and what your responses were to some of these reports. Like the Chairman, I have heard from people whom I respect that you are an extraordinarily good manager, and so I take those testaments very seriously. On the other hand, I am very troubled by the Procurement Task Force's findings.

During the 18-month period that the Task Force did its investigations, it completed 63 investigations. It issued 22 reports. It identified more than 10 significant fraud and corruption schemes in cases involving contracts. That is an extraordinary level of fraud and corruption. It led to convictions in some cases for bribery, wire fraud, and mail fraud.

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[1] The letter from Mr. Appleton referenced by Chairman Lieberman appears in the Appendix on page 430.

[2] The letter from Mr. Burnham referenced by Chairman Lieberman appears in the Appendix on page 434.

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What troubles me is that this indicates systemic weaknesses if the percentage is that high and the degree of fraud and corruption that great. Of these contracts that were reviewed and found to have significant fraud and corruption, what were your responsibilities for these contracts?

Ms. LUTE. Senator Collins, as I mentioned earlier, my responsibilities were to ensure the support operations in the area of personnel, finance, logistics, aviation, communications, and IT, that those operations were mounted and sustained for Peacekeeping operations worldwide. We had the responsibility to raise requirements on the ground where the field staff were concerned, and my staff at headquarters had the responsibility for the technical review of bids, the technical evaluation of the sufficiency. The negotiation and award of contracts rested with the Department of Management.

Senator COLLINS. Right, but you are establishing the requirements, correct? The people who reported directly to you?

Ms. LUTE. Senator, the people who were raising the requirements on the ground were mission personnel, and there were some removed, but certainly those on the support side, particularly early on, as I mentioned, without going into the complexities of the U.N. reporting chain, fell under my responsibility.

Senator COLLINS. So when you became aware of the extent of corruption and fraud, what actions did you take? There were 22 reports, and I could go through them, asking you what you did in response to each one, but give me an answer on what actions you took when the Procurement Task Force found widespread fraud and corruption that indicated there were systemic weaknesses that allowed this to occur.

Ms. LUTE. Senator, some of the actions I took directly—in fact, some of the cases, we referred to the Procurement Task Force. Without the ability to recall those for you precisely, I do know that is, in fact, the case. Whenever an allegation was raised, we took immediate steps, if necessary, to suspend people from the duties that they were performing to ensure that a full investigation was conducted and then that appropriate action, management action, was taken in response to that investigation.

Now, we also addressed——

Senator COLLINS. Those are personnel actions, so that was one response.

Ms. LUTE. Right, and——

Senator COLLINS. But did you put into the system additional reviews or safeguards or higher-level approvals to ensure the integrity of the procurement process?

Ms. LUTE. As I mentioned earlier, Senator, we did. I instituted a Requirements Review Board at a senior level to ensure that significant requirements being raised in the field had an additional layer of evaluation. I instituted the traffic light system that I mentioned earlier, particularly at the beginning phase, to deal with start-ups of operations because they were coming fast and furiously at the U.N. and it was essential that we have senior-level engagement and oversight. And this was a weekly meeting that I myself chaired, together with senior personnel on the ground in the field,

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with a common framework of the support issues that were being engaged, including major procurements.

We worked very closely with the Department of Management on the issue of personnel. For example, part of our problem, in my view, was the fact that we were always short of experienced procurement personnel with the expertise necessary for these very complex commercial transactions. I am very aware of the challenges that exist in raising requirements accurately, that can be accurately costed, and the importance of being able to present those requirements to the procurement officials. We instituted a program to identify, recruit, train, and bring on board procurement people because while they do exist in the world, those who can function with an expertise, fluent in English, fluent in other languages, in remote and difficult parts of the world, are relatively few in number. So this was part of our structural problem we had to address.

Senator COLLINS. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks again, Senator Collins. Senator Coburn.

Senator COBURN. Thank you.

Ms. Lute, would you give us copies of the letters you wrote urging the U.N. to disclose the reports?

Ms. LUTE. Yes, Senator.

Senator COBURN. Thank you. I would also note for the record that Mr. Appleton never audited Ms. Lute's performance or her response or the outcomes. He only spoke of her verbal commitment to react.

I would also remind my colleagues on this panel that we voted 97–0 for transparency within the U.N. When it went to conference, that came out. So the problems that we are having today are not Ms. Lute's fault in terms of having knowledge, it is our fault because we chose to make transparency important to the United Nations, and then when it went to conference, we pulled it out, even though 97 of us said we should have that transparency. I would hope that we would not allow that to happen this year on the foreign operations appropriation budget.

Ms. Lute, in my pre-hearing questions, I asked you how many no-bid contracts were issued for Peacekeeping missions you deployed. You did not answer that question, but you offered that you only participated in one of those, and we have discussed that already, and that may or may not have been appropriate. I cannot judge that. Do you know the answer to my original question? How many no-bid contracts were issued under your authority?

Ms. LUTE. Under my authority, Dr. Coburn, as I said, I had no authority to negotiate or award contracts.

Senator COBURN. Well, you issued one, the one to Lockheed.

Ms. LUTE. I made a recommendation to the authorities that based on the analysis of our staff at the time, this would be a solution for a very limited portion of one phase of the complex deployment to Darfur.

Senator COBURN. In other areas outside of your direct involvement, how many other recommendations were made for no-bid contracts?

Ms. LUTE. Dr. Coburn, I do not have the knowledge to answer your question.

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Senator COBURN. From the people that worked for you, you do not know that answer?

Ms. LUTE. I am not aware of any other time at which we recommended a sole source solution.

Senator COBURN. OK.

Ms. LUTE. I certainly did not.

Senator COBURN. When I asked you about the 2007 report by the U.N. Office of Internal Oversight Services that found inconsistent accountability standards applied to personnel you recruited and deployed, you mentioned that you did not have access to these types of reports on your performance. How can you be an effective manager if you have no access to your own performance data?

Ms. LUTE. Dr. Coburn, in response to the OIOS reports, we wrote detailed management letters. In many cases, overwhelmingly, we agreed with the findings of OIOS that we could improve the way we were doing business. Peacekeeping experienced unprecedented growth in the 60-year history of Peacekeeping during my time there. It was our commitment to not only fulfill the responsibilities that were being given to us by the members of the Security Council, of which the United States is a member, but also that we would improve the way we ran ourselves and account.

Senator COBURN. But you would agree that field procurement was under your purview?

Ms. LUTE. Again, Dr. Coburn, without going into the intricacies of the U.N. organization, those personnel on the ground in the various missions reported to their individual missions.

Senator COBURN. I understand that, and I understand the complexity, but either it was under your purview or it was not. Is that a yes or a no?

Ms. LUTE. Field procurement was an area of Peacekeeping procurement, was an area that under the general responsibility of support to Peacekeeping operations——

Senator COBURN. So the answer is yes. Was there at any time after you became aware of the significant problems in terms of procurement and fraud and kickbacks and everything else that you actually addressed the Security Council on those issues with the depth of the problem, made them aware of the depth of the problem, so that they, in fact, could make changes at that level at the U.N.?

Ms. LUTE. Dr. Coburn, the Security Council and the General Assembly have different sets of responsibilities——

Senator COBURN. I understand that. I want you to answer my question. Was there any time at which you made the members of the Security Council aware of the depth of the problem and the significant complications associated with Peacekeeping procurement?

Ms. LUTE. I am aware many times, Dr. Coburn, when I spoke to member states of the United Nations in various forums, in various oversight committees——

Senator COBURN. Let me ask it a different way. Was there ever an opportunity presented to you that you could have made the entire Security Council aware?

Ms. LUTE. Again, Dr. Coburn, as the Security Council, I do not recall. This is not normally an area of the Security Council's purview. It is a member—it belongs to the General Assembly under

the arrangements of the United Nations. But the oversight body is the Fifth Committee——

Senator COBURN. So you never had an opportunity to make them aware of it?

Ms. LUTE. The members of the Security Council were certainly aware of the challenges that Peacekeeping faced——

Senator COBURN. A different question.

Ms. LUTE [continuing]. And of our——

Senator COBURN. Did you ever make them aware of the significant difficulties in the Peacekeeping procurement?

Ms. LUTE. I personally made member states of the United Nations——

Senator COBURN. No, I am talking——

Ms. LUTE [continuing]. Including members of the Security Council——

Senator COBURN. Did you at any time in the collective body where you had an opportunity to make them aware? Of the Security Council.

Ms. LUTE. I would have to recall, Dr. Coburn, if the Security Council ever took up this issue specifically. If they had, I would have appeared.

Senator COBURN. Let me go on to another area. The 2008 U.N. audit of your Liberia mission found that you deployed the mission without adequate safety and health programs, that your personnel were suffering from a high rate of malaria and dengue fever. When I asked you about this in the pre-hearing questions, you stated you were not aware of the details associated with Peacekeeping's response to the report and blamed the high rate of infection due to personnel you trained and deployed not taking medicines.

The U.N. spends hundreds of millions of dollars annually on malaria prevention programs. Why did you not mobilize this resource and expertise to protect your own personnel?

Ms. LUTE. Dr. Coburn, the care and safety of Peacekeepers in the field is the responsibility of all of the leadership of Peacekeeping. Peacekeepers, when they are deployed, begin in the countries that they come from. There is rigorous training that a number of countries put their troops through, including safety and health matters, as well. That training is reiterated in missions at many opportunities, and it is an area—the safety, again, and health of the troops is one for which——

Senator COBURN. Were you aware of how your Department responded to the alarming report that they, in fact, had high rates of malaria infection?

Ms. LUTE. Earlier, Dr. Coburn, I was aware when these issues came up in other mission areas, and I was aware of it at an earlier time when there was concern about malaria in Liberia, and we did take steps to ensure that training was in place and that appropriate medicines and medical procedures were in place, as well.

Senator COBURN. If it were not for this U.N. audit, would you have been aware of the high infection rates?

Ms. LUTE. If that were the case, Dr. Coburn, yes, we would have been aware because it deeply impacts the ability of a mission to perform its assigned tasks.

Senator COBURN. All right. I am out of time.

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Chairman LIEBERMAN. Thanks, Senator Coburn. I think Senator Collins and I just have one more question each. I do not want to cut you off, but I cannot stay for too——

Senator COBURN. I do not have many more questions.

Chairman LIEBERMAN. So we will do one more 7-minute round, but I think I am only going to take one question worth of it.

So just to pull back a bit from the U.N. and even from management, I want to ask you this substantive question. What would you say should be the first one, two, or three policy priorities, homeland security priorities of the Department as you are considered to be its Deputy Secretary?

Ms. LUTE. Certainly, Mr. Chairman, as the Secretary has herself said, the primary focus of the Department is to keep this country and keep Americans safe from the threat of terrorism from any future terrorist attacks. But the Department equally has a big job to do. It has unique missions in the areas of maritime security, aviation security, border security, as well, and it is mobilizing, as the Secretary has said to this Committee, to address an immediate response on the Southern border. If I were confirmed, I would expect to work with the Secretary on these priorities, the priorities also dealing with immigration, and the other challenges that the Department of Homeland Security has been given.

Chairman LIEBERMAN. I want to just pick up from something you said and draw out on it a bit. It has been a priority of this Committee to improve the security of non-aviation transportation. We have done a very good job, I think, at improving aviation transportation, but we have a ways to go on trains, buses, and, of course, just following the history of terrorism, Mumbai, the earlier Mumbai rail attack, London, Madrid, unfortunately, terrorists tend to move in that direction. Do you have any ideas about that?

Ms. LUTE. I am certainly aware, Mr. Chairman, that concern exists that this is an area that needs greater focus by the Department, and it would be an area, if I am confirmed, where I would expect to hear from and engage extensively with State and local officials as well as with the private sector. The critical infrastructure on the ground in this country in many cases is in private hands, in municipal hands, and we need to work jointly to ensure that it has the priority that aviation security has had.

Chairman LIEBERMAN. Good. Thank you. I have no further questions. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman. I am going to submit for the record several questions that I did not get to today, but I do want to bring up two final points.

First, in June, DHS will implement the Western Hemisphere Travel Initiative at the land ports of entry, which will require travelers to provide compliant documents for entry into the United States. I am concerned, however, that the technological infrastructure that is necessary to process those documents, including passport cards, efficiently will not be in place by June at all of the land ports of entry, and let me give you an example from my home State of Maine.

The port of entry in Calais, Maine, is the sixth busiest on the Northern border. It is under construction, and it will not be completed until the end of this year. Until the port is completed and

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the new technology is in place, the processing of passengers and vehicles at this port of entry could be backed up and slowed when the new Western Hemisphere Travel Initiative goes into full effect in June.

Now, it is clearly important that the Federal Government continue its efforts to strengthen our border security and to protect the Nation from terrorist threats, but we have to do so in a way that does not unnecessarily hinder the travel of legitimate individuals who regularly cross the border and obviously pose no threat to our national security.

What will you do to ensure that the Travel Initiative is implemented in a way that takes into account the fact that we have not done the investments in infrastructure at all of the land ports of entry?

Ms. LUTE. Senator Collins, I am aware of the concerns regarding the aging infrastructure. On average, the ports of entry are over 40 years old, and in particular, in the context of fielding the Western Hemisphere Travel Initiative, the Department has a three-part strategy, as you know: One, to get the documents ready; two, to ensure that the technology is in place and functioning; and three, that there is an aggressive outreach program to ensure that people are aware of what the requirements are, and the Secretary has said that the Department will continue to be on track for the June deadline.

And if I am confirmed, I would expect to look at this very closely to see that we do strike the right balance, as I mentioned earlier, between the safety and security of our borders, but facilitating and, indeed, encouraging legitimate trade and travel, and I would hope to work with you and with other Senators from Northern border States where ports of entry exist to ensure that this is the case.

Senator COLLINS. Thank you. In response to Senator Lieberman's standard questions of all nominees, you indicated your willingness to respond to requests for information from this Committee. I would be remiss in my duties as the Ranking Minority Member if I did not ask that you also treat requests from the Minority in the same manner as you do from the Chairman, although I think you will find that almost always our requests will be joint.

Ms. LUTE. You have my commitment.

Senator COLLINS. Thank you. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks again, Senator Collins. Senator Coburn.

Senator COBURN. First of all, we are going to be allowed questions for the record?

Chairman LIEBERMAN. We are.

Senator COBURN. I would ask unanimous consent that if we do that, we do not have a Committee markup of this nomination until those responses are returned.

Chairman LIEBERMAN. I am going to reserve the right to object. Here is my problem, my friend. Secretary Napolitano, every time she sees me, before we get to substantive matters, says, when are you going to act on the nomination of Jane Holl Lute? I need a Deputy. So as you know, I think it is the intention of the Committee to mark up this nomination and other matters next Wednes-

day. So, frankly, that depends on how many questions you are going to ask.

Senator COBURN. There are not going to be more than maybe a dozen.

Chairman LIEBERMAN. I suppose there is always the possibility that the nominee could say she cannot answer the questions, right?

Senator COBURN. That is what we have received so far.

Chairman LIEBERMAN. Well, with that understanding, I am not going to object. We are going to ask that the questions be filed by the end of business tomorrow——

Senator COBURN. Without a problem.

Chairman LIEBERMAN [continuing]. So that we can move them quickly and give you some time before the markup on Wednesday.

Senator COLLINS. Mr. Chairman, in view of the conversation you have just had, I would suggest that the questions be provided by the end of today because if we are going to be fair to the nominee——

Senator COBURN. Absolutely. We will do our best to do that.

Chairman LIEBERMAN. Excellent. We will do that.

Senator COBURN. Ms. Lute, you were responsible for the U.N.'s response to the sexual abuse and exploitation of refugees by the personnel that were deployed by your Department to the field. The most recent assessment of how you responded comes from Human Rights Watch, which reports there was a lack of speed of investigations, a lack of transparency and follow-through, and a lack of breadth of the investigations. My staff also spoke individually to independent workers and observers on the ground of several missions where abuse took place, and we are told there are dozens of children victimized by Peacekeeping personnel that 4 years later—4 years later—still have not received U.N. assistance or had their basic victims' rights protected.

Why do we have no record of the number of victims you assisted, the type of care you provided, or the number of U.N. personnel that have been successfully prosecuted?

Ms. LUTE. Dr. Coburn, I was in charge, as you outlined, with the U.N.'s effort to fix what is an inexcusable and terrible problem. I began that effort and dealt with it structurally and comprehensively to put in place a program of prevention in terms of clarifying what the standards were, undertaking to make those standards applicable to all personnel, training, awareness, of putting in place in every mission a conduct and discipline team that never existed before to ensure that steady progress and improvement would be made in this area.

In the area of enforcement, we undertook expeditiously to work with OIOS so that when issues were raised, they were addressed properly.

Senator COBURN. I understand that, but the question I asked you is why do we not have a record of the number of victims that were assisted, the type of care that was actually provided? You are talking about the prevention in the future, which I recognize is part of your function, as well, and the number of U.N. people who were prosecuted. Why do we not have that record?

Ms. LUTE. Dr. Coburn, in terms of victims' assistance and remediation, there is in place as a result of one of the working groups

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on the task force that I chaired a comprehensive victims' assistance policy that was approved by the General Assembly about a year ago.

Senator COBURN. Yes, let us go to that. In response to my prehearing questions, you stated that in 2007, you convened a high-level meeting that issued a statement of commitment with standards of behavior. Why did it take 2 years to implement standards of behavior against abusing refugees under the U.N.'s care? Why did it take 2 years?

Ms. LUTE. Dr. Coburn, let me share your frustration. Let me share a lack of understanding why things like this take as long as they do. No one can be satisfied that it took us as long as it did to put in place programs to address victims' concerns. But a program is in place. Programs are also in place—it is not possible now for someone to deploy to a Peacekeeping mission and not know what the standards are. It is not possible for a leader in Peacekeeping to not know that they are personally held accountable to the Secretary-General for being aware of the conduct and discipline within their missions. And the organization is also taking steps to implement the victims' assistance policy, which was approved by the General Assembly.

Senator COBURN. The victims' assistance policy, you were in charge of that 2-year effort to have them adopt a victims' support strategy. That was in 2008. That was 4 years after the scandal erupted. Is 4 years a long time to develop a victims' assistance program, and what did we do for all the victims that were abused prior to 2008?

Ms. LUTE. Dr. Coburn, I agree with you that it took a long time, and no one can be satisfied with how long it has taken to address these issues in a comprehensive structural way. The policy that we put in place before the formal victims' assistance policy was adopted by the General Assembly was that Peacekeeping missions would work with U.N. sister agencies, in particular UNICEF, who would in turn work with nongovernmental organizations on the ground to provide victims' assistance. But it was our aim with this victims' assistance policy to engage missions more directly in that process.

Senator COBURN. One other question. After it became evident to you that Peacekeeping abuse was a widespread problem in these operations, why did we not then require countries to prosecute their troops caught abusing refugees as a condition of working with the U.N.?

Ms. LUTE. The member states of the United Nations retain the sovereign rights and authorities over their troops. I think on part of my behalf this morning, the Committee has a letter from Prince Zeid, the Jordanian Ambassador to the United States,[1] who was in charge of a comprehensive review of this challenge as directed by the Secretary-General in 2004. He indicated that the member states do have to take responsibility and follow up on these actions.

We did institute a policy in Peacekeeping where we reduced the amount of time in following up on member states on the actions that were taken when soldiers were found to have engaged in this inexcusable behavior. We reduced the amount of time and we insti-

[1] The letter from Prince Zeid referenced by Ms. Lute appears in the Appendix on page 444.

tuted a more thorough process of following up with the member states, but the authority rests with them.

Senator COBURN. You would agree that there was nothing that required you to take troops from countries that had legalized pedophilia?

Ms. LUTE. Dr. Coburn, I was very associated with the message in the United Nations that if soldiers were not prepared to uphold the standards of the United Nations, then the United Nations should be prepared to do without their services.

Senator COBURN. Thank you.

Mr. Chairman, I will submit the rest of my questions for the record. I would just ask the nominee, first of all, you have been very cooperative. Thank you. You had a tough job there, I do not doubt that at all. But I would hope that you will answer the questions that I submit rather than defer not to answering them. I think it will speak much to your character if you do so. Thank you.

Chairman LIEBERMAN. Thanks, Senator Coburn.

Incidentally, when I said that you might not answer all the questions in time, I meant if it required more time to get documents from elsewhere to submit back to us prior to the markup next Wednesday. I know you will answer all the questions of Senator Coburn and other Members to the best of your ability.

Ms. LUTE. Yes, Mr. Chairman.

Chairman LIEBERMAN. I do want to say, Senator Coburn has asked some very tough but important questions, and my own conclusion about these, based on the documents, the work of our staff, the documents before the Committee, our overall record, is that the problems here were in the U.N., and that actually by the testimony of the two people whose letters I quoted earlier, including the outside investigator, and the letter from His Royal Highness Prince Zeid, who was then Jordan's Ambassador to the U.N. and was charged by Kofi Annan to investigate these cases of sexual abuse and exploitation by U.N. Peacekeepers, you rose up as unusual in trying to take on those problems.

And I will just quote briefly from Prince Zeid's statement. "From the very minute I began to work on this," which was an assignment Kofi Annan had given him, "Assistant Secretary-General Lute was fiercely committed to ridding the U.N. of this dreadful phenomenon," the sexual exploitation, "and when most of her colleagues (in and out of the U.N. Secretariat) were largely dismissive of the allegations against Peacekeepers, she would have none of it. Instead, she fought with equal determination to unwrap these disturbing practices. It is worth noting in this context that in earlier years, an allegation against a U.N. Peacekeeper would predictably be concealed from public view by a very embarrassed United Nations. Ms. Lute sought to change all that."

So I think Senator Coburn is really focusing on some real problems that ought to concern us in regard to the U.N., to which we give a substantial amount of money every year, but I think ultimately, you stood up in the midst of all that against all that, and so that is why I am so comfortable in supporting you.

I want to thank you for appearing before the Committee today.

Without objection, I am going to amend this from what we normally say. The record will be kept open until the end of business

today for the submission of any written questions. Tomorrow at the end of business will be the deadline for any additional statements for the record from yourself or anybody on the Committee. And then we will look forward to going to markup on your nomination along with a lot of other business we have next Wednesday.

I thank you very much.

Ms. LUTE. Thank you, Mr. Chairman.

Chairman LIEBERMAN. I wish you the best.

The hearing is adjourned.

[Whereupon, at 12 p.m., the Committee was adjourned.]

A P P E N D I X

Jane Holl Lute – Opening Statement as Prepared for the Record

Hearing on the Nomination of:

The Honorable Jane Holl Lute
To be Deputy Secretary of the
United States Department of Homeland Security

Before the
United States Senate Committee
on Homeland Security and Governmental Affairs

March 26, 2009
10:00 a.m.
342 Dirksen Senate Office Building

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Jane Holl Lute – Opening Statement as Prepared for the Record

Mr. Chairman, Ranking Member Collins, Members of the Committee, I am deeply honored by the President's nomination and the opportunity to appear before you today.

I am joined this morning by my husband, General Douglas Lute – who many of you know and know that he has served proudly as an American soldier, and has been most recently serving at the White House under both President Bush and now President Obama.

Neither my husband nor I are politicians. We are public servants. Both of us were called to serve our country some time ago as soldiers in the United States Army. That call to service brought me to Berlin at the height of the Cold War; to the Middle East for Operation Desert Storm; to the National Security Council staffs under President George H.W. Bush and President William Jefferson Clinton; to United Nations Peacekeeping – where I ran support operations for the second largest deployed military force in the world.

That call to service has also brought me here, today, before you. I am deeply honored by President Obama's nomination – and Secretary Napolitano's confidence – and, if confirmed, will continue this tradition of service.

Sitting here, I am struck by the sheer array and enormity of the challenges that confront the Department of Homeland Security. But I am also deeply impressed by the men and women who have made the work of securing the American homeland their calling. I am also struck by the collective knowledge, experience, and wisdom in this room. Few understand the challenges facing the Department of Homeland Security better than you, the Members of this Committee, and few understand the challenges of protecting and preparing the American people better than the first-responders, the firefighters, the police officers, the sheriffs, those in the emergency medical services, the emergency managers, the state, local, and tribal governments across this great Nation. In the process of preparing for this Hearing, I have reached out to many of these groups and sought their guidance, their input, their direction.

The Department of Homeland Security must enhance its relationship with state and local stakeholders. Secretary Napolitano is deeply committed to that objective and, if confirmed, I will work with her to ensure that that these relationships are built, protected, and improved.

I have spent my entire adult life working on the issues at the heart of the Department of Homeland Security's mission—protection, prevention, preparedness, response, recovery, and resilience.

I have managed these challenges in places and in situations where successful operations, livelihoods, and sometimes lives have depended upon the exercise of sound leadership, strong management, and level-headedness.

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Jane Holl Lute – Opening Statement as Prepared for the Record

I have experienced the challenges of managing multi-billion dollar budgets, and supporting operations in some of the most austere, remote, and difficult environments in the world.

As part of that experience, I have spent a great deal of time working in, on, and around international borders, conflicted borders, disputed borders, and borders where a balance has to be struck between maintaining safety and security while permitting and even encouraging legitimate trade and travel. I believe that my international perspective will compliment the Secretary's own deep engagement with issues on the southwest border of the United States in leading the Department of Homeland Security's discharge of this central aspect of its mission.

I know what it is like to be responsible for preparing for and responding to emergencies when the need to gain accurate information, mobilize critical resources, and manage the coordination of those resources under the pressure of crisis is real.

I know what it is like to be the officer in charge of support to hundreds of thousands of people in far-flung operations from diverse institutional backgrounds, each with legacies, traditions, cultures and languages.

I know the imperative of creating an integrated, coherent culture, while respecting the individuality and uniqueness of the parts.

I know what it is like to tackle the problems of interoperability—both from the perspective of a shivering soldier in Berlin splicing wire at 3 a.m. wondering if I could fix the problem before the Brigade Commander even knew there was one; to my work as the Assistant Secretary-General of the United Nations responsible for supporting Peacekeepers who came to the UN from hundreds of countries, each with their own cultural traditions, training, languages, and, yes, different radios.

While a new Administration brings change—some things will not change. The Department of Homeland Security must remain fully committed to its mission of keeping America and Americans safe, and we must do that while protecting the highest values and principles that define this great country.

The Department must be responsible and responsive, proactive and engaged, robust and efficient. It must keep us prepared for the majestic force and might of Mother Nature and it must protect us from the cruelty of those who target civilians.

If confirmed, I will continue that path, searching, fighting, seeking, and creating new, better, more meaningful ways to keep our country safe, to keep our population prepared and protected, and to keep our borders secure. America is at its best when Americans stand proud and confident. America is at its best when we are able to secure both our borders and our historical values; when we confront the worst, with power that rests on the deep values and proud traditions that built this great Nation

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In conclusion, let me underscore how deeply honored I am by the President's nomination and how deeply honored I am to appear before you, this distinguished Committee.

If confirmed, I know that this conversation will be just the beginning of our dialogue. I know I will need your insight, your guidance, and your steady hand as we make our way through the rapids that our country will inevitably face in the coming months and years.

I am no politician, but I am here to present myself for service. A call my family and I have taken, and continue to take, very seriously.

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BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Jane Holl Lute (Jane Holl Poster) (Jane Ellen Holl)

2. **Position to which nominated:**

   Deputy Secretary, Department of Homeland Security

3. **Date of nomination:**

4. **Address:** (List current place of residence and office addresses.)

   Home:

   Work: Peacebuilding Support Office
   United Nations
   1 Dag Hammarskjold Plaza
   Room 1890
   New York, New York 10017



5. **Date and place of birth:**

   01 December 1956, Newark, New Jersey

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Married. Douglas E. Lute, Lieutenant General, United States Army

7. **Names and ages of children:**

   Amy Kyleen Lute (22), Adéllyn Holl Polomski (21),

8. **Education:** (List secondary and higher education institutions, dates attended, decree received and date degree granted)

   2000 J.D. Georgetown University Law Center (1996 – 2000)
   1989 Ph.D. Stanford University, Political Science (1985 – 1989)
   1988 A.M. Stanford University, Political Science (1985 – 1989)
   1985 M.S. University of Southern California, Systems Management (1982- 1984)
   1978 B.A. Montclair State College, Speech and Theatre (1974 – 1978)

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9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

2003- Present Assistant Secretary-General
United Nations
1 Dag Hammarskjold Plaza
New York, NY 10017

- 2008 - Present Assistant Secretary-General, United Nations
  Peacebuilding Support, Executive Office of the Secretary-General
- 2007 – 2008 Assistant Secretary-General and Acting Under Secretary-General, United Nations
  Department of Field Support
- 2003 - 2007 Assistant Secretary-General, United Nations
  Department of Peacekeeping Operations (DPKO)

2000-2003 Executive Vice President and Chief Operating Officer, United Nations Foundation and Better World Fund
1800 Massachusetts Avenue NW
Washington, DC 20036

2000 Executive Director, Project on the Role of American Military Power, Association of the United States Army
2425 Wilson Boulevard
Arlington, VA 22201

1994-1999 Executive Director, Carnegie Commission on Preventing Deadly Conflict
Carnegie Corporation of New York
1779 Massachusetts Avenue NW
Washington, DC 20036

1978-1994 United States Army. Commissioned as Second Lieutenant, retired with the rank of Major

- 1991 – 1994 Director for European Affairs, National Security Council Staff
  The White House
- 1991 Action Officer, Operation Desert Storm
  U.S. Army Central Command, Riyadh
- 1989 – 1991 Tenured Associate Professor, United States Military Academy, West Point
  Department of Social Sciences
- 1978 – 1985 Communications-Electronics Staff Officer/Tactical Signal Officer,/Brigade Signal Officer (Berlin Brigade); Company Commander, United States Signal Command, Arlington Hall Station

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10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

Member, Defense Science Board Task Force on Discriminate Use of Force (2003).

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Member Board of Trustees, Norwich University (Elected 2008)
Member, Advisory Council, Education and Training Center, U.S. Institute of Peace (Appointed 2008)
Member, Advisory Board, Center for Preventive Action, Council on Foreign Relations (Appointed 1994)
Member, and former member of the Board of Directors (2002-2006), Women in International Security (1994- present)
Member, Board of Advisors for the Project on Attitudes Toward the Transatlantic Community, sponsored by Carnegie Endowment for International Peace and Security and The Program on International Policy Attitudes (1996-7)
Member, Board of Directors, Hunt Alternatives Fund (Elected 1999)

12. **Memberships:** List all memberships, affiliations, or and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable or other organizations.

Member, Council on Foreign Relations (Elected 1995)
Member, Aspen Strategy Group (Elected 1996)
Member, Committee on International Security Studies, American Academy of Arts and Sciences (Elected 2000-2007)
Member, National Academy of Engineering Steering Committee on Technology and Peace-building (2007)
Member, Central Synagogue, New York City (2006-Present)
Member, Project on Force, Order, and Global Governance: U.S., German, and Japan Perspectives, sponsored by the Brookings Institution, Trier University, and the Japan Center for International Exchange (1999-2000)
Member, New York Academy of Sciences (Elected 1998)
Member, Virginia State Bar (Admitted 2000)
Member, American Bar Association (1996-Present)
Member, Arlington-Fairfax Jewish Congregation (1992-2000)

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13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None

(b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.

Registered Democrat 1976-2008
Registered Independent 2008-Present

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more during the past 5 years.

Barack Obama for President 2008	$1500.00 (est.)
Jack Reed for Senate 2008	$1000.00
John Kerry for President 2004	$500.00 (est.)

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Ph.D. (honorary degree), Montclair State University (2008)
Ph.D. (honorary degree), Norwich University (2007)
Distinguished Scholar in Residence, Temple University School of Law (2006)
Senior Public Policy Fellow, Woodrow Wilson International Center for Scholars (2000)
Defense Superior Service Medal (1994)
International Affairs Fellow, Council on Foreign Relations (1991-1992)
Fellow, British 21st Century Trust (1990)
Fellow, U.S. Army Advanced Civil Education (1986-1989)
ROTC George C. Marshall Award (1978)
Distinguished Military Graduate (1978)
Theta Alpha Phi Theatrical Honor Society (1978)
Phi Kappa Phi National Honor Society (1978)

15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.

"American Purpose: What Role for the United Nations? A Condensed Case Study," Aspen Strategy Group (The Aspen Institute: 2008).

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"The Role of Force in Peace-Making," in *Peacemaking in International Conflict: Methods and Techniques,* 2nd Ed., I. William Zartman, ed., et al., (Washington, D.C.: United States Institute of Peace Press, 2007).

"Post-Conflict Iraq and U.S. Grand Strategy in the Middle East: The Role of Multilateral Institutions," *American Grand Strategy in the Middle East: Facing the Challenge*. Report of the Aspen Strategy Group, Kurt M. Campbell, ed. (Washington, D.C., The Aspen Institute 2003).

"Greater Guns for Greater Goods: The United States and the Use of Force," Association of the United States Army (January 2002).

"Principles for Preventing Deadly Conflict," *The World Refugee Survey 2001*, U.S. Committee for Refugees, Washington, D.C., 2001.

"Konfliktpraevention: Strategien zur Verhinderung ethnischer Zwietracht," 9 Internationale Politik 41 (September 1999).

David A. Hamburg and Jane E. Holl, "Preventing Deadly Conflict: From Global Housekeeping to Neighborhood Watch," in *Global Public Goods: International Cooperation in the 21st Century*, Inge Kaul, Isabelle Grunberg, and Marc Stern, Eds. (New York: UN Development Programme, 1999).

With David A. Hamburg, "Preventing Deadly Conflict," Final Report of the Carnegie Commission on Preventing Deadly Conflict, 1997.

Alexander L. George and Jane E. Holl, "The Warning-Response Problem and Missed Opportunities in Preventive Diplomacy" (Washington, DC: Carnegie Commission on Preventing Deadly Conflict, May 1997).

Jane E. Holl, Carnegie Commission on Preventing Deadly Conflict: Second Progress Report, July 1996

"We the People Here Don't Want No War: Executive Branch Perspectives on the Use of Force," in *the United States and the Use of Force in the Post-Cold War* (Queenstown, MD: The Aspen Institute, 1995).

Jane E. Holl, Carnegie Commission on Preventing Deadly Conflict: Progress Report, July 1995

"When War Doesn't Work: Understanding the Relationship Between the Battlefield and the Bargaining Table," in *Stopping the Killing: How Civil Wars End,* Roy Licklider, ed. (New York: New York University Press, 1992).

"From the Streets of Washington to the Roofs of Saigon: Domestic Politics and the Termination of the Vietnam War," (Doctoral dissertation presented in partial completion of Ph.D. requirements, Stanford University, 1989)

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16. **Speeches:**

(a) Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated. Provide copies of any testimony to Congress, or to any other legislative or administrative body.

As a matter of practice, I do not speak from prepared text and accordingly cannot provide text or transcripts to the Committee. I have, however, reviewed internet and public database searches and have obtained unofficial "transcriptions" of several speeches I delivered. For the Committee's convenience, I have included those transcriptions. If I become aware of any additional transcripts, I will forward them to the Committee.

(b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

Please see the attached list representing a good-faith effort to present the wide range of speeches I have made over the last decade. All addresses relate to international peace and security. Should I locate any older calendars reflecting additional speeches delivered, I will supplement this list promptly.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I am deeply honored the President has nominated me to serve as Deputy Secretary of the Department of Homeland Security. While I cannot speak for the President, I have spent my entire life working on security issues both domestically—as a proud soldier, and veteran of the United States Army, and a member of the White House National Security Council staff under President George H.W. Bush and President William Jefferson Clinton—and internationally, as a senior executive at the United Nations, responsible for hundreds of thousands of military and civilian staff in over 30 countries operating in some of the most challenging environments in the world.

I have devoted my life to service and believe I was nominated for this position with the expectation that my demonstrated track record as a leader of complex organizations, extensive management experience, and policy background will allow me to provide effective and responsive leadership, management, and substantive oversight to the Department as it continues to evolve and integrate its multiple responsibilities while discharging the critical work of protecting America and Americans.

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(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

My professional background includes over thirty years of military and senior executive experience and leadership, in both national and international policymaking and management. I have worked extensively at the highest levels of the United States government and the United Nations on policy formulation, execution, and oversight. My leadership and management experience includes intense, sustained and complex operations as well as crisis management in extremely diverse national and international settings. Illustrations of this experience include:

- Managed, led, and provided strategic direction to United Nations peacekeeping support operations (including human resources, finance and budget, communications, information technology, logistics, supply, air operations, and transportation), overseeing 442 staff at United Nations Headquarters and over 15,000 personnel across 32 field-based missions supporting over 120,000 peacekeepers in the field – representing the second largest deployed military operation in the world.

- Established and led the United Nations Department of Field Support responsible for managing and providing critical operational support to all field missions, peacekeeping operations, and sensitive special political missions in over thirty countries around the world. Ensured responsible stewardship of all resources, including managing a nearly $8 billion budget.

- Led and directed United Nations activities to meet the ongoing and pressing need to recruit, retain, and develop over 21,000 civilian field personnel in nearly two dozen specialties (ranging from logistics to law, political analysts to administrators, medical technicians to veterinarians, etc).

- Managed multiple and simultaneous deployments and resourcing, as well as liquidation and transition, of peacekeeping and special political missions across a wide variety of operational requirements and contingencies on a 24-hour, 7 day-a-week basis. For example, during the period 2003-2008, I oversaw support operations necessary to rapidly deploy 20 field based-activities, the termination, transition or downsizing of six missions, and managed active crises in nearly one dozen more.

- Developed and implemented global strategies to guide peacekeeping missions' response to a variety of security and operational contingencies and pandemic crises (including avian influenza).

- Managed multiple wide-scale emergency evacuations of hundreds of staff in diverse and challenging environments (e.g. Cote d'Ivoire, eastern Congo, Lebanon, Darfur, etc.).

- Managed the field dimension of UN peacekeeping's system-wide strategies for crisis response, administrative reform, communication and information technology, and crisis response.

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- Led successful effort to transform staff-management relations (involving nearly two dozen staff unions) into a constructive collaboration through outreach and engagement to identify, prioritize, and resolve key issues of staff and management concern.

- Led crosscutting liaison, collaboration, and coordination between peacekeeping operations and humanitarian, development, national, provincial, and local authorities on the ground, nongovernmental organizations around the world, and inter-governmental bodies including NATO, the European Union, the African Union and the World Bank.

- United States Army
    - Immersed in developing threat pictures, vulnerabilities of operations, reducing those vulnerabilities, and developing/maintaining heightened postures of readiness and awareness.
    - Close interactive liaison with the U.S. Intelligence Community across a range of highly visible policy formulation challenges, including periods of intense international crisis (e.g., the end of the Gulf War in 1991, the breakup of former Yugoslavia, etc.)
    - Extensive experience with the technical intelligence community, especially signals intelligence and communications in active operational environments.
    - Action Officer, Operation Desert Storm, U.S. Army Central Command, Riyadh.
        - Responsible for strategic analysis of, and policy recommendations for, key decision-making related to ending hostilities and other political-military and security issues related to the end of the Gulf War.
    - Company Commander, Brigade Signal Officer, Tactical Communications Representative to the Allied Staff Berlin, and various staff positions in Berlin and at the Pentagon.

B. EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

   Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

   No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity?

   No.

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4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.

No.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None. In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

I have never been personally engaged in any such activities. It should be noted, however, that from 2000-2003, I served as the Executive Vice President and Chief Operating Officer, of the United Nations Foundation and Better World Fund. The Better World Fund is a 501(c)(3) public charity that engages in a wide range of activities, from educational programs that encourage young people to learn about international affairs to support for Fulbright scholars and international exchange. The Better World Fund also educates the public and builds political support for the United Nations. As part of this effort, and in full compliance with the law, the Better World Fund's Better World Campaign engaged in modest and transparent efforts to build Congressional support for the United Nations and United Nations-causes.

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3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Not to my knowledge.

4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

None.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

REDACTED

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your

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nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

JANE HOLL LUTE being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this 2nd day of March, 2009

Lydia Stampley
Notary Public

Lydia Stampley
Notary Public, District of Columbia
My Commission Expires 8/14/2010

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Jane Holl Lute
Speeches, Panels, and Addresses

2008

April 23, 2008 – Committee on Foreign Relations, United States Senate, 110th Congress (Washington, DC)
Briefing, "The Continuing Crisis in Darfur."

April 2, 2008 – House Committee on Foreign Affairs, Subcommittee on International Organization, Human Rights and Oversight (Washington, DC)
Briefing, United Nations Peacekeeping Operations.

March 11-12, 2008 – Stanford University (Palo Alto, CA)
Guest Lecture, *United Nations Peacekeeping: Current and Future Challenges* (Course: International Security in a Changing World). Audience: Students and faculty.

May 14-16, 2008 – United Nations (Greentree, NY)
Address on Peacekeeping Support, 2008 United Nations Heads of Mission Conference

May 19, 2008 – National Defense University (Washington, DC)
Address, Conference on Peacekeeping. Audience: US Government and UN Officials.

May 23, 2008 – Montclair State University (Montclair, NJ)
Address, Commencement. Received honorary degree.

June 15, 2008 – NATO Conference (Rome, Italy)
Address on UN Peacekeeping Challenges, NATO Conference on Expeditionary Operations

July 20 – August 8, 2008 – Aspen Strategy Group (Aspen, CO)
Address on the United States and the United Nations, Strategy Group (paper presented). Audience: United States foreign policy community.

October 1 -3, 2008 – Early Recovery Forum (Copenhagen, Denmark)
Address, Early Recovery Challenges. Audience: International relief, development, government, and non-governmental community.

October 20, 2008 – Columbia University (New York, NY)
Panelist, "Eight Years After the Brahimi Report," School of International Public Affairs. Audience: Students and faculty of Columbia Univeristy.

December 9, 2008 – Council on Foreign Relations (New York, NY)
Panelist, "Preventive Priorities for a New Era," Center for Preventative Action. Audience: CFR membership.

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2007

January 24-25, 2007 – University of Texas (Austin, TX)
Guest Lecture, "Current Challenges in UN Peacekeeping," Lyndon Baines Johnson School of Public Affairs. Audience: Students and faculty.

February 2, 2007—National Defense University (Washington, DC)
Address, "The Legitimate Use of Force by Nations." Audience: students and faculty.

February 22, 2007 – United States Association for the United Nations (Washington, DC)
Panelist, "The UN's Peace and Security Agenda: UN Peacekeeping and the Role of the UN Security Council." Audience: United States Association for the United Nations membership.

March 8, 2007 – United Nations Information Center, United Nations Foundation, Women's Foreign Policy Group, et al. (Washington, DC)
Address, Annual International Women's Day Luncheon

April 27, 2007 – Council on Foreign Relations (Washington, DC)
Address, Roundtable on Future of Intervention. Audience: CFR membership.

May 4, 2007 – Seton Hall University (South Orange, New Jersey)
Address, Seton Hall ROTC 2007 Commissioning Ceremony. Audience: ROTC students, family, and commissionees.

June 21-23, 2007 – Norwich University (Northfield, Vermont)
Address, Commencement, School of Graduate Studies. Received honorary degree.

August 2, 2007 – Intelligence Fellows Program (Queenstown, MD)
Address on peacekeeping operations.

September 14, 2007 – Rockefeller Brothers Fund (Pocantico, NY)
Address, "Responsible United States Global Engagement." Audience: Foundation presidents.

October, 2007 – United Kingdom Military Senior Officer's Course ("Pinnacle") (London, UK)
Address on UN Peacekeeping Operations

October, 2007 – NATO and European Union Political and Security Committees (Brussels, Belgium)
Address on UN Peacekeeping Operations

2006

January 24, 2006 – Global Defense Sector (Washington, DC)
Keynote Address on Challenges in UN Peacekeeping Support, Developing Plans for Future Operations, Reconstruction and Stabilization Conference

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February 2, 2006 – National Defense University (Washington, DC)
Address on UN Peacekeeping Organization, Industrial College of the Armed Forces

February 6, 2006 – Garrison Forrest School (Baltimore, MD)
Address on UN Peacekeeping Operations. Audience: Faculty and students.

February 6, 2006 – Center for Strategic and International Studies (Washington, DC)
Address, Cost Effectiveness of UN Peacekeeping. Audience: Policy community of Washington, DC.

March, 2006 – Temple University (Philadelphia, PA)
Keynote Addresses, Distinguished Scholar-in-Residence, Beasly School of Law, "The Challenges of Managing Multicultural Operations: Whose Principles? Whose Values? Whose Rules?" Audience: Students, faculty and local community.

August 2, 2006 – Intelligence Fellows Program (Washington, DC)
Panelist, Managing Post-Conflict Challenges

September 26, 2006 – Fordham Law School (New York, NY)
Address, National Security and Law Society. Audience: Students.

October, 2006 – The American Assembly's Next Generation Project: U.S. Global Policy and the Future of International Institutions (Dallas, TX)
Address on international peace challenges.

October 23, 2006 – Congressional Staff Briefing (Washington, DC)
Address, UN Peacekeeping

October 23, 2006 – Paul H. Nitze School of Advanced International Studies (SAIS), John Hopkins University (Washington, DC)
Panelist, "UN Peacekeeping in Lebanon"

October 26, 2006 – Seton Hall University (South Orange, NJ)
Panelist, "UN Role in Peace, Security and Human Rights," John C. Whitehead School of Diplomacy and International Relations of Seton Hall University

November 28, 2006 – Yale University, The Master's Tea
Address, "Keeping the Peace in a Complex World: Challenges and Opportunities to UN Peacekeeping"

December 7, 2006 – Hunter College, The City University of New York
Guest Lecture, Course on International Organizations

December 8, 2006 – Aspen Atlantic Group Session (Washington, DC)
Keynote Address, "Structuring a Hybrid Force: The Crisis in Darfur"

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2005

January 6, 2005 – British Foreign and Commonwealth Office (London, UK)
Panelist, Leadership Conference, "Security, Reconstruction and Development"

February 16, 2005 – Saint Peter's College (Jersey City, NJ)
Address, Guarini Lecture Series, "Overview of UN Peacekeeping Roles and Effectiveness"

March 1, 2005 – House Subcommittee on Africa, Global Human Rights, and International Operations (Washington, DC)
Briefing on United Nations Mission in the Democratic Republic of Congo (MONUC)

March, 2005 – Harvard University (Cambridge, MA)
Address, "Stolen Lives: The Trafficking and Exploitation of Women," John F. Kennedy Jr. Forum, Kennedy School of Government

March 8, 2005 – Council on Foreign Relations (Washington, DC)
Panelist, "The Evolving Nature of Humanitarian Assistance"

March 28-29, 2005 – New York University (New York, NY)
Panelist, "Asserting Monopoly Over Legitimate Means of Coercion: Public Safety and Security," Center on International Cooperation

May 19-22, 2005 – Aspen Atlantic Group (Vancouver, Canada)
Keynote Address on International Peacekeeping, "What Works, What Doesn't and Why"

June 17, 2005 – U.S. Army War College (Carlisle Barracks, PA)
Guest Lecture, "Perspective on the Roles, Responsibilities and Contributions of the UN's Humanitarian Assistance and Military Directorates in Working in Conjunction With or In Command of Multinational/Coalition Forces," Joint Force Land Component Commander's Course

July 27, 2005 – Senate Foreign Relations Committee International Operations and Terrorism Subcommittee (Washington, DC)
Briefing on sexual exploitation and abuse

October 12, 2005 – National Defense University (Washington, DC)
Address, Commandant's Lecture Series Program on Reconstruction, Stabilization, and Building Civil Society

October 12, 2005 – National Defense University (Washington, DC)
Panelist, Peace Operations and Capacity Building

October, 12, 2008 – Naval War College (Washington, DC)
Address, Chief Naval Operations Strategic Studies Group XXV, "Current Challenges in Peace Operations"

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U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the
Nomination of Jane Holl Lute to be
Deputy Secretary of Homeland Security

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Deputy Secretary of Homeland Security?

   I am deeply honored the President has nominated me to serve as Deputy Secretary of the Department of Homeland Security (hereinafter, the "Department" or "DHS"). I have devoted my adult life to public service and, while I cannot speak for the President, I believe I was nominated for this position with the expectation that my demonstrated track record as a leader of complex organizations, extensive management and operational experience, and policy expertise will allow me to provide effective and responsive leadership, management, and substantive oversight to the Department and its operations as it continues to evolve and integrate its multiple responsibilities while discharging the critical work of protecting America and Americans.

   In addition, I have spent my entire adult life working on security issues both domestically and internationally. Domestically, I served as a proud soldier and veteran of the United States Army, and a member of the White House National Security Council staff under President George H.W. Bush and President William Jefferson Clinton. Internationally, I have served as a senior executive at the United Nations, responsible for hundreds of thousands of military and civilian staff in over 30 countries operating in some of the most challenging environments in the world.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

   No.

3. What specific background and experience affirmatively qualifies you to be Deputy Secretary of Homeland Security?

   My professional experience includes over thirty years of military and senior executive leadership, in both national and international policymaking, management, and complex operations. I have worked extensively at the highest levels of the United States government and the United Nations, deeply immersed in policy formulation, execution, and operational oversight. My leadership and management experience covers intense, sustained, and complex operations as well as crisis management in extremely diverse national and international settings. Illustrations of this experience include:

   - *Managed, led, and provided strategic direction to United Nations Peacekeeping support operations (including human resources, finance and budget,*

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communications, information technology, logistics, supply, air operations, and transportation), overseeing 442 staff at United Nations Headquarters and over 15,000 personnel across 32 field-based missions supporting over 120,000 peacekeepers in the field – representing the second largest deployed military operation in the world.

- *Established and led the creation of the United Nations Department of Field Support responsible for managing and providing critical operational support to all Peacekeeping operations and sensitive special political missions in over thirty countries around the world. Ensured responsible stewardship of all resources, including managing a nearly $8 billion budget.*

- *Led and directed United Nations activities to meet the ongoing and pressing need to recruit, retain, and develop over 21,000 civilian field personnel in nearly two dozen specialties (ranging from logisticians to lawyers, political analysts to administrators, medical technicians to veterinarians, etc.).*

- *Managed multiple and simultaneous deployments and resourcing, as well as liquidation and transition, of peacekeeping and special political missions across a wide variety of operational requirements and contingencies on a 24 hour-a-day, 7 day-a-week basis. For example, during the period 2003-2008, I oversaw support operations necessary to rapidly deploy or expand nearly 20 field based-activities, the termination, transition or downsizing of six missions, and managed over a dozen sudden crises.*

- *Developed and implemented global strategies to guide Peacekeeping missions' response to a variety of security and operational contingencies including pandemic crises (e.g., avian influenza).*

- *Managed multiple wide-scale emergency evacuations of hundreds of staff in diverse and challenging environments (e.g. Cote d'Ivoire, eastern Congo, Lebanon, Chad, Darfur, etc.).*

- *Managed the field dimension of the United Nations system-wide strategies for supply chain management, financial and administrative reform, communication and information technology, and crisis response.*

- *Led successful effort to transform staff-management relations (involving nearly two dozen separate staff unions) into a constructive collaboration through outreach and engagement designed to identify, prioritize, and resolve key issues of staff and management concern.*

- *Led crosscutting liaison, collaboration, and coordination between Peacekeeping operations and humanitarian, development, national, provincial, and local authorities on the ground, nongovernmental organizations around the world, and inter-governmental bodies including NATO, the European Union, the African Union and the World Bank.*

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- *Service in the United States Army*
  - *Extensive experience with technical communications and challenges of interoperability and operations in field-based environments. Experience with signals intelligence and reducing communications vulnerability in sensitive mission areas.*
  - *Close interactive liaison with the Intelligence Community across a range of highly visible policy formulation challenges, including periods of intense international crisis (e.g., the end of the Gulf War in 1991, the breakup of former Yugoslavia, etc.)*
  - *Action Officer, Operation Desert Storm, U.S. Army Central Command, Riyadh.*
  - *Company Commander, Brigade Signal Officer; Tactical Communications Representative to the Allied Staff Berlin; and various staff positions in Berlin and at the Pentagon.*

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Secretary of Homeland Security? If so, what are they and to whom have the commitments been made?

   No.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

   In connection with the nomination process, I have consulted with the Department's Designated Agency Ethics Official and the U.S. Office of Government Ethics to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the Ethics Agreement, dated February 26, 2009, that I have entered into with the Department's Designated Agency Ethics Official, a copy of which has been provided to the Committee.

II. Role and Responsibilities of Deputy Secretary of Homeland Security

6. The Deputy Secretary of the Department of Homeland Security ("DHS" or "the Department") has very little statutory authority in the Homeland Security Act; in practice, much of the Deputy Secretary's authority is derived from his or her relationship with the Secretary.

   a. What do you believe your role at DHS will be as Deputy Secretary vis-à-vis the role of the Secretary? On which mission areas or management functions of the Department do you expect that will you be principally engaged?

      If I am confirmed, Secretary Napolitano expects me to be fully incorporated into all of the operational and strategic issues that demand the engagement of the Department's senior-most leadership. The Secretary intends to draw upon my

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leadership and managerial skills, as well as my experience with international and military issues, complex operations and crisis management, knowledge of the Intelligence Community and the interagency process to complement her own experience as a former border state governor deeply immersed in border and immigration issues. If confirmed, I will work extremely closely with the Secretary and other homeland security stakeholders to ensure that priorities are pursued vigorously and that the Department continues to make strategic progress integrating and improving its operations, increasing accountability and effectiveness.

b. How do the skills that you would bring to the leadership team of the Department complement those of Secretary Napolitano?

As the former governor of a border state, Secretary Napolitano is intimately familiar with border security issues and immigration policy. Further, she served as Commander of a state national guard and led Arizona's disaster response efforts. My background and expertise represents over thirty years of direct experience at the intersection of national and international security policy, strategy, and operations. This experience includes leading and managing support to large, expansive field operations and headquarters bureaucracies under both normal and crisis-response circumstances. It has also involved many instances where complex mission achievement required collaborative execution – whether with the governments and militaries of other nations, nongovernmental organizations, local officials and community leaders on the ground, or large, international organizations such as NATO and the African Union.

From understanding the immediacy and practical implications of border control issues in Europe during the Cold War, to leading global support of United Nations Peacekeeping in a post-9/11 world – the second-largest military deployment in the world today – I have developed the skills necessary to take responsibility, lead, and deliver results in the challenging areas of national policy-making and the management of complex field operations in remote, austere, and often dangerous situations. In addition, I have direct experience with the Intelligence Community – in operational, strategic, and policy settings – as well as with the United States military, other nations' militaries, the international diplomatic community, and with governments around the world.

My experience as an officer in the United States Army provided me with a foundation and training in leadership and has given me direct exposure to, and responsibilities for, policy-making at the highest levels of this Government. I have worked closely with a number of United States and international nongovernmental organizations, universities and think tanks – in both policymaking and operational contexts. My experience with these essential partners confirms the depth of value they bring to any endeavor and I would expect, if confirmed, to continue to draw on these communities for their expertise in tackling the complex issues across the homeland security agenda. In addition, I have significant experience with all aspects of grant-making, including recognizing high-impact ideas and projects, striking the right balance among a range of sometimes competing priorities, encouraging and measuring

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effective delivery on the ground, and ensuring accurate and timely accountability of resources.

7. A number of the Homeland Security Presidential Directives (HSPDs) issued by President Bush implement or elaborate on the responsibilities given to the Secretary of Homeland Security under the Homeland Security Act of 2002.

   a. Have you reviewed the existing HSPDs?

   Yes, I have reviewed all of the existing Homeland Security Presidential Directives (HSPDs).

   b. What HSPDs, if any, would you recommend be modified or rescinded?

   As part of my pre-confirmation process, I have received briefings on the upcoming Quadrennial Homeland Security Review (QHSR). I am told that the QHSR will provide the Department with recommendations regarding the long-term strategy and priorities for homeland security and guidance on the Department's programs, assets, capabilities, budget, policies and authorities. If I am confirmed as Deputy Secretary, I will use the outputs of the QHSR and work closely with, Secretary Napolitano and the Department's senior executives to develop and evaluate recommendations, if needed, to modify existing HSPDs.

   c. What additional topics do you believe it would be useful for HSPDs to address?

   Similar to 7(b) (above), if confirmed as Deputy Secretary, I would use the outputs of the QHSR and work closely with Secretary Napolitano, the Department's career senior executives, and colleagues in the Administration to develop and evaluate recommendations regarding topics that might be addressed via additional Homeland Security Presidential Directives.

8. Recent news reports have indicated that the Administration is looking into integrating the activities of the Homeland Security Council into the National Security Council (NSC).

   a. Based on your personal experience on the staff of the NSC, and other relevant experiences, what do you see as the advantages and disadvantages of such a merger?

   My personal experience on the NSC staff under President George H.W. Bush and President William Jefferson Clinton has equipped me with the ability to understand how issues are formulated and developed for presidential decision-making and how to successfully navigate the interagency process.

   Potential benefits of a merger include allowing a single council to view all aspects of national security holistically, including homeland security issues such as border management, immigration policy, and emergency response. It also allows a single council to address together issues such as counterterrorism, WMD, cybersecurity, and biological threats that have both national security and homeland security

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implications. The drawbacks of merger are that homeland security issues other than counterterrorism may get deeply subsumed under more traditional national security issues, such as global engagement, nuclear non-proliferation, regional conflicts, and global crises. Merger would also require the National Security Advisor to master an extremely broad array of subjects, and force substantial attention to creating a manageable span of control across all of the issues in the portfolio.
I am aware of the ongoing review of this issue and, if confirmed, will work hard to ensure that homeland security issues retain the high priority they deserve and demand.

b. Do you have concerns that homeland security issues might not receive sufficient attention within an NSC that is also managing two wars and many other important national security issues?

Based on my understanding, and as noted above, the White House is conducting a study of issues related to a potential merger of the Homeland Security Council (HSC) and the National Security Council (NSC). This study is designed to ensure that all issues receive appropriate focus.

c. If such a merger does occur, what do you believe is necessary to ensure that homeland security requirements are given the appropriate attention, and balanced against national security requirements?

Given the ongoing evaluation of current structures and processes, I believe it is premature to offer a recommendation regarding the Homeland Security Council, the National Security Council, or the White House's homeland security policy development process.

9. In many areas, the responsibilities of the Department of Homeland Security intersect with those of other cabinet departments. The Project on National Security Reform also noted that although HSPD 5 designates the Secretary as the lead federal official for domestic incident management, it "bestows no additional authority on the secretary to execute that mission. Thus DHS may lack the authority to effectively manage the entire federal interagency process of domestic incident management as laid out in the National Response Framework." The Deputy Secretary, as a member of the Deputies Committee of the Homeland Security Council, must play a critical role in resolving such issues of interagency coordination.

a. How do you view the role of DHS vis-à-vis other cabinet departments, and what lessons from your work in the United Nations and the National Security Council can help you establish or maintain effective working relationships with other Departments?

The Department of Homeland Security has unique responsibilities as the lead federal agency for domestic incident management in addition to its unique missions in maritime, border, and aviation security. The Department is also a major stakeholder in many other issue areas requiring collaboration with other parts of the federal

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government as well as State, local, and tribal authorities. As a senior leader of the United Nations, a member of the NSC staff, and as a career officer in the United States Army, I have been responsible for leading multiple actors with different, sometimes competing agendas, in pursuit of a common goal, including under the intense pressure of operations where lives were, at times, at stake. I have experience both leading and being a member of multi-stakeholder teams. I know firsthand – whether on day-to-day issues or in crisis situations – the importance of incorporating the views and inputs of all stakeholders, while at the same time being able to lead, establish priorities, balance tradeoffs, and take ownership of, and responsibility for, decisions.

b. Do you believe that any authorities or interagency organizational structures should be modified to ensure that DHS is able to effectively coordinate interagency operations, such as catastrophic disaster response?

Once the previously-mentioned review of HSC/NSC issues is complete, and if I am confirmed as Deputy Secretary, I pledge to work with Secretary Napolitano and the Administration to ensure DHS is able to execute effectively its responsibilities to coordinate interagency operations. I know that Secretary Napolitano has issued an action directive seeking a review of the current status of incident management and I believe it is premature to offer recommendations or opinions regarding modifications in authorities or organizational structures.

10. What priorities do you believe the Department should focus on, if you are confirmed as Deputy Secretary of Homeland Security? What do you hope to accomplish during your tenure as Deputy Secretary?

As the Secretary has stated, our priorities should be to prevent terrorist attacks on the American people, to prepare and plan for emergencies and natural disasters, and to build strong response and recovery capabilities. At the same time, we must ensure that we strengthen our economy, secure our borders while continuing to be a welcoming Nation, and that we protect individual rights. If confirmed, I would expect to focus on these issues as well as acquisition reform, building strong relationships with state, local, and tribal partners, and building a unified DHS that is better able to achieve its mission.

11. How will your experiences with the U.S. Army, the National Security Council, and the U.N. Department of Peacekeeping Operations influence your leadership approach at the DHS?

From my earliest professional years as a young officer in the United States Army, I was trained to be a leader and to develop a first-hand understanding of how to accomplish any mission while ensuring the welfare of the people performing that mission. That training and experience helped me develop the necessary skills to listen effectively and act decisively. I accept responsibility and believe that it is possible to have accountable, transparent, and open leadership without sacrificing authority or mission success. I have learned to take the time to understand what it takes to get something done right the first time, whether from the perspective of the front-line operator or the highest level decision-

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maker. I take the responsibility of leadership seriously and personally. If I am confirmed, I will bring that sense of responsibility to the senior-most leadership of the Department.

12. Pursuant to a recently issued Executive Order on the closure of the detention facilities at Guantanamo Bay, Cuba, the Department of Homeland Security will be involved in the review of the status of every detainee as well as considering the legal, logistical, and security issues related to the transfer and prosecution of detainees held there. Based on your international experience, what do you see as the key issues in this review? What expertise do you think that the Department can contribute to this review?

As the President's January 22, 2009, Executive Orders indicate, decisions will involve careful consideration of national security, foreign policy, and human rights interests. As part of the interagency process, DHS can bring to bear its expertise in a variety of fields, including immigration and border security, applicable law, and intelligence assessments.

13. What experience do you have that is in or relevant to emergency management?

As the senior United Nations official responsible for leading support to field-based peace operations in some of the most austere, remote, and challenging places in the world, I am intimately familiar with the dynamic of rapidly unfolding crisis and the need to respond quickly, decisively, and correctly in emergency settings. I understand the premium that must be placed on preparedness, training, information sharing, resource mobilization, and accountability. Specifically, my experience in emergency management includes managing the support response to massacres of personnel in remote regions, leading evacuation efforts involving multiple governmental and nongovernmental actors (including evacuations in Cote d'Ivoire and Lebanon), supervising peacekeeping support assistance to complex humanitarian situations (at times involving the displacement and migration of thousands of persons across multiple national borders), ensuring headquarters' support to field based operations' preparation for and response to natural disasters (e.g., hurricanes in Haiti), hostage situations, and preparing for and responding to unforeseen movements of sensitive persons.

In addition, I have experience assembling rapid-response personnel, communications, logistics, and procurement teams for immediate deployment in crisis and establishing capabilities to provide surge capacity for mission operations. I supervised multiple deployments to environments as difficult and diverse as Afghanistan, Timor, Nepal, Sudan, Congo, Haiti, Lebanon (where United Nations ferries were among the first to successfully evacuate nonessential personnel and family members). I also led the development of strategic innovations to ensure rapid-response logistical capacities, enabling the United Nations to rapidly establish field mission headquarters and sub-headquarters offices in emergencies and crisis zones, including rapid-deployment of communications systems to difficult environments such as Darfur, Liberia, and Sierra Leone, among others.

14. What experience do you have working with officials of state, local, and tribal governments on homeland security? On other issues?

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I have extensive international experience working with governments and officials at all levels – from heads-of-state to governors of provinces, from local religious leaders to tribal chiefs and camp elders. This experience spans all operational environments, from peace and stability to times of war and crisis, and has run the gamut from safe access to water to creating business opportunities for local enterprise and working with law enforcement officials from around the world to ensure public safety. If confirmed, my experience in working with diverse governmental authorities of all kinds will compliment Secretary Napolitano's vast experience working with domestic government officials across a range of issues.

15. What experience do you have in developing or implementing counterterrorism policy?

Having led and managed support to field operations located in some of the most dangerous places in the world, including Sudan, the Middle East, Iraq and Afghanistan, I am deeply familiar with the threat posed by terrorists and the challenges inherent in protecting against their strike. At the United Nations, I worked closely with senior colleagues to ensure that appropriate information was shared in timely ways and that standards were established and adhered to regarding the safety and security of personnel, facilities, and operations in mission environments. I also participated in extensive policy discussions and deliberations regarding the risks to civilian and military personnel and in developing strategies to prevent and mitigate those risks. In addition, while serving on the NSC staff, I was involved in facilitating presidential decision-making on United States' relations with a number of countries where terrorists were known to operate.

III. Policy Questions

Integration and Management of the Department

16. The front-line agencies of DHS, including Customs and Border Protection (CBP), the Coast Guard, the Federal Emergency Management Agency (FEMA), and the Transportation Security Administration (TSA), face significant operational challenges every day in operational functions such as logistics, personnel management, and financial management. The U.N. Department of Peacekeeping Operations (DPKO) faces similar operational challenges in its management and coordination of deployed forces around the world. What lessons related to the operational responsibilities of the DPKO will inform your work on operational issues at the Department?

During my tenure with United Nations Peacekeeping, I managed, led, and provided strategic direction to United Nations Peacekeeping support operations (including human resources, finance and budget, communications, information technology, logistics, supply, air operations, and transportation), overseeing 442 staff at United Nations Headquarters and over 15,000 personnel across 32 field-based missions supporting over 120,000 peacekeepers in the field – representing the second largest deployed military operation in the world. United Nations Peacekeeping forces are themselves comprised of troops and police from around the world, each with different cultures, traditions,

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training, and operational doctrines. Additionally, United Nations peace operations are deployed in nearly three dozen distinct geographical locations around the world and often operate side-by-side with diverse missions from other nongovernmental and intergovernmental organizations (including the African Union and European Union).

Leading in this context—as at the Department of Homeland Security—demands that systems be put in place to establish and maintain a common operating picture understood by multiple actors from diverse backgrounds and institutional cultures in order to create a common purpose. At the United Nations, given the diversity of my staff and the diversity of their experience, I am practiced in creating shared operating pictures and priorities. The United Nations is a large, complex, and often slow bureaucracy. My leadership of peace operations has honed my ability to wrestle with the complexities inherent in coordinating vast, varied, and divergent operational practices and perspectives into a coherent system that is efficient and effective. If confirmed, I am confident that this experience will be instrumental to creating a common culture and sense of shared mission at the Department. At the same time, however, it is important to show knowledge of, and respect for, the traditions and special contributions each component brings to the mission. However, there is no substitute for accountable leadership that can present a clear vision, devise achievable plans, and establish a coherent managerial grip as the demands on an organization grow and evolve.

17. One of the daunting challenges that DHS faced at its inception was the integration of some 22 agencies and almost 200,000 people into a single, new, cohesive Department. Five years later, DHS has made progress with the integration of its component agencies and its workforce, but much more must be done. If confirmed as Deputy Secretary, what specific steps would you take to improve the integration and cohesiveness of the Department, promote a common culture at DHS, and ensure that component agencies are working together toward common goals?

If confirmed, working with Secretary Napolitano, we will lead efforts to foster a unified mission, culture, and purpose at the Department. As a first step, if confirmed, I would bring together the leadership of the Department's components to craft strategies for coming together to create a 'one DHS' identity that acknowledges and respects the individual cultures, legacies, and contributions of each respective component.

18. The nation faces a wide range of potential threats and events and DHS has finite resources to address them.

    a. What principles will guide your decision making regarding the use of risk-analysis and risk-based resource allocation to set priorities within the Department?

    Risk must be appropriately defined to account for the variation of threats posed. Consistent with standard risk-based analysis, I would expect the Department to evaluate the nature of relevant threats across the range of issues under its responsibilities, the likelihood of these threats being activated, and the consequences potentially emerging. The best threat analysis, in my view, result from inclusive processes and careful, deliberate planning.

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b. The threats facing the nation vary from higher consequence/lower probability events to lower consequence/higher probability events. How will you prioritize within this range of threats and balance the DHS investment in protecting against and responding to them? How will you determine if some threats or events require enhanced emphasis and investment or have already received sufficient focus?

I understand that various threat assessment mechanisms already exist, including the Homeland Security Threat Assessment, to help the Department assess the nature and likelihood of potential threats. The challenge will be to understand the levels of preparedness and capabilities that exist in view of these assessments, and to encourage efforts to strengthen planning and target investments to fill any critical gaps that exist.

19. The Department's headquarters are currently spread throughout 70 buildings and 40 sites across the National Capital Region, making communication, coordination, and cooperation among DHS components a significant challenge. To address this problem, DHS plans to begin consolidating the majority of these offices at the St. Elizabeths Hospital Campus in Washington, DC in 2009.

a. Do you believe consolidating the headquarters of the Department is integral to addressing the integration and management challenges the Department currently faces?

Yes. The DHS mission is to lead a unified national effort to secure America requires an integrated approach by and among all of the Department components. It is vital to address the physical barriers to integration represented in the wide dispersion of DHS components throughout the National Capital Region and to align Department facilities to support effective mission execution. I understand that it is the view of many in the Department, and indeed more broadly in the federal government, that the Department's current scattered footprint adversely impacts efficiency and effectiveness on a daily basis. Additionally, during times of crisis, these physical barriers constrain effective communications, operational integration and management.

b. DHS received $98 million for the headquarters project in the FY09 appropriations bill and the General Services Administration (GSA) will likely receive $346 million in the FY09 omnibus appropriations bill. Additionally, the American Recovery and Reinvestment Act (P.L. 111-5) contains $650 million to expedite the construction of the Department's headquarters. Do you commit to utilize this funding to move forward, in coordination with GSA, with the DHS headquarters project in a timely manner?

Yes. The Department is extremely grateful for Congress' support of the St. Elizabeths Headquarters consolidation project in the FY 2009 appropriation and in the American Recovery and Reinvestment Act of 2009. If confirmed, I am committed to working with General Services Administration (GSA), Congress and the District of

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Columbia Government to build a comprehensive plan that we can successfully execute. I will also work with all stakeholders to identify opportunities to expedite infrastructure development. With your continued support for the DHS Consolidated Headquarters at St. Elizabeths and consolidation of all our National Capital Region facilities, DHS will move forward to complete these critical projects as quickly as possible.

20. Section 2401 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (the 9/11 Commission Recommendations Act) (P.L. 110-53) established the Quadrennial Homeland Security Review (QHSR), and requires the Department to complete the first QHSR by no later than December 1, 2009. This review is intended to help focus the new Administration's strategic intent with respect to homeland security, and ensure that strategies are clearly linked to plans, mission requirements, and budgeting activities.

    a. What role do you anticipate that you would play as Deputy Secretary in the QHSR process?

    If I am confirmed, I anticipate playing a significant role in the oversight of the Quadrennial Homeland Security Review. I will provide oversight and guidance to the Office of Policy as that office manages the overall review effort. I will serve as an advisor to the Secretary on QHSR related issues and decisions, and will represent her as necessary on QHSR oversight bodies.

    b. What specific homeland security issues do you believe require a close and careful examination in the context of the QHSR?

    I believe the QHSR should focus on three broad areas: (1) achieving greater clarity on the homeland security missions, thereby ensuring a common sense of purpose across the distributed and decentralized homeland security enterprise; (2) identifying the principal strategic outcomes across the homeland security enterprise for these missions; and (3) ensuring we have the right tools in place to achieve these outcomes, including processes to assess risk, build capabilities, conduct planning at a national level, and plan, program, budget, and execute effectively within the Department of Homeland Security.

21. The DHS Chief Information Officer's (CIO) annual budget exceeds $5 billion for its IT programs. A recent DHS Inspector General report highlighted a number of areas of continuing concern, such as staffing shortages, inconsistent component level IT budgetary practices, and a lack of management capability to include the new authorities.

    a. As Deputy Secretary of DHS, how would you see the role of the DHS CIO?

    As the Secretary has emphasized, the Chief Information Officer (CIO) is a key member of the Secretary's Executive Management Team. The role of the CIO is to ensure the Department's information technology systems are effective, efficient, and not duplicative across the Department. The CIO must work collaboratively with all

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the DHS Components to ensure IT services are transparent and effectively aligned to and fully support the DHS mission functions. IT solutions for DHS' missions are complex. There is a need for increased information sharing, both within and external to DHS. This need to make information accessible is complicated by the need for protecting the security of electronic information and the protection of privacy and civil rights. DHS must be agile and action-oriented, while simultaneously pursuing the disciplines of IT budgeting, IT governance, enterprise architecture, risk management, and following sound acquisition practices.

b. How will you ensure that the CIO has sufficient resources to adequately manage the Department's IT infrastructure?

If confirmed, I will emphasize the need to align the DHS mission and IT strategic planning and decision processes so as to ensure that IT service levels are properly scaled to DHS mission requirements. I would also review the IT infrastructure, application services, and required personnel resources as part of the annual planning and budgeting process to ensure that the right level of IT services are provided effectively and efficiently. Through a collaborative relationship between the Chief Information Officer, the Chief Financial Officer, and the Chief Procurement Officer, the Department will be able to ensure that its information technology infrastructure is successfully managed and adequately funded with the right acquisition vehicles in place to achieve the Department's target enterprise architecture.

22. The Department of Homeland Security either has committed or plans to commit itself to major information technology investments which total more than a billion dollars, including U.S. Customs and Immigration Service's (USCIS) business transformation project and the department-wide financial information technology consolidation. USCIS is making efforts to streamline and modernize how it conducts business and interacts with the public. In past reports, the Government Accountability Office (GAO) has found that USCIS's efforts "have been unfocused, conducted in an ad hoc and decentralized manner, and, in certain instances, duplicative.[1]" In 2008, USCIS announced the awarding of the contract to modernize its case-management system to IBM. This five-year, $500 million contract is the cornerstone of USCIS's business transformation project. Additionally, the Department is in the process of entering into a procurement to conduct its Transformation and System Consolidation (TASC) initiative, which is intended to migrate and consolidate the financial systems of all of its components so they are all operating on common platforms using commercially available software. The Department previously attempted this same mission through the eMerge2 project, spending about $52 million before cancelling the project due to a lack of adequate planning and progress.

a. If confirmed, will you make these, and other major information technology investments, a priority for the Department?

[1] U.S. Government Accountability Office. "USCIS Transformation: Improvements to Performance, Human Capital, and Information Technology Management Needed as Modernization Proceeds," pg. 2 (July 17, 2008). http://www.gao.gov/new.items/d071013r.pdf

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If I am confirmed, I will support making these and other IT infrastructure investments, such as cyber security, priority IT investments. If confirmed, I will also work to ensure transparency and effectiveness of all major programs and projects.

b. How will you oversee, this, and all of the Department's major information technology investments? What do you see as the Deputy's role? The components?

If confirmed, I would support the Secretary utilizing the Acquisition Review Process to ensure acquisitions are carefully scrutinized and approved to proceed throughout a program's life. Components will form an essential part of these reviews.

The Department needs to leverage functioning and effective IT systems from one component to others. This requires collaboration, openness, and requires that the components regularly report the status of their program execution. While I understand that it is the components' responsibility to effectively execute their programs and projects to meet cost, schedule, and performance criteria, if confirmed, I will require regular reporting to me on progress.

c. What steps will you take to ensure that requirements for major information technology investments are set early in the procurement process and that procurement contracts are fixed price to the maximum extent practicable?

If confirmed, I will support the Secretary by integrating the Department's requirements and program planning, budgeting, and acquisition processes so that IT is proactively planned and budgeted and not left as an afterthought. In my view, this forward looking approach is necessary because most programs, irrespective of their substantive nature, contain some, often critical elements, of information technology. Furthermore, if confirmed, I will work to strengthen training of contracting officers.

d. What steps will you take to ensure that these initiatives stay on-time, on-budget, and achieve the planned objectives.

In order to assure timeliness of performance, cost effectiveness, and accountability, information technology requirements must be well-defined before projects begin and any new requirements for existing programs must be closely reviewed, with established funding clarified, prior to execution. If confirmed, I will work with the Department's senior leadership to track programs and identify and mitigate potential issues before they become crises.

23. The DHS Office of International Affairs (OIA) played a role primarily in terms of liaison and travel support for its first several years of existence. In the last 2-3 years, its staff has begun to grow, but it still faces significant challenges in its ability to oversee and coordinate the international activities of the Department. In 2008, the DHS Inspector General issued a report that was critical of the Department's management and coordination of its international personnel and activities, and made numerous recommendations to address its concerns.

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a. Given your foreign policy experience, what role do you expect that you will play as Deputy Secretary in relation to OIA and to the international activities of the Department?

If confirmed, I look forward to drawing upon my international policy, strategy, and managerial experience to work with the Secretary to devise strategies that appropriately address the international profile, role, and needs of operations of the Department of Homeland Security.

b. What do you believe the priorities of the Department should be in its engagement with foreign governments and international organizations?

The Department must remain focused on constructing partnerships and effective collaborations with other governments, multilateral organizations, the private sector, and other stakeholders to enhance our shared security. This will take the form of collaborative risk assessments, shared protocols to mitigate threats, interoperable systems for response and mutual capacity-building.

c. Do you believe that the Department has sufficient authority in the area of international training and technical assistance?

I understand that the Department's expertise is in significant demand worldwide. International training and technical assistance is critical to achieving the DHS mandate to strengthen capabilities to mitigate risks and address threats

24. In 2007, the Bush Administration announced the Merida Initiative, a 3-year, $1.6 billion foreign assistance package for international counter-drug and judicial-system-building programs with Mexico and Central American countries. Although the Administration designated the State Department as the lead federal agency, a majority of program responsibilities were assigned to DHS and the Department of Justice (DOJ). In fact, initial program funding allocations show that DHS will be responsible for overseeing the spending of the greatest amount of money under the initiative. As this Committee investigated the Merida Initiative's planning and development, a number of concerns arose: (1) program experts within DHS and DOJ were being left out of the initial planning, (2) the State Department had not made provisions to backfill positions of employees who would be sent to work with officials of the foreign governments, which is critical in order to avoid taxing DHS's limited domestic program resources, and (3) there were no program metrics by which to evaluate the initiative's success.

a. What will you do as Deputy Secretary to ensure that these concerns are addressed and that DHS components are not only successful, but also equal partners in the Merida Initiative?

The Merida Initiative and other tactics to address the drug cartel violence encroaching upon our southern border offer a strong illustration of the complimentary leadership experiences that Secretary Napolitano and I, if confirmed, would bring to DHS. Secretary Napolitano brings firsthand knowledge and

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enforcement experience from the southwest border as the former Governor of Arizona and United States Attorney. My extensive experience in the military, on the NSC staff, and with Peacekeeping, conflict-prevention, and conflict-resolution at the United Nations links domestic, international, and interagency elements that are all essential to implementing Merida and protecting the United States. If confirmed, I will work closely with the Secretary on Merida and the violence on the southern border.

If confirmed, I would be committed to working closely with all stakeholders, including the Department of State, Department of Justice, and appropriate regional authorities, in order to effectively implement the initiative.

b. Some people have suggested that DHS ought to "own" Merida. Do you agree? Could you explain what DHS ownership of Merida might entail?

DHS plays a critical role in Merida. Its authorities must match its responsibilities on the initiative. If I am confirmed, I will work closely with Secretary Napolitano and all stakeholders to ensure that we remain focused on achieving the objectives of the Merida Initiative.

c. Do you believe the Department has sufficient information to make decisions about the resources it will need to ensure that it is able to fulfill its role in Merida without affecting its other operations or programs?

As noted above, I believe that DHS equities must be fully represented in the Merida Initiative, and that ensuring representation of DHS equities will benefit the ultimate effectiveness of the program. If confirmed, I look forward to working with the Secretary and other stakeholders to determine the best distribution of responsibilities in order to ensure successful implementation of the Merida initiative.

25. President Bush issued Executive Order 13434 on National Security Professional Development (NSPD) in May 2007, and issued a strategy and implementation plan pursuant to the Executive Order which establish a roadmap for strengthening the national security workforce. The Project on National Security Reform and the Commission on the Prevention of WMD both issued reports in December 2008 highlighting the importance of building a 21st national security workforce by investing in training and education programs and by establishing joint duty programs.

a. What is your assessment of past efforts?

It is essential that the U.S. government develop and maintain a cadre of national security professionals with a global outlook and a wide breadth of experience. The National Security Professional Development program initiated under the previous Administration is a start towards this goal. A number of DHS Senior Executive Service employees have been designated "National Security Professionals" and have begun participating in the program. I understand that there is a broadly held view, however, that much work remains to be done.

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b. What steps will you take to continue to strengthen the national security workforce at DHS?

If confirmed, I will work with the Administration's National Security Professional Development Integration Office and the DHS Chief Learning Officer to continue and expand DHS's involvement in this program.

Federal Emergency Management Agency

26. In the wake of the failed response to Hurricane Katrina, the Committee conducted a far-reaching investigation and issued a resulting report entitled, "Hurricane Katrina: A Nation Still Unprepared." In its investigation, the Committee found that FEMA was unprepared – and never had been prepared – for a catastrophic event. In addition to a lack of basic capabilities and resources at FEMA, the Committee found other key failures by the Department as a whole and its leadership, such as a failure to timely employ the substantial resources of the components of DHS, the lack of effective communication between the then-Secretary of Homeland Security and the then-Director of FEMA, and the lack of situational awareness, both at FEMA and DHS. The Committee recommended replacing FEMA with a new, stronger, more robust federal preparedness and response agency. In September 2006, Congress passed the Post-Katrina Emergency Management Reform Act of 2006 ("the Post-Katrina Act") to do just that.

The Post-Katrina Act, which implemented many of the recommendations from the Committee's investigation, created a new FEMA – with responsibilities, missions, capabilities, and resources far exceeding those of FEMA at the time of Hurricane Katrina. The Post-Katrina Act also requires the President to appoint a qualified individual as FEMA Administrator, clarifies that the FEMA Administrator shall serve as the President's and Homeland Security Secretary's principal advisor on emergency management issues, elevates the FEMA Administrator to the level of Deputy Secretary of the Department, permits the President to elevate the FEMA Administrator to cabinet level status during disasters, and preserves FEMA as a distinct entity within the Department.

In testimony before the Committee in April 2008, DHS Inspector General (IG) Richard Skinner concluded that FEMA was better prepared for a catastrophe now than it was in 2005, and found that in the nine areas reviewed by the IG's Office, FEMA had made moderate progress in five areas, modest progress in three areas, and limited progress in only one area. Indeed, a recent report issued by the IG in February noted that the Post-Katrina Act corrected many shortcomings at FEMA, and recommended that FEMA should continue to be strengthened as envisioned by the Post-Katrina Act rather than be separated from DHS. Additionally, in a report released on December 8, 2008, GAO similarly found that DHS and FEMA had taken action to implement many of the Post-Katrina Act's requirements, but that there was still significant work to be done in a number of areas.

If confirmed, what will you do to ensure the new, enhanced FEMA, as envisioned by the Post-Katrina Act, continues to be strengthened?

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The Post-Katrina Emergency Management Reform Act (PKEMRA) and other Congressional initiatives provide DHS and FEMA with a valuable roadmap and resources to ensure FEMA's ongoing success. Based on briefings I have received, I understand that DHS is making progress improving both FEMA's and the nation's preparedness. FEMA is the federal agency at the heart of our nation's ability to prepare for, respond to, and recover from disasters and emergencies. It is thus not only important but imperative that DHS and FEMA continue to improve upon its collective performance and its capabilities to prepare for, respond to, and recover from all hazards events.

I share Secretary Napolitano's commitment to strengthening FEMA further, and if confirmed as Deputy Secretary, I pledge to focus intently on this issue.

27. In passing the Post-Katrina Act, Congress decided to strengthen FEMA within the Department of Homeland Security rather than remove it from the Department. The Post-Katrina Act recognizes that the kinds of catastrophic disasters for which the nation must prepare require resources far beyond what FEMA can effectively marshal standing alone, and the federal preparations for and response to Hurricanes Ike and Gustav earlier this year suggests that the Post-Katrina Act's goal of giving FEMA the tools to be able to effectively coordinate DHS's substantial assets has been met: in Ike and Gustav, the new FEMA successfully drew on resources from other components of the Department, such as the U.S. Coast Guard, USCIS, and CBP, to support its response. The coordination in Hurricanes Ike and Gustav stands in sharp contrast to the response to Hurricane Katrina in which the Department's considerable law enforcement and communications assets went largely unused in the days leading up to and immediately following landfall.

In addition to the expanded resources that DHS contributes to FEMA's response capabilities, FEMA is an essential part of DHS. Through its new grants authority and preparedness activities as well as through its newly strengthened regional offices, FEMA serves as one of the principal conduits through which the Department interacts with state and local officials. Most significantly, of course, FEMA houses most of the Department's response capabilities, which are integral to the mission of the Department. A recent report issued by the IG recommended that FEMA should stay within DHS. When President Obama introduced Secretary Napolitano on December 1, 2008, he noted that she "underst[ood] the need for a Department of Homeland Security that has the capacity to help prevent terrorist attacks and respond to catastrophe be it manmade or natural."

Can you elaborate on this issue, particularly in light of the fact that some have called for FEMA to be removed from DHS?

The placement of FEMA within the Executive Branch has generated considerable discussion, and I recognize the salient arguments on both sides of the issue. At present, a final position on the issue has not been announced. Of greatest importance to me is that FEMA is properly resourced and adequately staffed by professionals who can execute its preparedness, response, and recovery responsibilities in an all-hazards environment.

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As Secretary Napolitano has said, the collective effectiveness of FEMA and DHS are more closely tied to focused leadership, clear roles and responsibilities, and synergies between emergency management and other aspects of homeland security than they are to organizational charts. If I am confirmed as Deputy Secretary, I will be committed to working with the Secretary, the Administration, and FEMA's senior executives to ensure such qualities are reflected in FEMA's performance before, during, and after both natural and man-made disasters.

28. The Committee's report into the failed response to Hurricane Katrina found that FEMA lacked the resources needed to accomplish its mission and that resource shortages contributed to FEMA's failures in responding to Katrina. For the past two fiscal years, the Bush Administration asked for increases in FEMA's budget, but some believe FEMA's budget is still not adequate to accomplish its mission. Do you believe there is a need for additional increases to FEMA's budget? If so, please identify where such increases should be made.

If confirmed, I expect to be heavily engaged in evaluating FEMA's operational and fiscal requirements. As noted above, I am committed to a properly resourced, adequately staffed FEMA. At the same time, it is important to align FEMA's strategic objectives with its fiscal requirements. If confirmed, I will work with Secretary Napolitano and FEMA's senior executives to create and maintain such alignment.

29. Although Hurricane Katrina made landfall over three years ago, the recovery and rebuilding process is far from complete and much work remains to be done.

    a. What is your vision of the role of the federal government in the recovery and rebuilding process in the Gulf Coast and what should the Obama Administration do to support those recovery and rebuilding efforts?

    I believe recent actions by the Obama Administration, and Secretaries Napolitano and Donovan in particular, have made clear the federal government's renewed commitment to supporting the Gulf Coast recovery. By sending two Cabinet Secretaries to the Gulf Coast, providing transitional rental subsidies for an additional six-months, extending the Office of the Federal Coordinator for Gulf Coast Recovery, and committing additional funds for ongoing recovery, the Administration and DHS have demonstrated their strong support for recovery and rebuilding efforts. I agree with this support and, if confirmed, will work with the affected state and local governments, non-governmental organizations, and the private sector to ensure that the recovery and rebuilding process continues in the Gulf Coast.

    b. In your view, what can be done to improve the ability of FEMA and DHS to provide more effective assistance with recovery efforts if and when future catastrophes occur?

    As this Committee knows, disaster recovery is a continually improving process. FEMA and DHS play an important role in coordinating Federal departments and

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agencies in support of State and local governments. Based on the briefings I have received, I understand that FEMA has developed a concept paper addressing future improvements to the disaster recovery process. Along those lines, FEMA and the state government will jointly establish the Unified Public Assistance Project Decision Team to make the final necessary decisions for approving project scopes of eligible work and costs of disputed projects. FEMA and the State will also establish a Joint FEMA/State Expediting Team to work through version request packages received from local public assistance applicants. This team will consist of technical and policy experts from FEMA and Louisiana's Governors Office of Homeland Security and Emergency Preparedness.

If confirmed, I look forward to reviewing the work that FEMA has done in this area, and to working with my colleagues in the Administration and at DHS, as well as the Department's state, local, tribal, and non-governmental, partners to explore how best to enhance future disaster recovery activities.

30. Providing long-term disaster housing for victims of Hurricanes Katrina and Rita has been difficult. What thoughts do you have on how the federal government should provide long-term disaster housing to disaster victims? What do you believe the role of the Department of Housing and Urban Development should be in providing long-term housing to disaster victims?

As the Secretary reaffirmed in her recent trip to the Gulf Coast, DHS's commitment to the Gulf Coast remains unwavering. There are a number of federal departments and agencies, including the Department of Housing and Urban Development (HUD), that have authorities to support disaster-housing efforts when the recovery is beyond the resources of local and state governments. HUD is the federal expert on providing permanent housing assistance for low-income families and thus is uniquely positioned to assist those affected by a disaster. HUD is a partner with DHS/FEMA in meeting the housing needs of disaster victims. HUD is also a partner to FEMA in the development of the recent National Disaster Housing Strategy. If confirmed, I will work with the Secretary, the FEMA Administrator, the Secretary of Housing and Urban Development, and state, local, and tribal stakeholders to determine the right roles for DHS and HUD in providing long-term housing to disaster victims.

31. In the wake of Hurricane Katrina, the Committee found that in FEMA's rush to meet the needs of thousands of victims, FEMA often failed to implement or follow basic measures to prevent fraud, waste and abuse. To fix these failures, Congress included several measures in the Post-Katrina Act to control waste, fraud, and abuse, which FEMA is implementing. How will you ensure that FEMA is able to lean forward and meet the needs of victims overwhelmed by disasters while also maintaining appropriate controls to prevent fraud, waste and abuse of taxpayer dollars?

As your question acknowledges, FEMA's traditional system of controls for waste, fraud and abuse was not up to the challenge of disasters on the magnitude of Hurricanes Katrina and Rita. The rush to meet the needs of disaster victims will always be present in any disaster, especially those the size of Hurricanes Katrina and Rita, and FEMA

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must anticipate this in designing its systems. As has been described to me by FEMA leadership, FEMA identified many shortcomings in its system of controls as a result of those disasters, and FEMA has already begun evaluating and strengthening controls pertaining to identity, residence type, and cross-disaster applicant checking. I understand that more work needs to be done, and if confirmed, I will work with the Secretary and the FEMA Administrator to continue strengthening FEMA's disaster assistance processes and systems to protect against fraud, waste, and abuse while providing the level of service disaster victims should be able to expect.

Planning

32. This Committee has repeatedly identified interagency planning for catastrophic incidents – including, for example, a nuclear or bioterrorism event – as a critical gap in preparedness. The U.S. cannot afford additional delay in this planning. In Annex I to HSPD 8 the previous Administration established "a standard and comprehensive approach to national planning," and in so doing required DHS to lead the federal effort to develop strategic and concept plans in support of the National Planning Scenarios, which will serve as the basis for operations and tactical plans specific to each Federal agency with homeland security responsibilities. The Office of Operations Coordination at DHS has been leading interagency planning efforts at the strategic level for the National Planning Scenarios thus far, and in accordance with HSPD 8 Annex I, developed the Integrated Planning System (IPS) as a common process for the plans. However, the IPS was not approved by the agencies and signed by the President until January 14, 2008 – almost one year beyond the deadline set by HSPD 8 Annex I, and as a result, there are not yet a complete set of plans for any of the 15 scenarios.

    a. If confirmed as Deputy Secretary, what will you do to ensure that comprehensive interagency plans are developed and implemented with the necessary urgency?

    Planning is essential to preparedness and effective coordination during an incident. If confirmed, I will work with the leadership of the Office of Operations Coordination and Planning (OPS), as well as the FEMA Administrator, to determine what barriers exist to efficient and effective completion of interagency plans. I will also work with OPS and FEMA to make sure that the Department's planning efforts are part of an effective overall preparedness system.

    b. Does DHS have the necessary authority and resources to hold other departments and agencies to strict timetables, and to achieve the necessary level of cooperation in assembling comprehensive plans for the 15 scenarios? Are any additional authorities or resources required to enable DHS to achieve the necessary level of cooperation by other Federal agencies?

    Homeland Security Presidential Directive 8 gives the Secretary the authority to lead national preparedness activities, and Annex I to that directive gives the Secretary the authority to lead national planning efforts. Leadership of federal departments and agencies with a role in homeland security approved the charter of the Incident Management Planning Team, which has responsibility for developing

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Strategic Guidance Statements and Strategic Plans under the Integrated Planning System. If confirmed, I will work with the Secretary and the leadership of OPS and FEMA to determine whether additional authorities or resources are required to ensure interagency cooperation with homeland security planning activities. If confirmed, I will also work to ensure that federal departments and agencies commit sufficient resources both to plan and to meet their obligations under interagency plans.

c. What do you believe is the most effective and efficient means of resolving policy disputes that arise in the planning process so that comprehensive plans may be developed without unnecessary delay?

The Domestic Readiness Group, an interagency policy committee administered by the Homeland Security Council and chartered by federal departments and agencies with a role in homeland security, currently serves as the venue for resolving policy disputes that arise in the planning process. If confirmed, I will ensure that DHS utilizes this interagency forum in the most efficient and effective manner to resolve policy disputes that arise in the planning process in an expeditious manner. I will also ensure that regardless of the White House's ultimate organizational structure for counterterrorism and homeland security, DHS will have an interagency forum for resolving policy disputes arising out of the planning process.

33. Preparation for man-made and natural disasters -- and in particular, catastrophic disasters – requires planning at the federal, state, and local levels, and further requires coordination and alignment among those plans. However, DHS's 2006 Nationwide Plan Review, which surveyed state and local plans for responding to catastrophic incidents, found substantial deficiencies in state and local planning, concluding that "the current status of plans and planning gives grounds for significant national concern." FEMA, together with the Department of Defense (DoD), has initiated a pilot project in five states, which would provide planning support to states and assist in linking federal and state incident management plans.

a. What will you do to provide education, training, and other support to states and urban areas to enable them to address these inadequacies with the necessary urgency, and to ensure coordination among federal, state, and local plans? What will you do to assess the efficacy of the FEMA pilot project and to ensure that all states are equipped with the necessary contingency plans?

The National Preparedness Guidelines recognize state and local planning capability as a cornerstone of preparedness. From what I have learned, the Task Force for Emergency Readiness (TFER) pilot project is one of several efforts DHS is evaluating to assist states and urban areas to enhance their planning capabilities. If confirmed as Deputy Secretary, I will continue efforts to evaluate projects such as TFER that are aimed at increasing state and local planning capability. I will also work with the Secretary and the FEMA Administrator to ensure that states and local governments have the tools they need to conduct effective planning.

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b. Because the federal response to a catastrophic disaster, though potentially substantial, will in most cases be provided in support of state and local governments, it is critical that state and local plans be considered in federal planning efforts. The Integrated Planning System (IPS) states that "State, local, and Tribal governments are encouraged to comply with IPS by using the Comprehensive Planning Guide (CPG) 101."

i. How will DHS ensure that plans developed under two different frameworks – IPS at the federal level, and CPG at the state and local level – are synchronized, and can be implemented seamlessly in response to an incident?

As I have learned, the Integrated Planning System (IPS) is designed to provide a uniform federal planning process to address key significant scenarios that could be catastrophic in nature, and CPG 101 is designed to provide state and local governments with the planning tools they need to address the hazards they face. While no single planning process is likely to serve all levels of government with the varied levels of resources, capabilities and risks they all face, there is always a challenge inherent in synchronizing plans developed under different planning systems. If confirmed, I will work with the Secretary and the FEMA Administrator to ensure that plans developed under both IPS and CPG 101 are synchronized and harmonized, and will result in effective incident management operations.

ii. How will state and local plans be incorporated into federal strategic, concept, and operations plans for the National Planning Scenarios?

It is DHS's responsibility to ensure that federal strategic, concept, and operations plans synchronize with state and local plans. FEMA's regional offices, working closely with the other components of DHS and other federal departments and agencies with a role in homeland security, play a key role in coordinating federal planning with state, local, and tribal planning.

34. In the event of a catastrophic incident, DoD will play a critical role in supporting the national response. However, this past year, the Commission on the National Guard and Reserves criticized DHS for failing to inform DoD of which capabilities it will be expected to provide in response to catastrophic incidents, such as the National Planning Scenarios. It recommended that DHS "generate civil support requirements, which the Department of Defense will be responsible for validating as appropriate," and that DoD then use these requirements as a basis for its programming and budgeting. DoD has recently established a force of over 4500 troops to be dedicated for chemical, biological, radiological, nuclear, and high-yield explosives (CBRNE) consequence management, together with existing units in the National Guard, but a catastrophic incident would likely require many more transportation, logistics, medical, and search and rescue capabilities. Yet HSPD 5 permits the Secretary of Defense to determine that maintaining military readiness is a higher priority than the immediate needs of a domestic catastrophe. This language has led to uncertainty over the lines of authority in a response, and has impeded effective interagency planning.

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a. What do you believe is the appropriate relationship between DHS and DoD with regards to planning for and executing incident management operations in the homeland, and as Deputy Secretary of Homeland Security, what would you do to ensure clear lines of authority in response to a catastrophic incident?

Homeland Security Presidential Directive 5 gives the Secretary of Homeland Security lead responsibility for domestic incident management, and Homeland Security Presidential Directive 8 and its Annex I give the Secretary lead responsibility for national preparedness and planning, respectively. As such, I believe the current relationship between DHS and DoD, in which DoD provides civil support to DHS and federal civilian departments and agencies in the event of domestic incident management activities, is appropriate. DoD has assigned a Defense Coordinating Officer to each FEMA region and has exercised establishing Joint Task Forces in support of federal civilian incident management activities. If confirmed as Deputy Secretary, I will work with the Secretary, the Director of Operations Coordination and Planning, and the FEMA Administrator to ensure that the relationship between DHS and DoD is calibrated to provide the optimal assistance to states and local governments and the American people.

b. What actions will you take to assess and convey requirements for civil support capabilities to the DoD, both within the National Guard and the Active Duty forces?

Current DHS planning and preparedness activities are meant to help define needed capabilities for domestic incident management. The Quadrennial Homeland Security Review will examine how DHS identifies, defines, and assesses needed homeland security capabilities. Through defining needed homeland security capabilities and assessing current capabilities, DHS can identify shortfalls and convey requirements to DoD for civil support capabilities. If confirmed, I will work to ensure that integrated planning as well as exercises and analysis inform the identification and validation of civil support requirements, and enhance the ability of DHS and DoD to execute coordinated disaster response efforts.

c. What do you believe is the most appropriate process for ensuring that these requirements are transformed into actual capabilities that can be delivered in a response?

Turning requirements into capabilities requires investment as well as planning, training, equipping, and exercising. As Deputy Secretary, I will work with the Secretary, the FEMA Administrator, and our colleagues at DoD to optimize the process for turning civil support requirements into capabilities. Collaboration between DHS and DoD in their respective quadrennial reviews will also help ensure that civil support capabilities are given the appropriate level of priority by both Departments.

Homeland Security Grants

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35. State and local first responders are on the front lines of our national effort to prevent, protect against, prepare for, respond to, and recover from acts of terrorism and natural disasters. For this reason, Congress has restored some or all of the funding that the Bush Administration proposed be cut from the budget for DHS's state and local homeland security grants each of the last five years. Do you believe that federal homeland security funding for states and localities should be kept the same, increased, or decreased?

I am keenly aware of the relationship between predictable federal funding and state and local governments' abilities to build and sustain first responder capabilities. In order to provide such predictable funding, I believe it is important to identify the desired capabilities, the support required to build and sustain such capabilities, and to determine the cost-sharing portions that should borne by the federal government, states, and local governments, respectively. If confirmed, I will work with the Secretary to review preparedness grant funding to-date, support efforts to establish the levels of support necessary to sustain necessary capabilities, and work with Congress to ensure that we appropriately allocate resources appropriated to the maximum effect.

36. The FIRE Act is due to be reauthorized in 2009. FIRE Act grants are a vitally important resource for thousands of fire departments across the nation. Last year, the Administration attempted to cut this program by hundreds of millions of dollars. The funding that was proposed to be cut was later restored by Congress. Will you advocate for maintaining sufficient funding for this grant program?

Our nation's firefighters are critical in responding to emergencies and disasters of all kinds. According to information I have received from FEMA, the Assistance to Firefighters Grant Program, funded under the FIRE Act, has provided more than $5.5 billion to-date in grants to support equipment, training, planning, prevention, and health and safety needs. I join Secretary Napolitano in supporting the program and, if confirmed, will work with the Administration and the Congress to continue the program's important work.

37. The RAND Corporation noted in a 2004 report, "When Terrorism Hits Home: How Prepared are State and Local Law Enforcement," that "[h]omeland-security experts and first-responders have cautioned against an overemphasis on improving the preparedness of large cities to the exclusion of smaller communities or rural areas, noting that much of our critical infrastructure and some potential high value targets (nuclear power plants, military installations, agriculture facilities, etc.) are located in less-populated areas." Moreover, we know that al Qaeda attackers lived, trained, transited, hid, and otherwise used smaller communities and rural areas as a staging ground for the September 11, 2001 attacks. What steps will you take to ensure that smaller communities and rural states and localities receive adequate federal assistance to prevent, prepare for, respond to, and recover from terrorist attacks?

It is my understanding that DHS uses a risk-based approach to inform the balance of its investments in state and local capabilities. Smaller communities and rural areas face homeland security risks. DHS has strived to balance these needs with the need to

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provide focused efforts on higher risk areas with large populations and significant critical infrastructure. In this way, DHS strives to provide an appropriate emphasis to both higher risk urban areas as well as small and rural areas. If confirmed, I will work with the Secretary, the FEMA Administrator, and Congress to ensure that DHS continues to enhance its efforts to account for a range of homeland security risks and challenges.

38. The Department was created to prevent, prepare for, respond to, and recover from terrorist attacks and natural disasters – what is commonly referred to as all hazards – and the 9/11 Commission Recommendations Act that we authored required the Department to develop an all-hazards risk formula for awarding certain grants, such as the Interoperable Emergency Communications Grant Program (IECGP). The Department, however, has not fully embraced this task. For example, the current formula used for IECGP is simply a modified version of the same terrorism-based formula used for the State Homeland Security Grant Program. This modified formula fails to take into account any readily available data regarding natural-disaster risk. It disadvantages many states that routinely experiences significant and damaging natural disasters. What steps will you take to ensure that the Department complies with the law and develops an all-hazards risk formula?

The Secretary has repeatedly affirmed her support for all-hazards preparedness as advanced by this Committee in the Post-Katrina Emergency Management Reform Act. All-hazards preparedness recognizes that certain capabilities are applicable across a range of potential hazards, while others are specific to particular threats and risks. Along with the Secretary and the FEMA Administrator, if confirmed, I will review the Department's risk methodology and process for grant allocation to ensure that the Department is complying with applicable law in its efforts to keep America safe.

39. In the 9/11 Commission Recommendations Act, Congress amended the Homeland Security Act of 2002 (HSA) to provide for the distribution of grants under two of the major homeland security grant programs, the State Homeland Security Grant Program (SHSGP) and the Urban Area Security Initiative (UASI). These grant provisions guarantee each state a minimum allocation under SHSGP, but otherwise largely leave to the Secretary's discretion the allocation of grant funds to states and high-risk urban areas based on a jurisdiction's relative threat, vulnerability and consequences faced from acts of terrorism, and on the anticipated effectiveness of the proposed use of the grant, provided that certain basic risk factors are taken into account.

Given the uncertainties inherent in measuring the risk of terrorism, how, if confirmed, would you approach the issue of risk analysis and what criteria would you use to evaluate whether a proposed method for allocating grants is appropriate and adequately reflects the likely risk of terrorism?

The Department is currently in the process of developing a methodology for conducting a Homeland Security National Risk Assessment, and the Quadrennial Homeland Security Review will help focus and accelerate this process. An effective risk assessment process can greatly help inform homeland security decision making. If

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confirmed, I will work with the Secretary to ensure that the Department has the tools to effectively assess risk across the range of homeland security challenges, and evaluate whether the Department's methods for allocating grants are appropriate to the range of risks we face.

40. Federal funding to support state and local first responders who provide the first line of defense against terrorism and who are first on the scene in disasters of all types is critical to ensuring our homeland security. We must make sure, however, that federal resources are being used as effectively as possible. To that end, the Post-Katrina Act and amendments to the HSA made by the 9/11 Commission Recommendations Act require that DHS report annually on the extent to which the homeland security grants administered by the Department have assisted states and localities in achieving target capabilities for preparedness and led to a reduction in the risks faced from natural disasters, acts of terrorism, and other man-made disasters.

    Unfortunately, DHS is still in the process of developing systems that can effectively track and analyze how homeland security grant funds have been used. If confirmed, what steps will you take to complete these efforts and improve the Department's systems for monitoring and evaluating state and local use of homeland security grants?

    Based on briefings I have received on homeland security grant funding, I understand DHS is working to strengthen both financial and programmatic oversight of its grant programs through, among other initiatives, annual monitoring visits. In addition, I understand that the Department has developed several new initiatives designed to measure the effectiveness of grant funds. I also understand that the Department is continuing to develop a consolidated grants management platform to streamline the application and reporting processes for all Departmental grants. If confirmed, I will support the continued implementation of such initiatives. I will also engage the Department's state, local, tribal, and private sector partners in identifying additional ways to ensure DHS grant funding is used appropriately and effectively.

Community Preparedness

41. What do you see as DHS's role in promoting individual and community preparedness for all hazards? Do you believe that DHS's Ready campaign has been effective? If not, how would you change it?

    I believe that individual and community preparedness are the foundation of national preparedness. As the federal department with primary responsibility for national preparedness, DHS must play a major role in promoting individual and community preparedness. I understand DHS executes this responsibility through the development of relevant national policy and funding sources that support individual and community preparedness, as well as research on individual and community preparedness issues. In doing so, DHS reinforces the importance of individual and community preparedness, and through partnerships with other federal agencies, national non-profits, the private sector, faith-based organizations, and state and local governments.

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As described to me by current DHS leadership, the Department supports the Citizen Corps Council, a multi-sector grassroots collaborative planning body, and administers a variety of programs under the Department's Citizen Corps efforts, including the Community Emergency Response Team (CERT) Program and the National Emergency Technology (NET) Guard Pilot Program. The Department also collaborates with other federal agencies and national non-profits on community safety and disaster response volunteer programs, to include Fire Corps, Medical Reserve Corps (MRC), Neighborhood Watch, and Volunteers in Police Service (VIPS).

If I am confirmed, I will work with the Secretary and the Administrator of FEMA to review these efforts, including the Ready campaign, to ensure that the Department's individual and community preparedness efforts are aligned, executed effectively, and support the Nation's preparedness for all hazards.

42. In the event of a major natural disaster or terrorist attack, effective public communication will be critical to saving lives. However, in a May 2008 hearing before the Committee on the nation's preparedness to respond to a terrorist nuclear detonation in a major American city, witnesses raised concerns that it was not clear which – if any – DHS official was responsible for planning the communications response to a catastrophic incident, and as a result, there were not adequate communications plans for these incidents.

    a. If confirmed, what will you do to develop an effective public communications strategy to be used in the event of a terrorist attack or natural disaster?

    As I know personally from my military and United Nations Peacekeeping experience, crisis communications are an essential element of any response. It is thus imperative that the Department's senior leaders are able to provide accurate and timely information that fosters trust and credibility. As described to me by current DHS and FEMA officials, DHS and FEMA utilize the National Response Framework to execute the Department's crisis communications effort. If confirmed, I will work with FEMA and the Department's Office of Public Affairs to ensure DHS provides incident communications in a clear and concise manner in support of overall incident management activities.

    b. Do you believe a specific office within the Department should be designated to lead this effort?

    I understand the Department's Office of Public Affairs works closely with FEMA's Office of Public Affairs to administer this responsibility as well as leads the efforts of the Incident Communications Public Affairs Coordination Committee that brings together the public affairs directors from across the federal government.

Communications Interoperability

43. Communications interoperability problems often create chaos when different units and levels of governments simultaneously respond to a crisis. Over the past several years,

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Congress has enacted legislation intended to strengthen DHS's leadership role in solving these problems. In 2006, Congress established the Office of Emergency Communications (OEC) and charged the new office with developing a National Emergency Communications Plan, coordinating with other federal agencies, and conducting national outreach to foster interoperability among state, local, regional, and tribal governments. Other DHS components, though, play important roles in promoting interoperability. For example, while OEC is charged with developing guidance for the Interoperable Emergency Communications Grant Program, FEMA administers the grants. The Directorate of Science and Technology (S&T) conducts research, testing, and evaluation of solutions to promote interoperability. The National Communications System is designated under the National Response Framework as the coordinator for the Emergency Support Function #2 – Communications. The missions of these DHS units, therefore, need synthesis. In addition, a comprehensive federal approach to interoperability requires the embrace of an integrated strategy by DHS and other federal agencies, including the National Institute of Standards and Technology and the Federal Communications Commission.

a. What role do you think the Deputy Secretary should play in ensuring strong intra- and inter-agency cooperation on interoperability?

The Deputy Secretary plays an important role in ensuring that disparate efforts across the Department are synthesized in the most effective way. With respect to communications interoperability, DHS is a key member of the Emergency Communications Preparedness Center – the federal government's coordinating body – and recently released the National Emergency Communications Plan. If confirmed, I will work with the Secretary, the Under Secretary for National Protection and Programs, the Director of Emergency Communications, the Director of the National Communications System, the Under Secretary for Science and Technology, the FEMA Administrator, and other senior Department officials to ensure that DHS efforts to address communications interoperability are synthesized and coordinated.

b. Are there specific experiences in addressing interoperability that will influence how you view this issue? If so, please explain.

As a former signal officer in the United State Army assigned to an operating environment that demanded effective interoperability among the Tripartite Powers in Berlin (the United States, the United Kingdom, and France) and authorities from the Federal Republic of Germany, I have a first-hand, bottom-up understanding of the challenges of establishing and maintaining communications interoperability. Effective interoperability entails not only the operation of compatible equipment and technology, but also the development and use of agreed procedures and practiced habits of interaction and communications management.

At the United Nations, I oversaw the Communications and Information Technology Service that had responsibility for coordinating telecommunications support to peacekeeping missions in the field, including formed military units on a worldwide

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basis. Although units deployed in peacekeeping missions are required to possess functioning tactical radio communications systems, the common use of UHF, VHF and HF frequencies by multiple international units requires extensive coordination and careful management. In addition, in order to ensure full and continuous interoperability, I oversaw the United Nations Communications and Information Technology Service's development of special systems required to ensure effective emergency, civilian, and military communication links among multiple actors from many nations. In the field, tactical radio capabilities, including their proper maintenance and seamless operation, are not merely a convenience, but an essential operating capacity and, at times, a life-saving essential. I have first-hand familiarity with, and appreciation for, these needs. While my familiarity with the challenges of establishing and maintaining effective interoperability began as a signal officer in Berlin, I continued to navigate these challenges at the United Nations, including during an unprecedented naval operation for the United Nations Interim Force in Lebanon (UNIFIL), joint operations between Peacekeeping forces and European Union forces in Chad, and the joint United Nations-African Union Hybrid mission established in Darfur.

44. The Integrated Wireless Network (IWN) project began in 2003 to create a nationwide, consolidated, interoperable wireless communications system for employees of DHS, the Department of Justice, and the Treasury Department. Despite the hundreds of millions of dollars spent, a December 2008 GAO report found that IWN is no longer being pursued as a joint development project. Specifically, GAO found that the departments could not agree on a common outcome or purpose to overcome their differences in missions, cultures, and ways of doing business. Instead of moving forward jointly on IWN, the departments and their subcomponents (including CBP and ICE) are moving forward with independent efforts to modernize their own wireless communications systems.

    a. What are your plans for reviewing the status of IWN and determining whether the independent investments of DHS components will be interoperable with other systems?

    If confirmed, I will work with the Secretary to examine the history of the IWN program and the circumstances described in the 2008 GAO report. Regardless of the disposition of the IWN program, as Deputy Secretary, I will work with the Department's Chief Information Officer, Chief Financial Officer, and Chief Procurement Officer to drive component efforts to design, budget for, and acquire wireless communications system result in systems that are interoperable with other DHS systems as well as other systems.

    b. What are your plans for pursuing interagency coordination to ensure that employees of different federal agencies are able to communicate with each other during a disaster?

    As noted in response to question 43(a), above, DHS is a key member of the Emergency Communications Preparedness Center, the federal government's

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coordinating body for emergency communications. If confirmed, I will work with the Department's emergency communications leadership as well as the Department's partners in the Emergency Communications Preparedness Center to ensure that employees of different federal agencies can communicate with each other as necessary and appropriate during a disaster.

Intelligence and Information Sharing

45. The DHS Office of Intelligence and Analysis is a critical part of DHS, serving as the Department's primary interface with the broader Intelligence Community, supporting state and local fusion centers, and integrating the intelligence-related activities of the DHS component agencies. What would be your key near-term priorities to improve the effectiveness of the Office of Intelligence and Analysis?

It is my understanding that the DHS Office of Intelligence and Analysis (I&A) has developed a comprehensive homeland security intelligence program that is integrated into the traditional Intelligence Community while also reaching out to state, local, and tribal partners. I also understand this remains a work-in-progress. In terms of near-term priorities, I would, if confirmed, focus on three initial areas for improvement:

1) I would work with the Under Secretary of Intelligence and Analysis to make I&A a more effective partner with our external partners. I would require them to understand end-users' information requirements to ensure DHS provides actionable information to its constituents in a timely and effective fashion. As part of this effort, I will also encourage I&A to educate DHS's partners regarding the types of information DHS needs in return.

2) I would continue to strengthen I&A's cadre of high-quality analysts who can work across all sources, and ensure that DHS supports these employees with the tools, training and resources they need to perform their roles efficiently and effectively; and

3) I would be vigilant in protecting the civil rights, civil liberties, and privacy of U.S. citizens in all of DHS's intelligence-related activities.

46. One program within the Office of Intelligence and Analysis is the National Applications Office (NAO), which is intended to facilitate the use of intelligence community technical assets for domestic civil, homeland security, and law enforcement purposes, including by state and local customers. The NAO is not yet fully operational due at least in part, to privacy, civil liberties, and legal concerns expressed by some, and Congress has reduced its funding for FY2009. As Deputy Secretary, what approach will you take to address the privacy, civil liberties, and legal concerns expressed by some, but still ensure that domestic customers are able to appropriately and effectively utilize intelligence community technical assets?

It is my understanding that the National Applications Office (NAO) was established as the successor to the Civil Applications Committee. The NAO is intended to provide an integrated, multi-agency approach to facilitate access to Intelligence Community

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capabilities by federal, state, local and tribal authorities. The NAO charter requires it to comply with all existing laws, including privacy and civil liberties standards. I am told Congress put limits on funding for NAO, for certain activities, until the Secretary certifies that NAO programs comply with all existing laws, including applicable privacy and civil liberties standards, and that clear, auditable definitions are established for all proposed domains in which NAO will operate. If confirmed as Deputy Secretary, I would give the NAO a very careful review before I made any recommendations to Secretary Napolitano regarding the office and its activities. As discussed previously, I will be vigilant in protecting the civil rights, civil liberties and privacy of U.S. citizens and legal permanent residents in all of the Department's activities, including the NAO.

47. One of the ongoing challenges at DHS is information sharing, both within the Department and with key external stakeholders.

    a. How would you compare the situation at DHS with respect to information sharing to the U.N. Department of Peacekeeping Operations?

    The Department of Homeland Security represents one of the largest Departments in the Federal government, composed of many previously existing organizations, each with rich traditions, well-established mandates, and distinct organizational cultures. It is also a Department characterized by widely distributed field-based operations supported by a still-young headquarters component. My experience in peacekeeping, where field-based operations are overseen by a headquarters operation geographically removed from the front lines, underscores the imperative that leaders must place on open and transparent information sharing. In this regard, several systemic innovations can help encourage information exchange, such as regular and standardized reporting, vigorous use of video teleconferences, active visits to the field, and a comprehensive approach to staffing that encourages a regular and healthy rotation of staff between headquarters and the field. As challenging as internal information needs are, my experience reinforces the need to ensure that external stakeholders are treated as the important partners that they are. External stakeholders must be kept abreast of ongoing developments and given meaningful opportunities to present views and contribute appropriately to decisions that affect them.

    b. What did you do while at the U.N. to improve or promote information sharing, either within the DPKO or with other U.N. agencies?

    The United Nations is an organization with remarkable diversity – its staff represents nearly 200 Member States, each with distinct cultures, habits, and traditions. It is one thing to work in such a multinational and multicultural environment, and quite another to be leading and making daily decisions with serious operational consequences for the field, including in crisis situations. As an officer in the United States Army, I was trained to understand the importance of establishing and maintaining a common operational understanding among all those contributing to a common effort. Today, I still strongly believe that a leader must

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set a tone and expectation of open and honest communications that permeates throughout an organization. I also believe that this commitment must translate into visible and positive integration of effort at every level. In other words, you cannot just say that you value information sharing, you must yourself share information. It is important to put in place interlocking and mutually reinforcing systems to institutionalize this practice. At the United Nations, I instituted such systems including an open, accessible electronic means for task tracking and follow-up, personal availability via an active "open door" policy, and regularized meetings with staff in a variety of formats. I worked prominently with my counterparts in the humanitarian and development communities to promote integrated mission management in the field and at headquarters in order to overcome the traditional barriers that exist between the peacekeeping, humanitarian, and development communities. I also continuously engaged my senior staff on the importance of sharing information and established many informal and direct links with junior staff to gauge the effectiveness of senior efforts in this regard. In addition, my senior staff and I created a working environment that encouraged and supported the opening of direct communication pathways and the creation of working relationships between programmatic and support personnel on the ground – a notoriously difficult divide in field operations.

Beyond the importance of sharing information internally, I fully understand the critical imperative of ensuring that pathways are created (and protected) to ensure information flows to external partners—whether those partners are member states of the United Nations, members of the United States Congress, or first-responders to a crisis—in order to maintain effective, timely, and strategic operations. During my tenure at the United Nations, I personally forged and facilitated many such pathways to ensure engagement of, and the sharing of information with, member states, national governments, multinational bodies, community leaders, individual diplomats, and soldiers and civilians from dozens of countries operating in far-flung corners around the world. This enhanced accountability and trust among all parties. It allowed us to do difficult work, and to do it well.

DHS's Relationship with State and Local Governments

48. The Homeland Security Act of 2002 expressly gives the Secretary of Homeland Security responsibility for coordinating with state, local, and tribal governments on a wide range of matters including information sharing and preparedness activities. If confirmed, what specific steps would you take to improve the relationship between the Department and state, local, and tribal officials?

The Department of Homeland Security has an enormous stakeholder base—a challenge I am acutely familiar with coming from the United Nations. Based on briefings I have received, I understand that the Department manages its responsibility to coordinate with state, local, and tribal governments in a number of ways. Examples include:

- *The Office of Intergovernmental Programs led by an Assistant Secretary charged with ensuring coordination with state, local and tribal chief executives and homeland security advisors.*

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- *The Office for State and Local Law Enforcement, which conducts extensive outreach and coordination with the law enforcement community to ensure that they have a voice in the development and implementation of DHS policies and programs.*
- *The Office of Intelligence & Analysis, which administers the National Fusion Center network, which ensures information sharing with state, local, and tribal governments.*
- *FEMA and its network of regional offices, which ensure coordination with state, local, and tribal governments for preparedness activities.*
- *The U.S. Coast Guard, which coordinates with state, local, and tribal governments engaged in port administration and security activities through its Captains of the Port, Sector and District offices, and the Area Maritime Security Councils.*
- *The Transportation Security Administration, through its Federal Security Directors at our Nation's airports, coordinates aviation security measures with commercial airport operators, almost all of which are publicly owned.*

I understand DHS also maintains a number of external advisory committees for the express purpose of coordinating with external stakeholders, including the Homeland Security Advisory Council and its senior advisory committees; the FEMA National Advisory Council; the Critical Infrastructure Partnership Advisory Council administered by the Office of Infrastructure Protection; and the Commercial Operations Advisory Council administered by U.S. Customs and Border Protection.

If confirmed, I will work with the Secretary, the Assistant Secretary for Intergovernmental Programs, the Assistant Secretary for State and Local Law Enforcement, DHS component leadership and the external advisory committees. I would also consult with the state and local law enforcement community, governors and mayors, as well as associations such as the National Governor's Association, U.S. Conference of Mayors, National Congress of American Indians, and other associations representing state, local, and tribal governments, in order to determine where and how the Department's coordination with state, local, and tribal government partners can be improved. Recognizing previous Inspector General and Government Accountability Office reports on the Department's state, local and tribal government outreach efforts, I would also pledge to work cooperatively with these entities to ensure that DHS is addressing their respective concerns.

Border Security

49. The new Secretary was the Governor of a border state and brings to the Department extensive experience and knowledge in the area of border security. Your own experience encompasses significant operational experience in the military and international organizations; however, as Deputy Secretary of the Department, you will also be responsible for the Department's border security mission. Please detail any experience you have had in the area of border security. What skills and knowledge do you bring that the Department might leverage in the area of border security?

My experience on borders and with the complexities of border issues and operations began in 1978 when I was assigned to Berlin, Germany – the city known throughout the

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Cold War world as the "Frontier of Freedom." During these years, I experienced the realities of individual border crossing incidents, saw first-hand how border communities cope with proximity to stark political boundaries, and witnessed how these boundaries practically affect everyday peoples' everyday lives. I also learned the importance of the broader strategic context that determines the degree of difficulty or ease with which border issues are managed.

At the United Nations, leading peacekeeping operational support to missions often operating at the nexus of disputed or dangerous borders, I have again seen and experienced first-hand the strategic and operational challenges inherent in managing operations on and around borders in many places around the world – sometimes involving thousands of people fleeing active conflict as multiple government and nongovernmental actors attempt to deal with the humanitarian fallout. I know the operational challenges of trying to support and supply remote border operations, and trying to establish and maintain a stable border environment while working with local and national authorities to encourage legitimate travel and commerce. Thus, I bring direct experience in policymaking, operations, and in helping to strike the right strategic and practical balance between the needs of societies and states to ensure the safety and security of their populations, and the needs these societies and states have to encourage open trade and travel with others, an experience rooted in some of the most difficult and dangerous border situations in the world.

50. Mexico is in the middle of a war with the drug cartels. Law enforcement officers – both Mexican and U.S. personnel – are being targeted, and Mexican nationals, including relatives of U.S. citizens, are being kidnapped and held for ransom. The ramifications for the U.S. of increased violence along the southern border are immense.

    a. What should the Department's role be in addressing the national security and homeland security concerns along our southern border?

    This issue is just one example of an area where Secretary Napolitano and I, if confirmed, would be able to draw upon our previous experiences in order to advance the mission of the Department effectively. For example, based on my experience, any strategy for addressing national security and homeland security concerns along the southern border should include: (i) an evaluation of the flows of people, weapons, and money in both directions across the border; (ii) a full understanding of the perspectives of the border communities on the challenges they face everyday; and, (iii) a framework for ensuring high fidelity, continuous dialog between the United States Government and the Government of Mexico. DHS should play a central role in each of these areas, among others.

    b. What plans have been developed, will be developed, or should be developed to ensure that the southern border is equipped to address these concerns?

    Secretary Napolitano has reviewed preexisting plans and is leading the effort to develop innovative and effective approaches to the evolving situation and contingencies on the border. Secretary Napolitano has also directed the Office of

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Operations Coordination and Planning, in coordination with CBP and other key DHS components, to conduct a review of existing plans to determine whether they will sufficiently address other contingencies on the border

c. What interagency planning process has been, will be, or should be assembled to address these concerns?

An effective planning process must include all stakeholders in an interagency process. It is my understanding that this has been the case in developing DHS's plans on this issue thus far.

d. Should the Department put into place some process or mechanism for consulting with the state and local officials most affected by outbreaks of violence along the southern border?

DHS absolutely should—and I am told that it has. Secretary Napolitano has stressed the need to work closely with state and local officials and has begun to create new systems to facilitate that collaboration.

e. Is reinstituting a National Guard presence along the southern border an effective preventative and deterrent measure?

Managing security on our southern border is a complex issue with many facets. If I am confirmed, I will examine this issue in detail and work with Secretary Napolitano and stakeholders to carefully evaluate all contingency options and to craft appropriate solutions to those contingencies.

f. Does the Department have a strategy or plan to deal with a humanitarian migration from Mexico?

I understand that DHS has planned for a variety of contingencies and updates those plans to take account of evolving circumstances, including mass migration scenarios.

51. CBP is responsible for the dual missions of safeguarding borders against the illegal entry of goods and people and regulating and facilitating legitimate international trade and foreign travel. These missions frequently conflict. What do you see as the major challenge(s) with CBP's dual role?

CBP's dual roles are critical to our Nation's security; failure in carrying out either role could have devastating effects on American security and society. From the briefings I have received, CBP's greatest challenge is striking the appropriate balance between preventing the entry of persons and goods that could harm our citizens and critical infrastructure, while facilitating the flow of legitimate trade and travel that is essential to our economic stability and a hallmark of our Nation's welcoming spirit. Meeting this challenge is intensified by the massive volume of trade and travelers that CBP must process annually. CBP has been using several tools to balance security with

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facilitation of travel and trade. These tools include overseas screening, high-risk targeting, trusted traveler programs, and partnerships with industry and foreign governments. If confirmed, I will work with the Secretary and the Commissioner of Customs and Border Protection to ensure that CBP continues to effectively balance security with travel and trade.

52. Looking forward, what do you believe to be the most effective mix of personnel, infrastructure, technology, and other strategies to secure our land borders?

I understand that DHS relies on a mix of personnel, infrastructure, technology and other strategies to secure our Nation's border. For instance, the Border Patrol has implemented a standardized national planning process that assesses the control level of every mile of the border, and directly links its resource requests (e.g., Border Patrol Agents, air support, fencing, radars, cameras, ground sensors) with the operational requirements needed to gain and maintain control of the border. In areas where the Department has achieved success, results are evidenced by enforcement measures (such as decreases and shifts in apprehensions) as well as drops in crime rates and complaints from local landowners.

The deployment of resources must be based on the operational assessments of the threats and vulnerabilities to the Nation's border, and concrete measures that indicate the effectiveness of those resources. If I am confirmed as Deputy Secretary, I would work with the Secretary, the Commissioner of Customs and Border Protection, and the Chief of the Border Patrol to identify requirements and ensure funding is allocated to the highest priority needs. With respect to determining the most effective mix of resources to address law enforcement operational needs, understand CBP relies on many factors, including threat, terrain, waterways, cultural sites, cost, migration patterns, and other important geographical and environmental concerns. Balancing operational priorities with local interests, if confirmed, I will ensure that DHS also obtains input from stakeholders. I would also work to strengthen a northern border strategy that reflects the perspectives and involvement of all government participants, to include other executive branch Departments; state, local and tribal governments; and our Canadian partners.

53. In recent years the hiring of Border Patrol agents has increased substantially – whereas the number of CBP officers has increased less rapidly. Do you believe additional hiring of Border Patrol agents and CBP officers is necessary?

Yes, I believe that DHS does need additional focus on, and more resources for, our Nation's ports of entry. This growth must include personnel, technology and physical infrastructure. Based on information provided to me in preparatory briefings, I understand that the increase in numbers of Border Patrol agents has been important in gaining additional control of the border between our ports of entry. However, the increase in Agents and CBP Officers must be augmented by adequate facilities that are capable of handling increases in volume. If confirmed, I will work with the Secretary and the Commissioner of Customs and Border Protection to assess the resources to maintain the smooth flow of legitimate people and commerce. Such an assessment

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would include not only the need for additional staff, but also the technology and physical infrastructure required for those personnel to execute their responsibilities effectively.

54. According to a recent DHS report required by Section 2(c) of the Secure Fence Act, in October 2005, the U.S. Border Patrol had 11,264 agents. As of September 2008, the Border Patrol had 17,499 agents, which represents a 55 percent increase in a period of three years. With this unprecedented growth, the experience level in the ranks of Border Patrol Agents is rapidly decreasing. How do you plan to retain experienced agents and what specific steps do you think are needed to maintain the standards for background checks, academy training, post-academy training and continuing on-the-job training for these new, inexperienced agents?

I believe it is important to retain experienced employees in all DHS components, and especially in the Border Patrol given its rapid and significant growth. If confirmed, I will consult with the Secretary and senior Departmental leadership to identify and implement strategies to retain experienced agents. CBP feels – and I concur – that retention of experienced personnel is important not only for operations but also for morale and the training of new agents. DHS must ensure that its Border Patrol Agents receive ongoing post-academy training, to include regular mentoring from experienced Agents.

55. The National Guard just ended a two-year deployment on the southern border to support the U.S. Border Patrol. Known as Operation Jump Start, the deployment provided a short-term bridge to supplement the Border Patrol with National Guard personnel while CBP hired more Border Patrol agents. In that time period, the Border Patrol hired close to 4,700 additional agents, many of whom have been or will be deployed to the southern border. With the increase of agents, do you see a need for another National Guard deployment to the southern border?

Based on information provided to me by the Department, I understand that Operation Jump Start was intended to be a temporary measure and that DHS has now achieved the original goal of doubling the size of the Border Patrol and installing over 550 miles of border fence. Since the end of Operation Jump Start, the National Guard has continued to support the Border Patrol in a limited way through counter-drug missions and participation in annual training projects. If I am confirmed as Deputy Secretary, I will work with the Secretary, the Commissioner of Customs and Border Protection and the National Guard Bureau of the Department of Defense to determine whether there is a need for expanded National Guard support.

56. The communications infrastructure available to CBP officers and Border Patrol agents in the field is severely outdated and, in many areas of the border, there is no radio coverage at all. This is a serious officer safety issue. To address the problem, CBP has drafted plans by which all Border Patrol sectors could be upgraded by 2017. Will you commit to making the improvement of CBP tactical communications a priority with appropriate budget requests?

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From my years as a United States Army officer and through my executive experience overseeing United Nations Peacekeeping operations, I am intimately familiar with the importance of reliable communications among operational and law enforcement personnel. If confirmed, I will discuss CBP's plan with the Secretary, the Under Secretary for Management, and the Commissioner of Customs and Border Protection to determine how best to meet this priority operational requirement.

57. Given the serious problems encountered in the Department's development of the SBInet program, do you believe current initiatives to deploy virtual technologies at the border should be re-assessed?

I am aware of the challenges in the development of the SBInet program. I also understand that the Department has already taken steps to build program management rigor and discipline, and to restructure the program to reduce its overall risks. I feel it is important to augment personnel with the appropriate deployment of technology along the border in order to enhance Border Patrol agents' ability to secure our borders. The development of innovative tools is a worthwhile endeavor. Such development must, however, be undertaken in a reasonable manner that yields demonstrable benefits. If confirmed, I will ensure the continued assessment of the effectiveness of SBInet as a part of CBP's overall investment in border security technology. Where these assessments indicate a need for adjustments, I will make them.

58. Secretary Napolitano recently issued a directive focused on reviewing northern border security. Her directive asked about the current vulnerabilities, the overall strategy for reducing those vulnerabilities, the requirements, the programs, the budget, and the timeframe for improving security along this border and level of risk remaining once the programs are completed. The directive requests this information by February 10, 2009, with a final report due February 17, 2009. Congress requested such a report in the 9/11 Commission Recommendations Act regarding ongoing initiatives to improve security along the northern border of the United States. The Committee received the report last year. This report failed to identify actions, resources, and time frames needed to address vulnerabilities, and GAO, which was required to review the report, agreed with our assessment about the lack of information in the report.

    a. What are the components of an effective strategy, in your opinion?

    I believe an effective northern border security strategy must use an intelligence-driven, risk-based approach that balances the need to control the flow of illegal goods and persons with the robust flow of legitimate goods and persons. I also believe there is no singular answer to border security: people, fence or technology alone will be insufficient to gain operational control of a border. Instead, I am a proponent of developing and executing an integrated strategy that combines personnel, tactical infrastructure and technology in a manner that balances the unique characteristics – climate, terrain or seasonal changes among them – of a particular area and adjusts to an evolving operational environment.

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b. Who or what entity should be the lead in developing a northern border strategy?

As noted in question 52 (above), I believe Customs and Border Protection should lead the development of a northern border strategy. Simultaneously, I recognize that many other DHS components, executive branch Departments, and other government partners have equities in the Nation's northern border strategy. If confirmed, I would work to ensure a northern border strategy that reflects the perspectives and involvement of all such participants.

c. How should state, local, and tribal stakeholders be incorporated into the development of such a plan?

I view the Department's state, local and tribal stakeholders as critical participants in executing DHS strategies, and particularly those involving border security. Secretary Napolitano, on her first day in office, issued an Action Directive for a comprehensive review of state, local, and tribal relations. I know that she is committed to forge genuine partnerships based on increased communications and real consultations with state, local, and tribal stakeholders, including those on the northern border. If confirmed as Deputy Secretary, I would work to ensure a northern border strategy that reflects the perspectives and involvement of all such participants.

d. What actions would you take to provide technology, infrastructure, and personnel where needed to the northern border in a timely manner and, if confirmed, when will you provide to Congress a northern border strategy?

As noted in 56(c) (above), I support a collaborative approach to developing a northern border security strategy. If confirmed as Deputy Secretary, I will work across all Components of the Department, across the Executive Branch, and with our state, local, tribal and Canadian partners to guide the design, development and deployment of the people, technology and tactical infrastructure required to gain operational control of northern border. In doing so, I will use a risk-based, intelligence-driven approach that leverages the resources and capabilities of all involved without creating unnecessary redundancies.

e. Because of the lack of technology on the northern border, DHS relies heavily on intelligence and partnerships with state and local agencies within the U.S. and Canada, including the Royal Canadian Mounted Police, provincial and city police, and Canadian border agencies. Integrated Border Enforcement Teams (IBETs), which have participants from both Canada and the U.S., are an integral part of this international partnership. Would you consider enhancing and expanding IBETs if confirmed?

If confirmed, I will to work with the Secretary, DHS's senior leaders and our Canadian partners to determine the optimal role, resource requirements and staffing plans for Integrated Border Enforcement Teams.

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f. The Department has had some difficulty increasing the number of Border Patrol agents along the northern border. One tool that the Border Patrol has successfully used to increase the number of Border Patrol agents along the northern border is the voluntary relocation program (VRP), which allows agents to receive an estimated lump-sum payment to cover moving expenses and to pay for the move themselves, rather than having the government plan and pay for their relocation. This Committee authored the legislation that authorizes this program in 2006. During 2007-2008, CBP used the program extensively by moving over 700 agents with a cost savings of approximately $57.2 million. DHS continues to utilize VRP as a cost saving mechanism to move agents around the country. Do you support a continuing authorization for the VRP, which will otherwise expire at the end of 2009?

I understand the voluntary relocation program (VRP) has helped DHS increase the number of Border Patrol agents along the northern border. However, VRP remains the subject of ongoing negotiations between the Border Patrol union and CBP. If confirmed, I would support the Secretary's commitment to work with the Commissioner of CBP, the Chief of the Border Patrol, and other interested parties to determine how best to continue providing the resources required to sustain northern border missions.

59. The Department has announced that foreign nationals traveling to the U.S. under the Visa Waiver Program (VWP) will be required to use the Electronic System for Travel Authorization (ESTA) as of mid-January, but Department officials have acknowledged that they will not require the airlines by that time to revise their computer systems to confirm that a traveler has obtained an electronic authorization.

a. What approach would you take to working with airlines to ensure that ESTA is fully operational?

I recognize that the air carriers are working to implement changes in order to meet three DHS programs – ESTA, the Advance Passenger Information System, and Secure Flight. This requires air carriers to address information technology, operational, and financial challenges. By working in partnership with the air carriers, DHS can ensure that the carriers have a well defined and coordinated path forward for compliance with all three programs. This partnership would enable DHS to emphasize the importance of timely implementation to derive the security benefits of these passenger prescreening programs, while being sensitive to the impacts of the programs on the air carriers.

b. What lessons do you take away from the approach to ESTA deployment?

From the briefings I have received on the Electronic System for Travel Authorization (ESTA), DHS implemented ESTA in a series of measured steps. DHS first began the formal implementation of the ESTA program last June, then began accepting voluntary ESTA applications last August, and has now moved to requiring an ESTA for all VWP travel as of January 12, 2009. Through these steps,

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DHS increased awareness of the requirements and conducted outreach activities over an extended period of time. DHS made the ESTA website available in 21 languages and, in partnership with the State Department, has conducted an extensive ESTA outreach campaign with the governments of participating VWP countries, the travel industry, and most importantly, the VWP travelers.

Implementing changes on this level requires ongoing efforts to prepare customers, carriers, and other stakeholders.

c. What specific plans, if any, do you have for improving or modifying the VWP?

As I understand it, the Secretary committed to work with appropriate stakeholders to determine what, if any, program modifications were necessary for VWP. However, I understand that currently DHS has no specific plans to modify the VWP. The most recent changes to the program were the result of a lengthy and deliberate process that involved both the executive and legislative branches. This process produced several significant security improvements to the VWP. DHS, in cooperation with its interagency partners, is currently focused on bringing all VWP countries into expeditious compliance with the enhanced security requirements. Any decision to modify the program further would require a careful and comprehensive analysis of United States security and law enforcement interests, including input from all stakeholders.

d. Former-Secretary Chertoff and some terrorism experts, pointing to the plot that originated in the United Kingdom to destroy U.S. airlines over the Atlantic Ocean, raised concerns about the risks posed by travelers from European counties. Almost all of these travelers would be eligible for the Visa Waiver Program. As Deputy Secretary, how would you address the tension between legitimate travel and security within the VWP?

I understand that enabling secure, legitimate travel is the driving motivation for several initiatives DHS has pioneered in recent years. The modernized VWP—one that screens for risks on both an individual passenger basis and a country-by-country basis—is another pillar in this strategy. The Electronic System for Travel Authorization (ESTA), for example, facilitates international travel for the vast majority of travelers who pose no security or law enforcement risks but makes it increasingly difficult for terrorists and other criminals to exploit vulnerabilities inherent in visa-free travel. In addition, the more robust information sharing initiatives currently being implemented with VWP partners strengthens our ability to identify and interdict illicit travelers prior to their travel to the United States. If nominated as Deputy Secretary, I will work with the Secretary to make sure that the VWP strikes the right balance between facilitation of legitimate travel and ensuring security.

60. Congress has directed agencies to coordinate with each other and through the National Counterterrorism Center to develop and implement strategies to track and disrupt terrorist travel. Many of the Department's programs and agencies focus on preventing

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terrorists from entering the country, but it is not as clear that the Department has formulated a coherent terrorist travel program and strategy, as required by Congress. What steps should the Department take in this area?

Based on the briefings I have received, DHS is the lead cabinet department on the terrorist travel issue and submitted an unclassified report to the Congress in April 2008. DHS also works closely with other parts of the U.S. Government, including the National Counterterrorism Center (NCTC), that is also active in tracking and disrupting terrorist travel. The NCTC released an unclassified comprehensive National Strategy to Combat Terrorist Travel in May 2006. While many of the goals and programs in the 2006 and 2008 strategies remain valid, the new Administration will be reviewing and revising these strategies in light of the changes in the security environment since 2006 and the successes and failures of previous initiatives. As I understand, the Department anticipates providing Congress with briefings, classified if necessary, to keep Congress informed on this important issue.

61. As new security measures are deployed on the border, criminal organizations may try to infiltrate the ranks of DHS employees in order to facilitate the passage of illegal cargo and people across the border. There are reports that criminal organizations may have tried to recruit employees or place individuals into applicant pools for the Border Patrol and the Office of Field Operations.

    a. Do you believe that a robust Internal Affairs operation is critical to ensuring the integrity of the DHS workforce?

    Yes, a robust Internal Affairs capability is critical, but management must do more to ensure the integrity of the Department's workforce, including in the areas of recruiting, training, and retaining employees who bring a high level of dedication and skill to the workplace.

    b. Please explain how you have addressed internal affairs issues as a manager in your prior positions.

    My experience leading organizations has underscored the importance of promulgating and upholding clear standards of behavior and performance. It is critical for leaders at every level to have a deep understanding of both organizational activities and of the composition and operating habits of staff. This understanding often alerts leadership to areas of organizational dysfunction and can trigger early and effective management responses. At the United Nations, establishing and maintaining this level of understanding allowed me to proactively engage investigative authorities early, and to draw upon their fact-finding role as a management tool to determine appropriate corrective action, without relinquishing responsibility for the functioning and health of the organization I was charged with leading.

    During my tenure in Peacekeeping, I maintained an active and constructive relationship with the Office of Internal Oversight Services in order to assist

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Peacekeeping management with the identification and remediation of potential and actual wrongdoing. At the United Nations, I addressed structural problems that rendered the organization susceptible to misconduct, including the rapid expansion of operations and growth of staff that diluted organizational standards of behavior. I addressed the problem with a systemic approach that involved the clarification and promulgation of clear standards, regular and, if necessary, mandatory trainings, and a rigorous program of enforcement. I also worked closely with the Department of Management to ensure due process rights were maintained while pursuing full accountability for misbehavior. Because I believe in the value and importance of an independent investigative capability as an aid to management, I also argued forcefully for the establishment of a permanent Inspector General in the Department of Peacekeeping Operations and for each peacekeeping mission in the field.

c. What entity within the Department do you believe should be responsible for coordinating internal affairs? (For example, the Office of Inspector General (OIG), the individual agencies, or a newly created Department-wide office.)

As I understand it, the OIG, by statute, is responsible for examining allegations of waste, fraud, and abuse and is a natural place from which to coordinate internal affairs efforts.

d. Should agencies within the Department have individual internal affairs and professional responsibility offices, or is the Department better served through the establishment of one, Department-wide office?

Internal Affairs (IA) offices within a component provide an effective way of addressing integrity issues in the component. This is due to the fact that IA employees know the culture and mission requirements and can ensure that appropriate steps are taken when an issue surfaces. In the future, it would be worthwhile for DHS to review the handling of integrity issues on a Department-wide basis, with the goal of refining processes and bringing about efficiencies.

62. Recently, prompted by a congressional mandate, the Department has committed to building 670 miles of pedestrian and vehicle fencing along the southern border by the end of 2008. Opinions on the construction of border fencing and vehicle barriers have varied widely. Proponents argue that fencing already introduced in some of the larger cities on the southwest border have proven effective in reducing illegal entry. However some border communities have protested that they were not properly consulted about fencing placement decisions, and landowners have complained about the effects of fencing that cuts through their properties. Environmentalists have expressed concerns about threatened species and habitat affected by the construction, but former-Secretary Chertoff exercised his authority to waive laws to expedite fence construction.

a. How should border fencing and vehicle barriers be used as part of a border security strategy, and how would you modify existing plans to construct primary border fence and vehicle barriers, if at all?

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As the Secretary has stated, both pedestrian and vehicle fencing play a key role in the Border Patrol's strategy for securing our land borders between Ports of Entry. Physical fence, along with technological tools such as radars, video surveillance cameras, underground sensors, and aircraft, are all critical to detect, classify and track border incursions leading to a successful apprehension.

As of February 27, 2009, a total of 610 of the approximately 661 miles planned for the border fence has been completed. All of the remaining miles are under contract and under construction (with the exception of 14 miles of pedestrian fence in the Rio Grande Valley that has been delayed pending rulings on condemnation actions, and 3 miles of vehicle fence delayed due to concerns regarding the Tohono O'odham Nation). These last sections of border fence use money that Congress specifically appropriated for this purpose, and I do not expect any modification of those plans. If confirmed, I will work with the Secretary and the Commissioner of Customs and Border Protection to determine the best course going forward concerning fence construction.

b. What modifications, if any, to current law would you seek?

The current language provides the Secretary with the discretion to determine the "other mileage where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain entry into the United States." If confirmed, I will work with the Secretary and the Commissioner of Customs and Border Protection to determine where operational assessments indicate that fencing may still be needed to accomplish our goal of securing the border.

c. How should the Department take into account the concerns of affected communities and land-owners, and possible adverse impacts on the environment, in making decisions about fence and vehicle barrier construction?

As the Secretary has stated, stakeholder input and environmental impacts should continue to be assessed as part of the planning process for any future fencing projects.

d. Under what circumstances would you recommend the Secretary exercise her authority to waive laws to expedite fence construction?

The Secretary has stated that she believes this authority should be used judiciously, and in circumstances where it is absolutely necessary for the security of a particular area of our borders, and I support this position.

63. The current DHS border security strategy calls for an effective interior enforcement strategy to identify and remove aliens not lawfully present in the U.S. What should the nexus between border enforcement and interior enforcement be? How should the Department balance the two in terms of priority and resources?

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As the Secretary has stated, effective border security and immigration management require coordinated strategies that make the most effective use of both border and interior control efforts. If confirmed, I will work with the Secretary to ensure that DHS engages all stakeholders in a comprehensive approach to this problem.

64. The Western Hemisphere Travel Initiative (WHTI) will be implemented at land and sea ports of entry on June 1, 2009. At that time, only passports or WHTI-compliant documents will be acceptable for entering the United States. This requirement could cause back-ups at the ports of entry, resulting in delays for those crossing the border.

    a. How would you make sure that WHTI is implemented in a fair and reasonable manner?

    I know that DHS has focused on three primary strategies to ensure the successful implementation of WHTI at the land and sea borders in June: ensuring the availability of documents for travelers, installing the appropriate infrastructure at the ports, and conducting extensive outreach campaigns to prepare travelers for the transition. If confirmed as Deputy Secretary, I will support these efforts and the Secretary's commitment to ensure WHTI is implemented in a fair and reasonable manner.

    b. What steps would you take to prevent WHTI implementation from causing delays at the border?

    As noted above, DHS has embarked on a three part strategy to ensure compliant documents are available, border infrastructure is in place, and extensive outreach to prepare travelers for transition. If confirmed as Deputy Secretary, I would work with DHS and State Department leadership to ensure these efforts continue and are effectively implemented. I will also support the Secretary's commitment to work with the Commissioner of CBP to review contingency planning and procedures to ensure that WHTI does not cause delays at the border.

    c. How would you ensure that there is adequate staffing to handle the enforcement of this requirement at the ports of entry?

    CBP has demonstrated its ability to manage effectively changes in document requirements at the border over the last several years. Specifically, I understand they issue guidance to the ports and set protocols for how to ensure delays resulting from the change are minimized, including establishing guidelines for staffing during the transition period and discretion for how to address individual cases during the implementation period. If confirmed as Deputy Secretary, I will work closely with CBP and other leadership to ensure DHS is well prepared for the change, and monitor implementation closely.

    d. To what extent should CBP officers in the field have discretion in admitting border crossers who do not have WHTI documents, but do not present a security threat, in order to avoid delays at the border?

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CBP has a positive track record of managing changes at the border over the last several years, including the change in January 2008 to eliminate the practice of accepting oral declarations of citizenship and identity from U.S. and Canadian citizens. I understand they provide guidelines to the ports with specific instructions on how to address individuals who are not in compliance with the documentary requirements, but do not otherwise present a threat. In particular, it is well understood that a U.S. citizen who is returning to the U.S. will be admitted upon his ability to satisfy the CBP officer of his citizenship and identity and completion of appropriate checks. If confirmed as Deputy Secretary, I will work closely with Departmental leadership to ensure that we are able to use best practices as well as the lessons learned from prior transitions to effectively implement this change.

e. What would you do to improve public awareness about WHTI requirements in the U.S. and Mexico and Canada?

As noted above, I know that DHS and the Department of State are engaged in robust public awareness campaigns to prepare for this transition. I also know that DHS staff is working closely with Canada, Mexico, and other governments to ensure that the upcoming documentary requirement changes are well understood. I recognize that these change can cause concern and anxiety and that getting the message out effectively is imperative to our ability to effectively implement the changes. However, I am always interested in improving the effectiveness of such important programs. If confirmed as Deputy Secretary, I will strongly support DHS's communications efforts, and I would look to a variety of stakeholders and Congress for ideas on improving WHTI public outreach.

Immigration

65. Over the last several years, Immigration and Customs Enforcement (ICE) dramatically increased worksite raids. Typically, large numbers of undocumented immigrant workers were arrested for immigration violations, but few employers were punished for hiring them. Some employers may hire undocumented immigrants because they may be less likely to report violations of child labor, wage and hour, health and safety, and other laws protecting workers. Secretary Napolitano has stated that she intends to focus enforcement actions on employers too.

How do you believe DHS should work in partnership with the Departments of Labor and Justice on a more comprehensive approach to the inter-related problems of hiring undocumented immigrants and addressing other employer workplace violations?

I agree with Secretary Napolitano that we need to focus our worksite enforcement efforts on employers who knowingly hire aliens that are not work-authorized and make sure that they are subject to criminal penalties for violating the immigration laws. As the types of unscrupulous employers who make such knowing violations of the immigration laws may also be culpable of other serious violations of law, such as violations of wage, workplace safety, and other labor laws, or even participation in

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human trafficking, it is critical that the Department of Homeland Security maintain and expand wherever possible the degree of cooperation and information exchange between the Department and the Departments of Labor and Justice necessary to focus on such criminal employers. I know that Secretary Napolitano has already met with Attorney General Holder to discuss closer cooperation between DHS and U.S. Attorney's offices across the country in prosecuting criminal employers and I would support similar top-level coordination with Labor Secretary Solis.

66. USCIS relies almost entirely on fees for its budget and is considered by many to be chronically under-funded. The agency has recently increased its fees substantially, causing concerns that the fees may pose an obstacle to immigrants seeking visas or naturalization. At various times USCIS has also experienced major backlogs in processing applications for both legal permanent residency and naturalization.

    a. What approach would you take to addressing the challenges USCIS faces?

    If confirmed, I am committed to working with DHS and USCIS senior leadership to closely examine the challenges facing USCIS and devise and implement appropriate strategies forward. The substantial improvements to USCIS's business processes and technology that will be brought about by USCIS' transformation program should create greater efficiencies that may reduce both costs and adjudication wait times for benefits applicants.

    b. Do you believe DHS leadership should consider reducing the fees USCIS imposes?

    If confirmed, I would work with the Secretary and senior leadership to determine what, if any, adjustments should be considered

    c. Do you believe USCIS should receive additional appropriated funds to reduce its reliance on fees?

    If confirmed, I look forward to working with the Secretary, senior Departmental leadership, and the Congress to review USCIS's budget in order to determine what, if any, adjustments should be considered.

67. How would you ensure coordination among DHS components, including ICE, USCIS, and CBP so that immigration priorities are identified, agreed upon, and consistently implemented?

    I fully support the Secretary's commitment to increase coordination among the Department's major immigration actors, including ICE, USCIS, and CBP, as part of her larger effort to bring a consolidated culture to the Department. If confirmed, I will support the Secretary's efforts to assess additional ways to improve coordination among these components and the rest of DHS.

68. U.S. immigration policy and border security was a highly contentious issue in both the 109th and 110th Congresses. There is a broad consensus that the U.S. immigration

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system is broken. This consensus erodes, however, as soon as options to reform the U.S. immigration system are debated. As a Senator and during the Presidential campaign, President Obama supported comprehensive immigration reform that included: a path to legalization and citizenship for undocumented aliens who meet certain criteria (*i.e.*, passing background checks, remaining employed, learning English and paying fines); reducing backlogs of applications for family-based and employer-based visas; establishing a temporary work visa program for unskilled workers and providing the temporary workers the opportunity to eventually petition for legal permanent residency; improving border security and immigration enforcement through a variety of measures; and establishing an employment eligibility verification system.

a. What elements do you believe are essential to effectively reform our immigration system?

The President and Secretary Napolitano are very much focused on immigration reform. If confirmed as Deputy Secretary, I look forward to working with Congress on this issue and playing a key role in the development and implementation of that strategy.

b. One of the largest challenges in passing immigration reform is the status of 12 million undocumented aliens currently residing in the United States. What are your recommendations for handling this situation?

Addressing the status of undocumented aliens is an important component of immigration reform. If confirmed, I look forward to working with the Secretary and Congress to develop and implement policies that are firm, fair, and just.

c. One element of immigration reform legislation considered by the Senate in 2007 proposed changes in the criteria for awarding Legal Permanent Residency (LPR) status. The proposal would have provided points for employment, education, and English skills and reduced the significance of family ties in the U.S. What is your opinion of this proposal?

While it is premature for me to comment on specific legislative proposals, I understand the arguments in favor of a reformed system that would support family unity, meet the legitimate needs of U.S. businesses while helping America remain competitive in a global economy, and fulfill the Nation's proud tradition of welcoming immigrants to our shores and protecting refugees.

d. What is your opinion on creating a new non-seasonal guest worker program?

Proposals for guest worker programs have generated important discussion and focus on a key issue that must be addressed as part of immigration reform. If confirmed, I will work closely with the Secretary and Congress to develop and implement effective strategies and programs to ensure the Nation's immigration laws are enforced in a fair, firm, and just manner.

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e. Do you believe that there are actions that the Executive Branch could take without legislation? If so, what are they?

If confirmed, I intend to work with the Secretary to recommend a comprehensive review of the administrative authority at DHS in immigration law to determine what changes could be made to improve the effectiveness of our current system.

f. What is your view on making immigration reform measures contingent upon the implementation of specific border security measures?

As indicated above, border security must be strengthened and laws must be enforced by the Department, as part of an overall strategy to address the immigration issue.

69. In recent years, there has been a strong push to increase the visa caps for both the H-1B and the H-2B temporary worker programs. Each year the cap is met quickly, leaving many employers without needed workers. Some argue that these caps unnecessarily restrict the ability of American employers to hire and maintain a knowledgeable workforce, thereby hindering the U.S. in the battle to bring the best and brightest into the country. However, many oppose increasing the caps on these programs because of concerns about fraud and abuse and the alleged absence of evidence of a labor shortage. What is your opinion of expanding the visa caps of the H-1B program and H-2B programs?

Any changes to the caps on H1-B and H2-B programs must take into account the current economic situation and prospects, as well as strategies adopted for immigration reform. If confirmed, I will ensure that this issue receives serious and sustained attention.

70. Several thousand criminal aliens illegally in the United States have been ordered removed, but cannot be because their countries of origin refuse to accept them. Many other aliens cannot be removed because their countries of origin lack a functioning government, and therefore cannot affirmatively accept them. As a result, the aliens are either held for long periods of time or released into the community. The Immigration and Nationality Act permits the State Department, upon being notified by the Secretary of DHS, to discontinue granting visas to citizens of countries that refuse to accept aliens ordered removed to their countries of origin. What would be your policy regarding the use of this tool in response to the refusal of foreign countries to accept the return of their citizens, subjects, or residents?

Modifications to visa policies often send powerful signals. From my perspective as a former United Nations executive, I am intimately familiar with how so many others around the world value accessibility to the United States. Many want to come here. We must ensure that our policies reflect the need for America's security and safety, and that our international partners fulfill their responsibilities.

71. Congress is divided on whether to permanently authorize E-Verify; some critics of the

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program argue that the system is still subject to an unacceptably high error rate, and the Chamber of Commerce and other representatives of industry claim it imposes an undue burden on employers. Supporters contend that E-Verify is an effective tool to create a verification program that will help to dissuade unlawful employment.

a. Do you believe E-Verify should be permanently authorized or made mandatory for a larger number of employers? Do you think the system in its current state can be effectively scaled to cover all employers?

The government should provide a tool for employers to quickly and accurately verify the work eligibility of employees. As such, if confirmed, I look forward to working with the Secretary and Congress to examine existing and innovative programs to accomplish this goal.

b. What other initiatives would you consider to identify and pursue employers who knowingly hire undocumented aliens?

If confirmed, I will support the Secretary's coordination with the Department of Justice to assure prosecution of serious violators.

72. In October 2008, DHS issued additional regulations on what actions an employer should take when they receive a no-match letter from the Social Security Administration (SSA) notifying them of mismatches between names and social security numbers provided by their employees and the information in SSA's database. This rule is currently being challenged in court. Do you support the no-match regime outlined by DHS in its regulations? If not, explain how you would modify the policy.

I am familiar with, and have been briefed on, the relevant arguments and concerns. However, because the no-match rule is the subject of ongoing litigation, I believe it is inappropriate to comment on it at this time.

73. The role of state and local law enforcement entities in the enforcement of immigration laws has received a significant amount of attention in recent years.

a. In your opinion, what is the appropriate role of state and local law enforcement in enforcing civil immigration laws?

Immigration enforcement is primarily a federal responsibility. However, it does require coordination with state and local law enforcement. If confirmed, I will work to ensure that relevant stakeholders are engaged appropriately and that enforcement is coordinated, appropriate, and effective.

b. How do you believe the 287(g) program could best be utilized, and do you think the program should be modified and/or expanded?

If confirmed, I will support the Secretary's review of this issue and consultations with appropriate stakeholders in order to determine whether modification or

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expansion of the 287(g) program would be appropriate.

c. There has been concern with ICE's management, supervision, and participation in the 287(g) program, as well as local law enforcement's detention space, completeness of paperwork, and discretion used to screen individuals in jail facilities. If confirmed, what steps do you plan to take to ensure proper oversight of this program?

I look forward to examining the results of the Secretary's review of this issue and ensuring constant vigilance is exercised with regard to ICE's extensive operational responsibilities.

74. The immigration detention system has expanded substantially over recent years. Recent reports have focused attention on the conditions immigrants face while detained by ICE. Among other things, the reports describe overcrowding, inadequate medical care, inappropriate use of force, lack of access to telephone services, and transfers that disrupted access to legal counsel. There is concern about a lack of an appropriate environment for families and asylum seekers.

a. What steps do you plan to correct these and any other problems with detention facilities and the treatment of aliens who are detained by ICE?

I am aware of this issue and will work closely with senior Departmental leadership to address it. Secretary Napolitano has appointed a Special Advisor on Detention and Removal Operations at U.S. Immigration and Customs Enforcement (ICE) to specifically focus and advise her on immigration detention issues. If confirmed, I will ensure that this issue receives regular and appropriate attention at the highest-levels in order to assess current conditions, identify any shortcomings, and devise and implement strategies that will bring about substantive improvements to the system and ensure that aliens in ICE custody are treated humanly and appropriately.

b. Would you support modifications to the Department's parole policies and the availability of alternatives to detention, so that individuals who have been determined to pose no risk to public safety and are not deemed significant flight risks are provided with greater opportunities for release while their immigration proceedings are pending?

ICE parole policy is certainly an aspect of overall ICE detention policy that will be closely examined as part of the policy review currently underway. If confirmed, I expect to be deeply engaged in this review.

Coast Guard

75. The President's budget overview proposes "termination of…the terrestrial-based, long-range radionavigation (LORAN-C) operated by the U.S. Coast Guard, resulting in an offset of $36 million in 2010 and $190 million over five years." This announcement

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comes only one month after the release of the Federal Radionavigation Plan (FRP), which was jointly approved by the Departments of Transportation, Defense and Homeland Security, and appears to provide a way forward for implementing eLORAN. The FRP acknowlegedes that, "many transportation safety-of-life applications depend on commercial communication systems and DOT recognizes the importance of the Loran system as a backup to GPS for critical infrastructure applications requiring precise time and frequency."

a. Does the decision to terminate the LORAN program mean that the Department does not intend for eLORAN to serve as the Position, Navigation and Timing (PNT) back-up to GPS in the future?

I understand that an initial DHS survey of the Critical Infrastructure and Key Resource sectors indicated that a variety of redundant capabilities, backups and contingency plans are in place to meet growing national, homeland, and economic security requirements, civil requirements and commercial and scientific demands. DHS expects to complete an assessment to determine if a single, national system is needed for GPS backup.

b. If the LORAN program is terminated, what other backups or contingency plans has DHS identified to provide a viable alternative to GPS in the event of an outage?

As there is a wide variance in backup system requirements, the Department will work collaboratively with critical infrastructure and key resource stakeholders to determine whether alternative backups or contingency plans exist across the sectors. DHS expects to complete an assessment to determine if a single, national system is needed as a GPS backup.

76. National Security Presidential Directive (NSPD) 66 and HSPD 25 established new guidance for Arctic Region Policy. This directive provides that the U.S. has "broad and fundamental national security interests" in the Arctic region and calls for the U.S. to "assert a more active and influential national presence to protect its Arctic interests and to project sea power throughout the region." Unfortunately, the Coast Guard is in danger of losing its polar icebreaking capability. Both of the Coast Guard's heavy polar ice breakers are nearing the end of their service life. One of the two, POLAR STAR, is in a non-operational "caretaker" status, tied up at its pier in Seattle. Further, no long-term contingency plan exists to provide U.S. polar icebreaking capacity in the future.

a. What actions do you support to restore the Coast Guard's capacity to maintain a U.S. presence in the resource-rich and increasingly strategic polar regions?

If confirmed, I will work with the Commandant of the Coast Guard to support the Administration's strategy and policies for maintaining a presence in the polar regions. I would work with the National Security Council and Homeland Security Council to develop the roles and responsibilities of DHS and the USCG and I will be committed to meeting those responsibilities. Additionally, I would also work to understand and consider the broader context of the federal government, including

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the Navy, State Department, National Science Foundation, etc.

b. The acquisition of two new icebreakers, from design to construction, will cost an estimated $1.6 to $2.0 billion and take 8 to 10 years to complete. Do you support devoting the necessary funds in the near term to initiate the acquisition process for two new polar icebreakers for the Coast Guard?

If confirmed, I will work with the Executive Office of President, OMB, the Department's Chief Financial Officer, the U.S. Coast Guard, and the Congress to determine the appropriate funding levels for all Department projects, programs, and initiatives. I commit to working with the Congress, if confirmed, to determine what the best course of action is on this, and all, acquisition programs within the Department of Homeland Security.

c. Your experience at the United Nations has likely given you a particularly strong sense of appreciation for the importance of multinational cooperation. The Arctic region, which lacks a comprehensive legal regime, is vulnerable to exploitation by individual nations. Can the U.S. realistically exercise sovereignty in the Arctic without making the investment to recapitalize the Coast Guard's polar icebreaking fleet in the near future?

The U.S. clearly has legitimate national interests in these issues and in this region. If confirmed, I will commit to working with the Congress and the Administration to determine the proper roles and responsibilities for DHS and the USCG, ensuring that the capabilities necessary to meet these responsibilities are adequately resourced.

77. Because the Coast Guard has been tasked with additional homeland security responsibilities, some worry that there has been a corresponding decrease in the service's focus on its traditional missions.

a. What steps would you take to ensure that the Coast Guard's homeland security missions do not undermine its ability to perform its non-homeland security missions?

The Department of Homeland Security was established to protect our country and secure our freedoms and is steadfast in preparing and responding to threats of all types and kinds. The Coast Guard's exemplary performance in response to Gulf Coast hurricanes demonstrates its competence and capabilities. Equally, the Coast Guard's missions in such areas as aids to navigation and marine environmental protection are valued contributions of this important component of DHS. If confirmed, I am committed to working with the Secretary and the Commandant of the U.S. Coast Guard on all Coast Guard missions.

b. Do you believe the Coast Guard currently has sufficient personnel and resources to complete its various missions, and would you support additional personnel for the Coast Guard?

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Demand for Coast Guard services continues to grow over time. The Commandant of the Coast Guard has stated that the Coast Guard needs to grow to perform its marine safety mission in the near term, and the Coast Guard is steadily adding to its workforce in that critical, traditional mission area. If confirmed, I am committed to working with the Secretary and the Commandant to review the Coast Guard's end strength requirements in all of its mission areas, as I am committed to working with all DHS Components to ensure that their staffing is appropriate to their mission and their resources are aligned appropriately.

78. One of the provisions of the SAFE Port Act of 2006, which this Committee authored, was the requirement to establish Interagency Operations Centers (IOCs) for port security at all high-priority ports not later than three years from the date of enactment. The Act authorized $60 million each year from 2007 - 2012. In 2007, DHS identified the 24 high-priority ports that would require interagency operations centers and estimated that the entire project at the 24 ports would cost $260 million, with an annual operating cost of $3 million per center. Can you comment on the Department's timeline to fund and establish these first 24 IOCs?

While I cannot comment on the precise timeline to fund and establish the first 24 IOCs, I know that to carry out the Department's core missions, interagency cooperation and coordination is essential. If confirmed, I am committed to ensuring that the Department continues to develop its capacity to coordinate with its interagency partners through Interagency Operations Centers, as well as state and local fusion centers.

79. It has been nearly a year since the Department issued its Small Vessel Security Strategy in April 2008. What, specifically, has been done to implement this plan?

It is my understanding that over the course of the last year, the working group that crafted the strategy has developed a formal implementation plan that outlines specific programs and objectives for DHS component actions. This plan was developed through extensive discussions with DHS partners such as the Department of Defense and Department of Justice. When completed, the implementation plan will ensure close coordination throughout the United States on small vessel security-related issues. Additionally, DHS has continued its outreach efforts with the domestic and international public and private sectors; for example, in January 2009, DHS completed a series of five Regional Small Vessel Security Summits with a summit in Houston. The Department's extensive outreach should ensure an enduring partnership with small vessel stakeholders and partners. If confirmed, I will work with the Secretary, the Commandant of the Coast Guard, and the Commissioner of Customs and Border Protection to ensure effective implementation of the Small Vessel Security Strategy.

80. Deepwater is a collection of more than a dozen Coast Guard acquisition programs for replacing and modernizing the service's aging fleet of deepwater-capable ships and aircraft. It includes plans for, among other things, 91 new cutters, 124 new small boats, and 247 new or modernized airplanes, helicopters, and unmanned aerial vehicles

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(UAVs). The success of Deepwater is critical to the future of the Coast Guard, and the program must be carefully monitored to ensure that taxpayer dollars are being spent effectively. The Commandant of the Coast Guard has reformed the service's acquisition structure to correct past problems with Deepwater. How will you help ensure Deepwater's success?

If confirmed, I expect to chair the Department's Acquisition Review Board to ensure major acquisitions like Deepwater receive appropriate senior-level attention as part of a strong and effective acquisition program. I would also work with the Commandant to ensure the success and accountability of the Deepwater program.

Maritime and Transportation Security

81. After September 11th, the federal government moved quickly to improve the security of commercial aviation. In response to concerns that seaports and cargo supply chains were vulnerable to smuggling of people and Weapons of Mass Destruction (WMD), Congress and DHS acted to build or strengthen maritime security programs. Following terrorist attacks on rail and transit systems in Madrid, London, and Mumbai, Congress included a number of provisions in the 9/11 Commission Recommendations Act to address perceived vulnerabilities affecting domestic rail and transit systems. However, some security experts and members of Congress have expressed concern that DHS still has not sufficiently emphasized surface transportation security. If confirmed, what would you prioritize to strengthen surface transportation security?

Given the federal responsibilities outlined in the Aviation and Transportation Security Act (ATSA) of 2001, the continued high threat environment facing aviation, and the long standing federal oversight generally over aviation, aviation security is going to continue to be a dominant focus of the Transportation Security Administration (TSA). But I share the view that given the attacks in Madrid, London, and Mumbai, we cannot afford to overlook surface transportation. Each mode has very different challenges and much of the responsibility to secure our freight rail, transit, highway, and pipeline systems will fall to state and local authorities and the private sector supported by the DHS Transportation Security Infrastructure Grant program. If confirmed, I plan to look closely at this issue to ensure that DHS and TSA are devoting the attention to surface transportation commensurate with their responsibilities.

82. The 9/11 Commission Recommendations Act required that TSA establish a system to enable the screening of all air cargo transported by passenger aircraft, and mandated that 50% be screened by February 1, 2009 and 100% be screened by August 2010. However, the legislation gave TSA some flexibility in determining who screens the cargo. To meet the deadlines, TSA has established a Certified Cargo Screening Program, which has already certified more than 100 facilities, and continues to certify more. What oversight mechanisms has TSA put in place to verify that facilities stay in compliance with the program, and do you consider them sufficient?

I understand that the Certified Cargo Screening Program (CCSP) is a key component in the Department's efforts to address statutory requirements to screen 100 percent of

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air cargo on commercial airline flights. Obviously, compliance is a key measure in ensuring that participants in the CCSP and other participants in the supply chain provide the security that is required of them. Although it is a voluntary program, facilities and the multiple entities that process air cargo are closely regulated by DHS and held to rigorous security standards. To accomplish these enforcement and compliance efforts, TSA has dedicated nearly 450 air cargo inspectors to the oversight of air cargo programs. If confirmed I will work with TSA as it continues to analyze the adequacy of its inspection program and its efforts towards the 100 percent screening mark.

83. Several key maritime security programs are predicated on not just interagency coordination, but international cooperation. Programs like CBP's Container Security Initiative, the Customs-Trade Partnership Against Terrorism, and the Secure Freight Initiative are just a few examples. However, some security measures – like the 100% container scanning deadline in 2012 – have strained relations between the U.S. and some international partners.

    a. How can the Department improve its ability to solicit and incorporate feedback from its international partners, or better communicate the Department's reasons for taking certain measures?

    DHS has benefited from close partnerships with foreign governments as it worked to develop a variety of maritime and supply chain security programs. For example, foreign partners working with DHS during the Secure Freight Initiative (SFI) pilots were willing to expend considerable resources associated with additional staffing, construction and other infrastructure upgrades. These partnerships were critical to the success of these pilots and I understand that feedback from foreign partners and industry constituted a significant portion of the 2008 DHS report to Congress on SFI. If confirmed, I will ensure that the lines of communication remain open and are strengthened.

    b. What experiences in your work with the National Security Council and the United Nations will help guide your actions as Deputy Secretary in this area?

    I have direct and extensive experience working collaboratively with officials at all levels of government from many countries around the world, ranging from routine information-sharing to joint mission planning and execution in times of crisis. For example, during my tenure on the National Security Council staff, I regularly worked with officials from many countries in Europe to develop options and strategies to deal with problems as diverse as Cyprus, the conflict in the former Yugoslavia, and the peace process in Northern Ireland. I also worked closely with interagency colleagues in the United States government in joint overtures and discussions with European allies on issues including NATO expansion and establishing the Partnership for Peace. In the not-for-profit realm, I, again, worked closely with diverse international officials from governments as well as influential nongovernmental organizations in order to analyze and understand the problem of unfolding, spreading, or renewing conflict and analyzing how to best coordinate

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international efforts to prevent conflict and ensure security. Certainly my tenure at the United Nations involved a deep immersion in intergovernmental dialogue, collaboration, and coordination. Through the process of working collaboratively—in times of peace and security, and crisis and instability—with officials from a wide range of countries and international organizations, I have developed extensive first-hand experience and relationships that, if confirmed, I expect to draw upon to advance the work of the Department and clarify and strengthen its engagements with international partners around the world.

c. At a hearing before the House Homeland Security Committee on February 25, 2009, Secretary Napolitano indicated that her initial review of the 100% cargo container scanning requirement indicated that the Department would not be able to meet the 2012 deadline established by the 9/11 Commission Recommendations Act. Is it your understanding that DHS believes this statutory requirement should be modified in some way, or does the Department still plan to work towards meeting the 100% scanning requirement, but believes a different timetable is necessary?

If confirmed, I will review the Department's efforts to date and determine whether it would be appropriate and necessary to exercise this authority. I am not in a position at this point to comment on whether modification to the statutory requirement may be necessary, but can assure you that any decision to use such authority will be made in close consultation with Congress.

d. Do you think a 100% scanning requirement is consistent with a risk-based approach to maritime container security with multiple layers of protection?

Increasing our level of knowledge and intelligence on the millions of containers that either flow through our maritime ports or cross through our land borders, obviously improves our ability to make informed risk-based judgments and deploy our resources accordingly. As I understand the Secure Freight Initiative (SFI), container screening is a valuable security tool however there are limitations on the action we can take at the port facility itself without severely disrupting port operations. I am mindful that it is unlikely the Department will achieve the established 2012 deadline, and that the goal of container security is to secure global supply chains rather than simply securing ports. If confirmed, I plan to look closely at the program's status and potential future options, and pledge to work with the Secretary to come back to Congress with a clear path forward.

e. The Department recently released its second six-month status report on the Secure Freight Initiative (SFI) pilot program to Congress, which requires that all containers at certain foreign ports be scanned for radiation and x-rayed. Though the reports found that some progress has been made, and that 100% scanning may currently work in low volume ports, they also note that significant challenges remain, primarily with foreign government cooperation, equipment costs and reliability, port infrastructure constraints, and the significant difficulties scanning and x-raying transshipped cargo. How would you address the issues raised in the SFI reports to Congress?

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If confirmed, I will work with the senior leadership of the Department and CBP, as well as domestic and international Secure Freight Initiative (SFI) partners to assess the status of, and evaluate the appropriate way ahead, for the program. I am aware that CBP issued a report last year highlighting many legal, logistical, and technical challenges confronting SFI. I expect any assessment will rely heavily on the SFI reports to Congress, along with other stakeholders' input.

f. The most recent DHS report on SFI estimated that expansion of the SFI to all foreign ports shipping to the U.S. would cost at least $16.8 billion for the initial equipment purchases. Though this is a cost that could be borne by the U.S. government, foreign governments, the private sector, or some mix, it does not account for personnel costs for reviewing images and resolving false alarms, as well as any costs associated with delays. How would you determine the costs to DHS for reviewing images and resolving alarms?

If I am confirmed, I would work with CBP and other stakeholders to ensure that the container scanning strategy going forward is achievable and affordable. This is clearly a critical issue and, if confirmed, I look forward to working to ensure that al lDHS programs are effective, realistic, and sustainable.

g. Last year, the Department announced that it planned to continue to expand the SFI to "strategic trade corridors" overseas. However, such a deployment could have economic consequences for certain ports and may inadvertently shift risk from one port to another. Do you believe SFI should be expanded according to "strategic trade corridors?"

It is important to recognize both SFI's potential and its limitations. If confirmed, I will work with the Secretary to review the program and identify next steps and remain committed to ensuring that we maintain the necessary balance between trade facilitation and security.

Infrastructure Protection

84. The November 2008 attacks in Mumbai, India demonstrated the vulnerability of "soft targets," facilities that are traditionally not subject to a high level of security and must be easily accessible to the general public. Soft targets, such as hotels, sporting arenas, and cultural centers can be an attractive target for terrorists because of their open nature and the large numbers of people they often attract, but cannot be hardened with many of the security methods applied to traditional critical infrastructure, such as chemical plants or government buildings.

a. What should DHS do to improve the security of soft targets?

The best approach to protecting soft targets is to detect and disrupt terrorist attacks before they occur. These efforts require close coordination between intelligence, law enforcement, border security, and other elements of federal, state, local and

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tribal authorities. DHS plays an important role in this work, both directly because of its authorities over the border, and its capabilities in protecting coastal waters, aviation, and critical infrastructure. If confirmed, I look forward to working closely with Congress and all stakeholders to strengthen our protections and build resiliency.

b. Do you believe the Department's current efforts are adequate? If not, where do you believe they need to be enhanced?

If and when an attack does occur, it is essential that federal, state, local and tribal authorities respond promptly, in a coordinated manner, with all the resources necessary to secure the situation and end further violence. How incident response will be coordinated depends on the precise situation, and improving overall coordination across all levels of government will be one of the important challenges for DHS in coming years. The Mumbai attacks showed what low-tech weapons can accomplish. Prompt, firm and coordinated response at all levels of government is essential to effective preparedness and resiliency, and if I am confirmed will diligently work to bolster the Department's engagement with other stakeholders.

85. In the 9/11 Commission Recommendations Act Senators Collins and Lieberman co-authored a provision to encourage people to report potential terrorist threats directed against transportation systems. In response to the November 2008 terrorist attacks in Mumbai, India, where it appears that the terrorists performed reconnaissance on a number of the targets before the attacks, Senators Collins and Lieberman convened two hearings to examine the lessons learned from Mumbai. Those hearings reinforced their long-standing concern that terrorists might shift their attention from high-value, high-security targets to less secure commercial facilities or "soft targets." Indeed, in response to a question from Senator Collins during the first hearing, New York City Police Commissioner Raymond Kelley said that the 2007 law "made eminently good sense" and encouraged "that it be expanded [to other sectors] if at all possible."

The Committee may consider legislation which would expand the protections of the 9/11 Commission Recommendations Act to reports of suspicious behavior in sectors other than transportation, but would also contain several important safeguards designed to protect against racial profiling. For example, it would not protect an individual who submits a report that he or she knew to be false or was made with reckless disregard for the truth at the time that the person made that report. Would you support such legislation?

Generally, legislation should encourage responsible engagement of alert citizens to report suspicious behavior. This must be balanced with protections of the fidelity of such information by dealing with the false-positive problem in a manner that is respectful of communities subject to profiling, while simultaneously ensuring that reporting of suspicious behavior is not discouraged and is done in a responsible fashion.

86. Ensuring the security of the nation's most critical infrastructure and key resources is a

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key mission of the Department. HSPD 7 (Critical Infrastructure Identification, Prioritization, and Protection) directed the Secretary of Homeland Security to develop the National Infrastructure Protection Plan (NIPP) and encouraged the Department and sector-specific agencies to develop voluntary private-public structures, such as the private sector and government coordinating councils, to set national priorities for, and provide a coordinated approach to, critical infrastructure and key resources protection.

a. What experience do you have cooperatively engaging the private sector to accomplish common goals?

I have direct experience forging innovative public-private partnerships in support of common goals as part of the leadership of Ted Turner's initiative to support international causes (The United Nations Foundation). During my tenure as the Executive Vice President and Chief Operating Officer of the Foundation, we pioneered a ground-breaking public-private partnership business model to provide a third-party platform for businesses to join civil society and other efforts to support international causes. This model generated hundreds of millions of dollars, in addition to Mr. Turner's personal contribution, and provided valuable data about both the challenges and benefits of multi-sectoral engagement with the international public sector.

The Foundation's innovative public-private partnership model established a novel template that has been replicated for other public-private partnerships within the United Nations system. As a result of this experience, I am personally cognizant of the importance of appropriately engaging the private sector and mobilizing its considerable resources for the common good.

b. What is your view of the NIPP and the sector-specific plans developed in association with the NIPP?

Given that over 85% of the Nation's critical infrastructure is owned and operated by the private sector, I believe in the importance of a strong national infrastructure protection plan that sets forth a clear process to engage and work in a collaborative manner with infrastructure sector partners. If confirmed, I will review existing structures and lessons learned to ensure these structures are used to drive measurable improvements in security.

c. What is your view on voluntary private-public partnerships as a tool to ensure the security of our nation's critical infrastructure and key resources?

Ensuring the security of our Nation's critical infrastructure and key resources demands that the public and private sectors work together to find solutions that are cost-effective and benefit day-to-day operations. If confirmed, I look forward to working closely with the private sector to ensure the full protection of the Nation's critical infrastructure.

d. What actions would you take to develop and improve voluntary public-private

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programs?

To understand the challenges inherent in the public-private collaboration to protect the Nation's critical infrastructure, I would, if confirmed, seek an early opportunity to explore with all stakeholders their perspectives and recommendations going forward.

87. The Department initially focused its activities on protecting rather than ensuring the resiliency of our nation's critical infrastructure and key resources. In a recently issued report, the Homeland Security Advisory Council recommended refocusing the Department's critical infrastructure and key resources protection activities on resiliency as a top priority for the next Secretary because "we cannot protect everything, against all things, at all times, and at all costs." Some experts have also argued that the private sector is more open to the concept of resiliency because the business case for investing in resiliency is more compelling.

    a. What role do you believe resiliency should have in the Department's critical infrastructure and key resources activities?

    DHS defines resilience as "the ability to recover from, or adjust to, adversity or change." The Homeland Security Advisory Council publically recommended in 2006 and again in 2008 that critical infrastructure resilience be prioritized as a top strategic objective. If confirmed, I will work with all stakeholders to strengthen the Nation's resilience in confronting all-hazards.

    b. What are your views regarding the appropriate balance between protection and resiliency?

    The homeland security agenda ranges from protection and prevention to response and remediation. In this regard, preparedness and resilience are important touchstones. If I am confirmed, I will work with all stakeholders on this agenda to ensure a proper balance is struck.

    c. How would you encourage resiliency through existing voluntary public-private partnerships, such as the sector and government coordinating councils?

    I understand DHS has developed avenues to encourage resiliency through public-private partnerships, including the Secretary's Homeland Security Advisory Council. If I am confirmed, I will look forward to learning more about existing structures and ways to develop innovative approaches to this issue.

88. The Department's Office for Bombing Prevention leads the Department's efforts to deter, detect, prevent, protect against, and respond to terrorist improvised explosive device (IED) threats. In November 2007, the Committee approved legislation, the National Bombing Prevention Act of 2007 (S. 2292), to strengthen the authority and budget of this critical office. In FY2007, the Department of Homeland Security Appropriations Act and HSPD-19 required a National Strategy for Bombing

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Prevention. The Strategy was completed and delivered to Congress in 2008, but required the interagency process to also develop an implementation plan.

a. What is the status of the implementation plan, as required by HSPD-19?

It is my understanding that the implementation plan was completed in close partnership with the Department of Justice, approved by the Attorney General, and delivered to the White House on January 16, 2009.

b. Do you intend to continue these efforts, and if so, will you deliver the implementation plan to Congress when it is completed?

It is my understanding that the HSPD-19 Implementation Plan was delivered to Senate Appropriations Committee (SAC), House Appropriations Committee (HAC), Senate Homeland Security and Governmental Affairs Committee (HSGAC) and House Homeland Security Committee (HHSC) on February 5, 2009. The Department is working closely with the interagency partners to execute the tasks and actions enumerated in the Implementation Plan. In particular, the Office of Infrastructure Protection Office for Bombing Prevention and the FBI have taken the respective leads on coordination between DHS and DOJ and will continue working together through the HSPD-19 Implementation Joint Program Office. As a result of over two years of work on the national strategy, DHS and DOJ have forged a close partnership on countering terrorist use of explosives that will last for many years after all HSPD-19 tasks are complete.

c. How will you use this implementation plan to guide funding and staffing levels for DHS offices given increased responsibilities under the plan?

If I am confirmed, I look forward to working with appropriate stakeholders utilizing the HSPD-19 Implementation Plan to develop appropriate resource requirements for those components and offices within the Department responsible for carrying out these tasks.

89. The Department's Protective Security Advisors (PSAs) are critical infrastructure protection specialists deployed across the nation to partner with state, local, tribal and territorial governments and the private sector to assist with local efforts to protect critical infrastructure and key resources. The PSAs also support FEMA by serving as infrastructure experts during disasters.

a. DHS has begun implementing a program to provided at least one PSA to every state. Will you continue to support this program?

It is my understanding that the PSA Program has proven its value to the Department's state, local, tribal and private sector partners. PSAs have considerable qualifications and experience related to risk reduction, physical security, and counterterrorism, bringing the added value of direct experience with DHS, other federal agencies, and state and local law enforcement, to the critical

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infrastructure and key resources prevention and protection mission. Leveraging this experience, the PSA Program is able to support national preparedness by fostering improved coordination through protective programs and developing a more robust critical infrastructure protection capacity in states and local communities.

b. Should additional resources be given to appropriately expand and encourage the long-term sustainability of the PSA program?

Resource considerations should be evaluated in the context of the program's overall performance. If confirmed, I look forward to examining these issues closely with all relevant stakeholders.

90. The nation depends on electricity. As such, the security and reliability of the electric grid is critical to the homeland security mission.

a. What steps will you take as Deputy Secretary to help secure the electric grid?

If confirmed, I will ensure that close cooperation continues between DHS and the Department of Energy, its federal partner in electric grid security, as contemplated by the National Infrastructure Protection Plan (NIPP) and the Energy Sector Specific Plan. Coordinating with the entire range of range of stakeholders who own and operate the electrical system, I am committed to building upon the successful elements already in place, and identifying potential areas for improvement.

b. Often infrastructure protection is most effective if it is built into the system or asset as opposed to being applied as an afterthought. What role do you believe the Department should play in electric grid modernization efforts being led by the Department of Energy (DoE)?

If confirmed, I will ensure that DHS is both strengthening existing responsibilities and pursuing any innovative areas in which the Department could most effectively bolster security in DOE's electric grid modernization efforts.

91. The American Recovery and Reinvestment Act provides $47 billion to fund a wide variety of transportation infrastructure projects. As these projects are designed and constructed, it is important that consideration be given to ensuring critical infrastructure is protected from natural and man-made threats, including terrorism. S&T has been doing some work in this area, and is developing tunnel, dam, and bridge protective measures. To what extent are protection and resiliency measures being considered as stimulus-funded infrastructure projects are planned and constructed, and what should DHS' role be in ensuring these protective measures are considered?

It is my understanding the Secretary has been in contact with the President and her colleagues in the Cabinet to ensure that infrastructure projects funded by the American Recovery and Reinvestment Act include protection and resiliency measures. If

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confirmed, I will work with the Secretary on this effort.

92. The American Recovery and Reinvestment Act also provides $4.5 billion for alternative energy infrastructure improvements, $4.5 billion for electricity transmission activities, and $6 billion for loan guarantees for renewable energy and transmission projects. There are serious cyber security threats and resiliency concerns related to energy generation infrastructure and a modernized electricity grid that should be considered in the development of these important projects. Although distribution of the funds for these projects will be managed by the DoE, DHS has a great deal of expertise in the protection of critical infrastructure and cyber security to ensure that these projects are not left vulnerable to man-made or natural disaster disruption. Are there collaborative efforts between DoE and DHS to ensure consideration is given to cyber security and resiliency measures?

I understand that the Departments of Energy and Homeland Security collaborate closely on issues related to cyber security resiliency and the modernized electricity grid. If confirmed, I look forward to working with the Assistant Secretary for Infrastructure Protection to learn more about these efforts and support them fully to ensure DHS maintains an active role in these and related resiliency matters.

Chemical Security

93. Numerous homeland security experts have identified the nation's many chemical facilities as an extremely dangerous vulnerability. These facilities make or use hazardous chemicals that are highly toxic if detonated or released. Because many such facilities are located close to population centers, they represent, in the words of one expert, "pre-positioned weapons of mass destruction." In the fall of 2006, Congress directed DHS to identify, assess and ensure effective security at or near our nation's high-risk chemical facilities. The Department subsequently released the Chemical Facility Anti-Terrorism Standards (CFATS), an interim final rule that establishes risk-based performance standards for such facilities. Under CFATS, covered chemical facilities are required to prepare Security Vulnerability Assessments and Site Security Plans that identify the measures that will be used to minimize any identified vulnerabilities. Although the Department has made considerable progress in implementing CFATS, authorization for the program will expire in the fall of 2009.

Please discuss your familiarity with CFATS and how you would guide this program forward if confirmed. Do you believe DHS needs additional regulatory authority in this area?

I have been briefed on CFATs by the Department's experts on the subject and understand that the Department is currently in the middle of a key implementation phase of the Chemical Facility Anti-Terrorism Standards (CFATS) and generally, it has been making progress in the implementation the program. I believe the Department is preparing to notify Tier 1 facilities of their final tiering determination, which will trigger the creation of Site Security Plans – the next step in the regulatory program.

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DHS needs to maintain its momentum in this program while ensuring that the Nation's high risk chemical facilities are achieving measurable security improvements.

If confirmed, I will closely evaluate this regulatory program to determine the effectiveness of the implementation and to ensure the Secretary's priorities are being met. After reviewing the program I will be able to determine if more authorities are needed to augment our current efforts.

Federal Protective Service

94. The Federal Protective Service (FPS) is responsible for providing security for more than 8,000 federal buildings around the country, and the more than 12 million federal employees working in them. Unfortunately, it is an agency that has been chronically overlooked by the Department. Worse, in each of the past two years, the previous Administration proposed realigning the FPS and cutting approximately 25% of the existing uniformed security personnel within the agency. In response, Congress required the Federal Protective Service to maintain no fewer than 1,200 full-time equivalent staff (FTEs), including at least 900 law enforcement officers. Congress also required that the FPS adjust the fee it collects from the agencies it serves in order to meet the FTE requirement and maintain an appropriate level of security for federal employees and buildings.

    Title XI of S. 3623, the DHS Authorization bill introduced by Senators Lieberman and Collins last Congress, authorizes additional full-time law enforcement personnel for the Federal Protective Service to boost the capabilities of this important agency, and requires that DHS undertake a number of actions to improve operations in the FPS, including looking at how DHS funds and staffs the agency.

    a. Do you support adding FPS officers (which includes police officers, inspectors or criminal investigators) to boost FPS's capabilities in protecting our federal buildings and the people that work and visit them every day?

    If confirmed, I expect to study this matter in depth, taking into consideration a comprehensive review of the current state of FPS operations and capabilities. In addition, I expect that such a review will make comprehensive recommendations on options to achieving operational efficiencies and identify potential changes to operational policies and procedures.

    b. Do you plan to review FPS staffing, its model for reliance on contract security guards for initial response in most cases, and its fee structure, to ensure that federal buildings are adequately protected?

    Yes. A full review of all FPS activities is warranted. If confirmed, I look forward to receiving the recommendations for this review to help further strengthen the Department's operations.

    c. If confirmed, will you commit to work with the Committee to ensure FPS receives

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the attention it needs from the Department?

Yes. Ensuring the safety and security of our federal workforce and buildings is a critical mission. I am committed to working closely with this Committee, together with Immigrations and Customs Enforcement, on all matters concerning DHS operations.

Cyber Security

95. For years, there have been significant vulnerabilities in our cyber networks. These vulnerabilities have led to massive identity theft, monetary loss, and leaks of classified information, and have had an effect on all levels of government and throughout industry. Additionally, cyber threats to Supervisory Control and Data Acquisition (SCADA) systems – which control industrial processes – have the potential to cause devastating impacts on critical infrastructure, including the electric grid and the water supply.

    a. Please discuss your familiarity and experience with cyber security issues.

    My familiarity with cybersecurity issues originated with my service as a signal officer in the United States Army. From this experience, I became familiar not only with the essential need for continuous and reliable data, voice (and, increasingly video) links within and between operations, but also with the need to secure information against very determined threats to seize and exploit vulnerabilities. During my tenure at the United Nations, one of the many divisions I oversaw was the Communications and Information Technology Service which had responsibility for ensuring timely and secure communications and information exchange within and between United Nations peace operations, and between these operations and Headquarters. During this time, continuous expansion and the evolving complexity of peace operations required the robust provision of information and communications technology services. Due to the global nature of peacekeeping, the complexity of mission mandates, austere operating environments (making secure and reliable communications not a luxury, but a security imperative), and the need to integrate with military and police components of varying degrees of sophistication and resources, cybersecurity (and interoperability) became ever-present considerations.

    Like every other IT user in the world, the United Nations has become exposed to regular attempts to obtain unauthorized access to its systems and other potentially disruptive actions, as well as various forms of malicious code, all of which have enormous potential to impair operations. Protecting valuable information from unauthorized access is now an ever-present and ever-expanding requirement due to an increase in reliance upon information systems and the increasing sophistication of tools employed to obtain unauthorized access to them. My Department provided, supported, and continues to support an agile and comprehensive approach to protecting Peacekeeping information and communications technology resources

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and data in light of rapidly changing threats, vulnerabilities, requirements, and technologies through the integration of sustainable information security practices.

More specifically, during my tenure leading mission support for Peacekeeping, we incorporated effective information communications technology security safeguards into daily operations, mindful of the need to achieve mission goals and objectives; developed, promulgated, and monitored information communications technology security policies, standards, baselines, guidelines, and plans – including the standardization of risk and vulnerability assessment processes; and established an information security capacity at Headquarters in New York City and in field missions around the world in order to deal with ever evolving information security challenges. Under my leadership, we performed information security assessments on information systems at all levels, promoted a general user security awareness program, and developed an incident and digital forensics capacity to support investigations by the Office of Internal Oversight Services when information and communication technology resources and data were involved. In addition, we actively worked to integrate information and communications technology security into all aspects of project management, development, and operations. From this experience, I have a deep appreciation of, and significant experience with, the complexities and challenges of cybersecurity.

b. If confirmed, what steps do you intend to take to improve the nation's cyber security, both with respect to the government and private networks?

I understand the President has directed a comprehensive review of cybersecurity across the federal government. If confirmed, I expect that this review will guide the Department in its close work with other federal departments and agencies, with state and local governments, and with the private sector to develop and field capabilities to mitigate the very real cyber threats that exist.

c. Do you believe additional federal regulation or enhanced private sector cooperation is needed to ensure that private sector companies act to protect critical cyber infrastructure?

If confirmed, I look forward to building on the recommendations emanating from the President's review of cyber security. I am aware that DHS is working closely with the Department's inter-agency partners and the private sector to ensure that this review produces the best possible result. I look forward to seeing the recommendations that result and discussing them with the Secretary and with my counterparts at other agencies.

96. In January 2008, President Bush signed National Security Presidential Directive 54 / Homeland Security Presidential Directive 23 – a multi-agency, multi-year plan that laid out twelve steps to securing the federal government's cyber networks. Also known as the Comprehensive National Cyber security Initiative (CNCI), this plan represented a fundamental shift in how the federal government approached cyber security and gave DHS new responsibilities, as well as a significant increase in funding and staffing to

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carry out these responsibilities. Specifically, the CNCI gave DHS the role of coordinating cyber security across all civilian federal agencies. However, the CNCI does not give DHS any authority to compel coordination or compliance across the federal government. Both the White House and Secretary Napolitano have commenced reviews of cyber security policy, which will likely shape the future direction of the Federal government's overall strategy to secure cyberspace.

a. What authorities do you believe DHS needs to effectively secure our federal government networks against ongoing cyber attacks?

Secretary Napolitano is reviewing the response to her Action Directive requesting information on the Department's cybersecurity authorities, responsibilities, programs, and timelines. If confirmed, I look forward to joining her in that review and determining where authorities might need to be strengthened for each of our missions.

b. CNCI requires a high degree of inter-agency coordination. What do you believe is the appropriate role for the Deputy Secretary in this process?

DHS has been coordinating extensively with the inter-agency on the CNCI for over a year. Given the Initiative's priority, this coordination must continue at all levels, including that of the Deputy Secretary. If confirmed, I intend to work closely with my counterparts not only to provide guidance and recommendations on current Initiatives, but also to ensure the CNCI fits into a broader approach now being considered as part of the 60-day cyber review ordered by President Obama.

c. Currently, many distinct components of DHS play a role in the department's cyber security mission, including but not limited to: the Office of Cyber Security and Communications, the National Cyber Security Center, and the Office of Policy. If confirmed, what do you believe are the appropriate roles and responsibilities of the various components with regard to cyber security?

I understand that these roles were debated extensively—including the role of the National Cyber Security Center— within the inter-agency prior to its promulgation in Homeland Security Presidential Directive – 23. Its role is to help secure U.S. federal government networks and systems by coordinating and integrating information to provide cross-domain situational awareness, analyze and report on the composite state of U.S. Cyber Networks and systems and foster collaboration. The Office of Cyber Security and Communications has a programmatic set of responsibilities to ensure the CNCI is implemented as defined in the Presidential Directive.

d. As part of the new cyber initiative, DHS has been authorized to increase the number of staff supporting the program. So far, the National Cyber Security Division has only been able to fill a limited number of these positions. If confirmed, how do you intend to find and recruit people with sufficient qualifications?

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It is my understanding that NCSD has initiated a multi-layered national recruitment process, utilizing a variety of mechanisms, including: scholarships, public outreach in major media markets, leveraging new media advertising opportunities, and traditional outreach via job fairs and conferences.

e. What resources do you believe DHS needs to accomplish this mission?

Secretary Napolitano is reviewing the response to her Action Directive requesting information on the Department's cybersecurity authorities, responsibilities, programs, and timelines. If confirmed, I look forward to joining her in that review and determining appropriate resource levels for DHS's various cybersecurity missions beginning in Fiscal Year 2010.

f. The CNCI was developed with little input from the private sector even though the private sector owns most of the cyber infrastructure, even in the context of federal information technology networks. What steps will you take to ensure that the private sector is adequately involved in the development of policies and protocols for federal cyber security?

It is my understanding that the President's 60-day review of cybersecurity will engage the private sector extensively. If confirmed, I look forward to building on that review process and its findings to ensure that the Nation's cyber infrastructure is robustly protected and all stakeholders are appropriately engaged.

Biosurveillance

97. Congress authorized the National Biosurveillance Integration Center (NBIC) that is located in the Office of Health Affairs in the 9/11 Commission Recommendations Act. In order to identify disease outbreaks quickly so that life saving measures can be deployed, the core mission of NBIC is to integrate biosurveillance data and personnel from across the interagency "to rapidly identify, characterize, localize, and track a biological event of national concern by integrating and analyzing data relating to human health, animal, plant, food, and environmental monitoring systems (both national and international)." However, at the time that the NBIC declared itself "fully operational" it had only one detailee from another agency and few interagency data streams, leaving the vast majority of its interagency partners unaccounted for.

a. How will you encourage greater involvement of needed Federal partners in this interagency effort?

It is my understanding that despite the repeated efforts of the NBIC program to facilitate and foster engagement with its partner federal departments and agencies, it has succeeded in obtaining only one detailee (provided by CDC). If confirmed, I would review the program to better understand why the NBIC has not attracted greater interagency support and work to improve our relationships with the interagency and improve the NBIC's capabilities.

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b. Are there additional authorities that DHS needs to make the NBIC a successful effort?

If confirmed, I would look to review the program to better understand why the interagency has not been fully participating in the NBIC. As part of that review, I would look to see if greater authority is needed to improve NBIC's capabilities.

Weapons of Mass Destruction

98. Addressing the threat of Weapons of Mass Destruction is an issue that has been a major focus for the Committee. For the past year, the Committee has been examining the threat of nuclear terrorism, and has found that not only is the threat of a nuclear detonation in an American city very real, but that the country is not prepared to respond if such an attack were to occur. Last month, the Committee heard testimony from the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (WMD Commission) that the probability of a WMD attack somewhere in the world by 2013 is better than 50%. They found the greatest threat to be posed by biological terrorism, and that our government is not doing enough to prevent such an attack.

a. What are your greatest priorities in terms of increasing our ability to prevent a WMD attack, both on the biological and nuclear fronts?

The Domestic Nuclear Detection Office (DNDO) has statutory responsibilities to protect the United States against radiological and nuclear attacks, including the responsibility for developing a "global nuclear detection architecture" (GNDA). The GNDA is a multi-layered system of detection technologies and programs designed to increase the Nation's ability to detect and prevent radiological and nuclear terrorism. Domestically, DNDO collaborates closely with CBP, USCG, and TSA, as well as multiple state and local agencies, to develop and deploy new technology for the detection of nuclear and radiological material at our borders, ports of entry, and within the United States.

I understand that addressing biological threats requires a somewhat different approach. DHS works with the FBI to ensure comprehensive evaluation of the national security risk that may be posed by those who have direct access to the most dangerous pathogens in the nation. DHS also works with the Centers for Disease Control and U.S. Department of Agriculture to incorporate biological safety laboratories into Tier II critical national assets protection framework. It is my understanding that, as part of a White House initiative, DHS, along with other relevant departments and agencies, is actively reviewing federal policy to secure dangerous pathogens and strengthen oversight of high-containment laboratories.

b. Should prevention efforts fail, a large-scale attack could necessitate a swift and sizable federal response, led by DHS and FEMA, to minimize the loss of life from such an attack. Unfortunately, there are sizable gaps in our planning and readiness at all levels of government. What will be your priorities in filling the gaps in

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capabilities at the federal level, and in integrating those capabilities with those of states and local governments, as well as the private sector?

In accordance with the National Response Framework, DHS and FEMA would support state and local response efforts with all the assets and resources available. DHS has finalized a strategic plan to prevent, respond to, and recover from terrorist use of an improvised nuclear device(IND), and will soon complete a concept plan for the IND issue that addresses the interagency response effort. DHS also has established internal requirements for response to a nuclear attack, which spell out high-level actions and goals that DHS must undertake should such an incident occur.

With respect to biological threats, a premium must be placed on detection and warning and recognition systems. If confirmed, I anticipate conducting a thorough examination of systems in place in order to ensure that no gaps exist in capabilities at the federal level and that state, local, and private sector stakeholders are appropriately engaged.

c. How will you ensure that DHS coordinates with, and leads where appropriate, the efforts of other agencies in preventing, preparing for, and responding to WMD attacks and other catastrophic incidents?

The National Response Framework serves as the central means by which federal agencies organize their various roles and responsibilities in a major incident. However a major biological or nuclear attack would certainly stretch the system to its limits. If confirmed, I will work with the Secretary, the FEMA Administrator, and other senior Department officials to ensure that DHS fulfills its leadership and coordination responsibilities.

99. The Report of the Weapons of Mass Destruction Commission raises concerns about the regulatory framework for high containment biological labs, namely those operating at biosafety level 3 or the maximum level of 4 (BSL3 and BLS-4 labs). If a BSL-3 or BSL-4 lab is working with a dangerous pathogen on the Select Agent list, its activities are regulated by the Select Agent Program. BSL-4 labs are always regulated by the Select Agent Program since almost by definition they are working with the most dangerous pathogens. In contrast, BSL-3 labs come under government scrutiny only if they are government funded or if they are working with a pathogen on the Select Agent List. The Commission also notes that there has not been a substantial review of the Select Agent Program to evaluate its effectiveness, impact on domestic and international biological research, or to identify needed improvements. The Commission recommends that we revisit and update the Select Agent Program.

a. Do you agree with these recommendations of the Commission for improving the security of high containment biological labs and reviewing the Select Agent Program?

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I agree that security of high containment biological laboratories is important. I understand that the existing regulatory and oversight system is fragmented among different federal agencies, resulting in a lack of uniformity in security measures. The development of a comprehensive, unified approach to U.S. biosecurity is essential to improving the safety of our Nation and reducing the risk of bioterrorism.

It is my understanding that DHS, along with other relevant federal Departments and agencies, is actively participating in the Interagency Working Group on Strengthening Laboratory Biosecurity in the United States (WG) as established by Executive Order 13486. As part of its charge, this WG is undertaking a comprehensive review of the domestic program to secure dangerous pathogens and develop and implement a plan to tighten federal government oversight of high-containment laboratories housing such pathogens.

b. What role should DHS have, if any, in the security of biosafety labs?

I believe DHS has a significant role to play in securing high containment laboratories and bioagents and in preventing access to those who wish to do our Nation harm. Laboratory security and the prevention of bioterrorism is not simply a public health, animal and plant health, law enforcement, or research mission. Rather, the prevention of bioterrorism requires input from all these communities and DHS, and in particular the Office of Health Affairs as the lead on the Department's biodefense efforts, is uniquely positioned at their intersection.

c. We are currently developing legislation to address the vulnerability posed by inadequate monitoring of these labs. Will you commit to working with us on this important legislation?

Yes. If confirmed, I am committed to fulfilling DHS's mission to ensure that our Nation is properly protected from bioterrorism. We must examine the need for a unified oversight framework for high containment biological laboratories in a way that leverages the expertise of all relevant elements of the federal government.

Domestic Nuclear Detection Office

100. Coordinating federal efforts to prevent a nuclear terrorist attack against the civilian population of this nation is among the most important and complex challenges that the Department faces. Federal agencies in various departments spend approximately $3 billion a year on more than 70 programs that contribute to our defenses against nuclear terrorism.

DHS's Domestic Nuclear Detection Office (DNDO) is charged with coordinating these federal efforts and developing a unified nuclear detection system. To this end, DNDO has embarked on an effort to create a coherent, government-wide strategic plan of investments resulting in a Global Nuclear Detection Architecture (GNDA), but has thus far not yet produced a coherent, government-wide strategic plan of investment.

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a. What is your preliminary assessment of the need for (a) a government-wide strategic plan to build a GNDA, and (b) agency-specific implementation and investment plans designed to complete an integrated system of nuclear detection defenses?

I am very much aware of the issues surrounding this discussion and, of course, believe that cross-agency strategic planning on this, and other issues, is essential to an integrated approach to these threats. The 9/11 Commission calls for a "unity of effort" in the area of nuclear detection, and, if confirmed, I will work to ensure DHS plays a central role in accomplishing this objective.

If confirmed, I would be committed to working with DNDO and my interagency partners to continue developing appropriate strategies and ensuring their integrated implementation.

b. What options does the Department have for completing, in coordination with other Departments, a fully developed GNDA and finalizing a strategic plan of investments by federal military and civilian agencies that, over time, will produce an integrated system of defenses that will make the nation significantly safer from a nuclear or radiological attack?

In my view the complexity and strategic importance of a fully-developed GNDA demands that the Department work collaboratively with other federal, state, and local stakeholders. If confirmed, I would be committed to reaching out to interagency partners to enlist their support for this critical task.

101. DNDO relies on an interagency structure based on "centralized planning and decentralized execution." DNDO also relies on other agencies for the implementation of a detection architecture and has no formal authority to ensure that their individual investments in radiation detection technologies and countermeasures will significantly reduce the risk of a nuclear terrorist attack. Section 1103 of the 9/11 Commission Recommendations Act requires DNDO, DOJ, DoE, DoD, and the Director of National Intelligence to individually assess the performance and deficiencies of each of their relevant agencies, as part of a Joint Annual Interagency Review on the GNDA.

a. As Deputy Secretary, what steps would you take, or help the Secretary take, to ensure that DHS agencies conduct the assessments, evaluations, and reviews required by the 9/11 Commission Recommendations Act for the Joint Annual Interagency Review of the GNDA?

If confirmed, I will be committed to conducting the Joint Annual Interagency Review of the GNDA, as required by statute. I would also want to review this issue more closely to determine what steps should be taken to best conduct the appropriate assessments on an annual basis.

b. What options exist for ensuring that agencies at other Departments conduct the assessments, evaluations, and reviews required by the 9/11 Commission

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Recommendations Act and that the findings of these reviews are fully and candidly reported to the President and Congress?

It is my understanding that the relevant agencies in many cases already perform assessments, evaluations and reviews of their programs, although there is not a uniform methodology or format to these reviews. Without a uniform review process across the federal government, the scope and complexity of the task of creating an integrated assessment of 70 programs and several billion dollars in funding per is enormous. If confirmed, I would review how DNDO works with the interagency to conduct this assessment to see if there are ways to improve the process.

102. DNDO's two largest acquisition programs, the Advanced Spectroscopic Portal (ASP) program and the now-cancelled Cargo Advanced Automated Radiography System (CAARS) suffered schedule delays and increased costs. Over time, these management problems have undermined the Department's efforts to establish DNDO as the primary agency for managing radiation detection acquisitions on behalf of DHS agencies, such as CBP.

What are your preliminary assessments of improvements, upgrades, or investments the Department could make in the near-term to ensure that DNDO is a fully-functional entity that is equipped to successfully manage multiple large-scale technology development and acquisition programs, and capable of assisting CBP and other agencies in meetings their mission requirements?

I believe that DHS needs to further develop and mature a Department-wide process for collecting, validating, and consolidating requirements to meet the technology needs of multiple users. If confirmed, I would closely track how each component complies with the acquisition directives and ensure that DHS Headquarters is appropriately staffed for effective integration of acquisition programs.

Science and Technology Directorate

103. Given the Department's reliance on advanced technologies, it is important that the testing and evaluation activities by DHS agencies be reliable and that senior DHS managers have an independent source of information and operational tests of technologies that are critical to the success of large-scale acquisitions. S&T has developed an in-house capability to (a) improve the developmental testing that DHS agencies conduct during early stages of a technology program, and (b) manage and validate the operational tests agencies conduct in support of requests for milestone decision approval from the Acquisition Review Board (ARB), which is chaired by the Deputy Secretary.

    a. What is your initial assessment of S&T's capacity to monitor operational testing by DHS agencies and provide the Deputy Secretary and the rest of the ARB with an independent source of information on the reliability, readiness, maturity, and performance of critical technologies in realistic operational settings?

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I understand that S&T, working closely with others in the Department, has developed a Department-wide Test and Evaluation (T&E) oversight capability that is being integrated into the Department's acquisition process.

If confirmed, I will ensure that S&T continues to refine their process and monitor T&E for all major acquisition programs and ensure that it provides the Acquisition Review Board with an independent source of information on the reliability, readiness, and performance of critical technologies in a realistic operational environment.

b. Before approving an agency's request for milestone decision approval to proceed to full-rate production in a Level 1 program, will you ensure that the DHS ARB considers S&T's assessment of independent operational tests conducted in support of such requests?

If confirmed, I will ensure that the ARB fully considers all assessments and test results prior to approving a component's request for milestone decisions

c. Section 1104 (b) of the 9/11 Commission Recommendations Act directed the Department to "develop a departmental technology assessment process to determine and certify the technology readiness levels of chemical, biological, radiological, and nuclear detection technologies before the full deployment of such technologies within the United States." Has the Department developed such a plan and when will it be submitted to Congress?

The S&T Directorate's T&E role to support acquisition decisions is documented in the Department's acquisition policy. S&T is working closely with DHS components to mature its current capability and implement a robust Department-wide Test and Evaluation (T&E) process. When this process is fully implemented, it will increase the effectiveness of the S&T T&E information used to support the ARB. It is my understanding that a T&E policy directive complementing the Department's acquisition policy directive is currently in Departmental coordination.

Once this directive is approved, if confirmed, I will ensure the required report is submitted to the Congress in a timely manner.

104. The Committee has heard from a variety of security experts who have concluded that it is essential to harness the nation's science and technology prowess to make the nation safer from catastrophic chemical, biological, radiological, and nuclear weapons of mass destruction. Title III of the Homeland Security Act of 2002 made DHS responsible for developing, with other Departments, a National Strategic Plan and Policy for Homeland Security Research and Development (R&D). Unfortunately, the relevant departments have yet to adopt such a government-wide plan for making homeland security R&D investments.

a. What is your initial assessment of how the Department should execute the Secretary's responsibility under Title III to develop, with other departments, a

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National Strategic Policy and Plan for Homeland Security Research and Development?

I understand that S&T is working with counterparts in the interagency to develop a National Strategy for Homeland Security Research and Development that it hopes to issue within the next year. If confirmed, I will ensure that this process remains on-track to fulfill this statutory requirement.

b. What near-term options exist for finalizing a government-wide plan to guide homeland security R&D spending in 2009 and how can DHS contribute to improving the outcome of R&D spending by other Departments on homeland security missions?

It is my understanding that DHS S&T published a report on the coordination of homeland security science and technology programs. This document laid out the roles and responsibilities of federal agencies, as well as initiatives underway to counter threats to the United States. If confirmed, I will work to ensure that DHS as well as other departments and agencies put forward a coherent approach to R&D spending on homeland security missions.

105. Section 1104 of the 9/11 Commission Recommendations Act made the DHS Secretary responsible "for ensuring that domestic chemical, biological, radiological, and nuclear detection equipment and technologies are integrated, as appropriate, with other border security systems and detection technologies." In 2007, S&T produced a Strategic Plan and Five Year R&D Plan to guide R&D spending by DHS agencies, but those plans lacked specifics and concrete performance metrics, and did not fully comply with OMB and GAO guidelines.

a. What is your initial assessment of the steps the S&T Directorate should take in the near-term to produce a complete strategic plan and five-year plan of R&D investments that states specific goals, links projects to strategic objectives, is based on operational requirements, and includes concrete performance metrics?

It is my understanding that S&T published its second 5-year R&D plan in 2008. This plan directly linked the S&T projects to specific milestones by year, the DHS Secretary's priorities, the DHS Strategic Plan, and DHS component goals and requirements. If confirmed, I will ensure that DHS CBRN detection equipment and technologies are integrated with border security systems and detection technologies and that this strategic plan complies with all relevant guidelines.

b. What is your initial assessment of steps the Department could take to develop interim metrics to measure the progress or outcome of R&D and to expedite the development of operational capability requirements that can be used to help set R&D investment priorities across the Department?

Because R&D programs typically have a significant time lag (measured in years) between completion of research and the ultimate outcome once the technology is

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fielded, it is difficult to establish outcome metrics that are useful in the near-term management of the research portfolio. Because of this issue, it is my understanding that S&T has developed a set of interim performance measures for projects to ensure each one is making progress toward delivering the needed technology to provide a solution to a defined customer requirement. I am told that GAO, S&T customers, and others review these measures annually and so far have deemed them satisfactory. If confirmed, I will ensure that this issue is reviewed to determine if any changes need to be made.

106. DNDO and S&T operate nearly identical organizations for managing R&D investments at the National Laboratories and academic institutions to combat chemical, biological, radiological and nuclear (CBRN) terrorism. DNDO manages R&D to counter nuclear and radiological threats; the S&T Directorate manages R&D investments focused on all other threats. DNDO and S&T coordinate their planning. However, as evidenced by S&T's work on an integrated chemical, biological, radiological, and nuclear detection sensor, sustaining two R&D organizations at DHS entails much risk of duplication.

    a. What is your initial assessment of near-term steps that would significantly improve the Department's capacity to ensure that "domestic chemical, biological, radiological, and nuclear detection equipment and technologies are integrated, as appropriate, with other border security systems and detection technologies?"

    If confirmed, I will review S&T's Chem/Bio detection programs and DNDO's Rad/Nuc detection programs with CBP leadership to ensure that appropriate coordination is occurring and that unnecessary redundancies are eliminated.

    b. What is your initial assessment of the strengths and weaknesses of the Department's decentralized approach to managing R&D investments in CBRN countermeasures and detection technologies, and the value added by operating separate R&D organizations?

    R&D investments in CBRN countermeasures and detection technologies is a highly-specialized and technical field. In order to offer an adequate assessment, I would want to engage, and if confirmed will engage, all relevant stakeholders in a more complete review of the current structure.

    c. What is your initial assessment of the operational costs associated with the Department's bifurcated approach to managing its working relationship with the National Laboratories and universities that conduct DHS-sponsored R&D on CBRN detection technologies and countermeasures and options for minimizing duplication and administrative costs?

    I understand S&T's role in coordinating work done on behalf of the Department at the National Laboratories. If confirmed, I would include this aspect in the review outlined above. However, it would be premature for me to assess at this point the operational costs associated with the existing organization.

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REAL ID

107. The Department is responsible for the implementation of the REAL ID secure driver's licenses program mandated by the REAL ID Act of 2005. On January 29, 2008, DHS issued final regulations implementing the Act.

a. What is your view of the REAL ID Act and final regulations issued by DHS?

Secretary Napolitano has previously expressed her concerns that the REAL ID program as currently structured imposes significant costs on the states and was developed without sufficient consultation with the states. She has also expressed her belief that it is important to increase the security of state drivers' licenses, and that it is possible to do so in a manner that mitigates risks to privacy and individual rights and liberties.

b. Do you believe an adequate level of federal funding has been provided to support state efforts to implement REAL ID? If not, what level do you consider to be adequate?

As noted above, Secretary Napolitano has previously expressed her concerns that the REAL ID program as currently structured imposes significant costs on the states. If confirmed as Deputy Secretary, I will work with Secretary Napolitano and the DHS staff to examine options that will resolve these concerns.

c. Privacy advocates have argued that REAL ID will compromise Americans' privacy and make them more vulnerable to identity theft. Do you share these concerns?

I recognize that the REAL ID program has been the subject of significant controversy and concern for Members of Congress, the states, and the privacy community. I believe that it is important to address the intent of the 9/11 Commission recommendations, and that it is possible to do so in a manner that mitigates risks to privacy.

d. How will you respond if states refuse to comply with REAL ID?

If confirmed as Deputy Secretary, I will work with Secretary Napolitano and DHS staff to find a new way forward with respect to increasing the security of state driver's licenses. I believe that we all want to take appropriate steps to implement the intent of the 9/11 Commission recommendations and increase the security of our driver's licenses. I am confident that this common ground will provide a foundation that permits the states and DHS to move forward.

e. During her confirmation hearing, Secretary Napolitano stated that she intended to "rethink, revisit, [and] re-consult" on REAL ID. What changes, if any, do you believe need to be made to the REAL ID Act and/or the final rule implementing the REAL ID Act?

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As noted above, it is my intention to work with Secretary Napolitano and DHS staff to find a new way forward with respect to increasing the security of state driver's licenses. I believe that we all want to take appropriate steps to implement the intent of the 9/11 Commission recommendations, and this common ground will provide a foundation to work from that will allow the states and DHS to move forward. I know that the Secretary has already begun efforts to find common ground with the states through recent discussions at the National Governor's Association Conference. If confirmed, I will look to continue these efforts.

f. Do you consider the State Homeland Security Grant Program grants to be an acceptable source of this funding?

I know that the grant programs provide a valuable source of funding to the states for increasing the security of driver's licenses. If confirmed, the Department will engage with Congress, the states, and other stakeholders to determine the most appropriate source of funding for future implementation efforts.

g. What other steps, if any, will you take to secure state-issued identification cards such as driver's licenses, as recommended by the 9/11 Commission?

I know that Secretary Napolitano has already begun efforts with DHS staff to begin examining opportunities in this arena. If confirmed as Deputy Secretary, I will look to further this direction and ensure effective implementation.

Privacy and Civil Liberties

108. Actions to increase homeland security may have the potential to implicate privacy and civil liberties concerns. As Deputy Secretary, you will frequently be required to evaluate programs to determine how best to protect the homeland while at the same time protecting individuals' privacy, civil rights, and civil liberties. What basic principles do you believe should guide such evaluations?

I value the importance of privacy, civil rights, and civil liberties very highly and know that President Obama and Secretary Napolitano have already placed a high priority on protecting these important rights and principles. I am keenly aware of the importance that must be paid to ensure that privacy, civil rights, and civil liberties concerns are fully integrated, considered, and carefully addressed across all DHS activities. If confirmed, I look forward to working with Congress and other stakeholders to ensure that these values are protected.

109. Secure Flight is one example of a DHS initiative that had to be substantially restructured when a Privacy Impact Assessment revealed significant privacy and civil liberties issues raised by the initial design of the program. Early and active involvement by the DHS Privacy Office in the development of such initiatives might have avoided costly mistakes by building privacy protections into the program from the ground up. How will you ensure that privacy and civil liberties concerns are considered early on and throughout the development of new programs and policies?

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If confirmed, I will support the active involvement of the DHS Privacy Office to ensure that privacy and civil liberties receives priority consideration at all phases of program development at DHS. I will also ensure that DHS continues to use the important tools of PIAs, Civil Liberties Impact Assessments, and Systems of Records Notices (as required by the Privacy Act) to make sure that these concerns are addressed early and often throughout program development.

110. To ensure that privacy and civil liberties concerns are appropriately addressed at the highest levels of the Department, Congress created both a Privacy Officer and an Officer for Civil Rights and Civil Liberties. If confirmed, how will you seek to support the mission of these important offices and ensure that privacy and civil rights and liberties are appropriately supported throughout the Department?

I believe that the Department is strengthened by having statutorily-established offices for both privacy as well as civil rights and civil liberties. If confirmed, I will work closely with, and rely substantially on, the leadership of these offices for advice and counsel on privacy, civil rights, and civil liberties issues.

111. U.S. intelligence and law enforcement officials have indicated that the violent Islamist threat to the homeland has evolved and expanded, particularly with regard to homegrown threats. Over the past several years, the Department's Office of Civil Rights and Civil Liberties has led the federal government's outreach efforts to American-Muslim communities around the country. These outreach efforts have proved critical to addressing issues of concern to those communities and minimizing the influence of the ideology that gives rise to Islamist terrorism around the world.

    a. As Deputy Secretary, would you commit to continuing the Office of Civil Rights and Civil Liberties' outreach efforts to American-Muslim communities?

    Yes. It is my understanding that the Office for Civil Rights and Civil Liberties has engaged in significant outreach to American Muslims, including youth engagement, international outreach, calls with community leaders in the wake of terror attacks and other incidents of concern, and a National Security Internship Program for students with language skills in Arabic and other critical languages. If confirmed, I would work with the Secretary to strongly support these and other efforts to engage the American-Muslim community.

    b. What role do you see the Department playing in the effort to detect and counter the radicalization of violent Islamist extremists?

    Several offices within DHS cooperate on efforts to counter radicalization and engage with diverse communities, including the Office for Civil Rights and Civil Liberties, Office of Intelligence and Analysis, the Office of Policy, the Science and Technology Directorate, and the Office of Operations Coordination and Planning. These efforts are part of larger U.S. government efforts to counter extremism

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worldwide. If confirmed, I will support the Department's continued role in helping to counter violent extremism.

Acquisitions and Contractors

112. What major acquisitions have you been involved in, and what is the appropriate role for department-level oversight of major investments? As the head of an organization, how did you ensure the good stewardship of taxpayer/member dollars?

As Assistant Secretary-General for Peacekeeping Operations responsible for mission support, I had overall responsibility to enable, manage, and oversee the provision of resources to peace operations globally. This entailed overseeing that requirements are met at the required time and place in a cost-effective manner during all phases of an operation, ranging from start-up and sustainment, to draw-down and liquidation. In terms of major acquisitions, this included overseeing the provision of technical advice in support of the establishment of service contracts in a broad range of areas including food, fuel, aviation, and other logistic support; as well as multi-year requirement contracts for all equipment and infrastructure necessary to deploy a mission such as vehicles, prefabricated buildings, information-communications technology equipment, generators, etc. It also included the provision of fixed and rotary aircraft.

The responsibilities of my office were limited to the identification and validation of requirements, and the development and vetting of specifications for competitive tenders undertaken by the Procurement Division in the Department of Management or in field missions. I had no direct personal role in the negotiation or award of any contract during my tenure at the United Nations, although my Logistics Support Division and Communications and Information Technology Division did work closely with Procurement Division of the Department of Management in defining requirements for goods and services, and were responsible for the evaluation of bids or proposals from a technical and operational perspective. My headquarters staff also supported missions in the field, for example, by helping to clarify and validate field requirements for leases of buildings or major contracts such as rations, petroleum, oil, and lubricants if and when these were contracted in a mission area.

To ensure good stewardship of Member State dollars, I instituted a Requirements Review Panel to provide an additional senior level check on major requirements, a regular process of mission assessment to evaluate the performance of missions in the "maintenance phase" (as opposed to start-up or liquidation) of operations, and instituted a "traffic lights" (red, yellow, green) system of monitoring key support aspects of mission start-up and deployment. We also strengthened the timeliness and accuracy of our reporting and worked closely with the Procurement Division of the Department of Management to strengthen internal controls, improve the United Nations Procurement Manual, and establish a systematic intensive training program for procurement personnel. In addition, I was a member of the Secretary-General's Management Committee and a strong advocate for instituting a policy of mandatory financial disclosure for procurement personnel.

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113. Have you encountered waste, fraud, or mismanagement in contracting programs in your prior positions and how did you address it?

Unfortunately, the potential for waste, fraud, mismanagement, and abuse exists in all organizations. Leaders must be vigilant to ensure that a climate is established from the top-down, and reinforced at all levels, to prevent and respond decisively and visibly when fraud, waste and abuse occurs. Organizations are particularly vulnerable to mismanagement and abuse when people ill-suited for leadership responsibilities are put in such positions or when people are not trained regularly in good management practices. I led United Nations Peacekeeping efforts to vigorously promote a climate of individual responsibility and organizational follow-up, including devising and instituting the first-ever mandatory senior leadership training for all persons newly assigned to mission areas – including long-standing staff members of the United Nations. In addition to creating new programs, I also broadened existing programs of training to emphasize accountability for senior mission leadership across functional areas.

During my tenure at Peacekeeping, I aggressively responded to allegations of mismanagement and managerial abuse utilizing a variety of methods – including, but not limited to, staff-management fact-finding teams, independent panel enquiries, and formal investigations by the Office of Internal Oversight Services (OIOS) – in order to establish the facts and frame recommendations for remediation. As a result of these tools and systems, and my promotion of a climate of vigilance, key managers were removed when allegations of mismanagement or misbehavior were identified and investigated.

In addition, working closely with staff representatives, I led efforts to promote staff-management dialogue as a key tool to prevent fraudulent or abusive behavior in order to ensure both staff and management were working collaboratively towards, and jointly committed to, the prevention of such behavior. I also led efforts to rebuild what was previously a hostile relationship between peacekeeping missions and organization auditors. The promotion of an active and constructive partnership with both the audit and investigative arms of the Office of Internal Oversight Services (OIOS) resulted in an effective and responsive pattern of OIOS engagement.

In one prominent case, when a major audit revealed several instances of alleged abuse and potential fraud, I led Peacekeeping's immediate response, insisting that individuals had the protection of due process while ensuring, where appropriate, that they were held properly accountable. My staff and I also worked closely with missions around the world and the Department of Management to identify structural areas (such as the extreme pressure that exists to deploy rapidly) where processes could be streamlined and additional control measures put in place as safeguards against abuse and potential fraud. In addition, I was a strong advocate for making permanent what as an ad-hoc Procurement Task Force in order to prevent waste, fraud, and abuse.

114. DHS's Secure Border Initiative Net (SBInet) program is intended to develop and install technology and infrastructure along the southwest border aimed at reducing illegal

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entries. DHS has calculated the total cost of implementing SBInet to be $8 billion, but the DHS Inspector General in November 2006 projected that the cost could be as much as $30 billion. GAO has issued a number of reports critical of SBInet's expenditure plan, reporting that it "lacked specificity on such things as planned activities and milestones, anticipated costs and staffing levels, and expected mission outcomes." As a result, GAO warned that SBInet was at risk of not delivering promised capabilities on time and within budget. One of the contributing factors in this is the structure of the SBInet contract, a single award Indefinite Delivery Indefinite Quantity (IDIQ) contract, a type of contract since prohibited by Congress except for certain limited circumstances (Sec. 843, FY 2008 Defense Authorization Act). Under the current contractual arrangement, all subsequent task orders under the contract would be awarded without any further competitive pressure. Therefore, this single award IDIQ contract, while providing certain administrative benefits and expediency, may result in significant cost overruns.

a. Based on your past experience managing programs for the U.N. Department of Peacekeeping Operations and what you've been able to learn about the SBInet program in preparation for your nomination, what steps would you take to ensure that DHS is effectively managing this large border security contract in order to avoid cost overruns and deliver solutions that effectively meet CBP's needs?

I am aware of the challenges posed by large contracts, such as those associated with the SBInet project.

The goal of management should be to ensure that complex contracts are managed effectively and accountably. As a senior executive at the United Nations, with responsibility for a nearly $8 billion budget and support to operations around the world, I am keenly aware of the challenges posed by complex contracting and the need for senior-level attention to ensure that internal control processes are in place to protect accountability, transparency, and effectiveness.

b. Do you believe DHS should pursue future projects, for either the southern or northern borders, by competing and executing these projects under separate contracts, instead of exclusively using the existing SBInet contract?

I strongly support the use of open, competitive, and accountable contracting processes. If I am confirmed, I will work with all components of DHS to ensure that the acquisition process adheres to these principles. A thorough analysis of a variety of acquisition strategies with a good cost estimate will drive contract choices for future acquisitions.

115. An October 2007 GAO report on the Department's progress five years after its establishment noted concerns about the government's increasing reliance on contractors and raised serious questions about how to ensure that the government retains the core capabilities needed to perform its mission, that contractors do not perform functions that properly should be performed only by government employees, and that contractors are used in a cost-effective way. The Committee, GAO, and many outside observers

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recognized the need for DHS's heavy reliance on contractors during its early days, given the need for DHS to attain specific expertise quickly. More than five years later, many offices remain heavily staffed by contractors who perform a variety of tasks at the core of DHS's operations, including policy planning, the drafting of regulations, intelligence analysis, preparation of budget requests, and human resource management. While the private sector is an important source for innovative technologies and expertise, the extent to which DHS relies on contractors raises a risk that the Department is controlled by, rather than in control of, contractor decisions. It also weakens DHS's own ability to assess contractor performance and to identify contractor conflicts of interest.

While contracting out can be an effective means of fulfilling some responsibilities of government, it is critical that the Department have sufficient staff on board with the necessary skills to establish policy, maintain a strong institutional memory, and effectively manage acquisitions and contract oversight in order to ensure quality, economy, and timeliness.

a. Contractors are prohibited by law from performing so-called "inherently governmental functions." However various sources define inherently governmental differently and in any event, it is not unusual for contractors at DHS to provide services that, even if they do not technically meet the definition, closely support inherently governmental functions. What will you do to strengthen DHS's own ability to perform those tasks at the core of its operations, whether inherently governmental or closely supportive of inherently governmental functions?

I support the Secretary's emphasis on enhancing the Department's ability to recruit, retain, and grow its own leadership and workforce, especially in those functional specialties where there is a recognized shortage of talent not only within DHS but government-wide. At the Secretary's direction, the Department has already begun reviewing its use of contractors, and if confirmed, I will work with the Secretary, the Department's Chief Human Capital Officer, and other senior Department officials to ensure that DHS has its own ability to perform core functions with federal employees.

b. Based on your experience and given the Department's extensive reliance on contractors, what would you suggest are the key considerations in determining the appropriate role for contractors in supporting DHS (particularly, in the areas that border on inherently governmental functions, such as rulemaking and awarding contracts)?

If confirmed, I would be committed to ensuring all inherently governmental jobs are performed by federal employees, including areas such as rule making, awarding contracts, and making resource decisions. I would also work to ensure that DHS is adequately staffed in key functional areas to perform its core functions As the Secretary has noted, there is an appropriate place for contractors in government work, but the Department must manage the risks inherent in contracting for goods and services, including providing strong government oversight of contractor

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activities. If confirmed, I will ensure the Department continues to emphasize the importance of ethical practices to its entire workforce, federal and contractor employees alike.

c. DHS contractor employees often work side-by-side with DHS employees and perform the same or similar functions as their government counterparts. Have you had any experiences managing an augmented workforce and what are your views on ensuring that DHS provides appropriate safeguards to prevent conflicts of interest by DHS contractor employees?

I am intimately familiar with the management challenges posed by organizational reliance on contract personnel. At the United Nations, contract personnel regularly operate alongside full-time employees and members of national contingents from the Member States of the United Nations. The relevant United Nations rules and regulations detail the limitations on functions that contractors can perform. I have had personal and direct experience navigating those rules and working to ensure that the governing regulations are honored and safeguards are in place to protect the values and mission of the United Nations by all associated personnel working at headquarters or in field missions around the world. Specifically, I led efforts to ensure that contract personnel conform to the same standards of behavior to guard against sexual exploitation and abuse and to ensure that procedures exist for these standards to be incorporated appropriately into their respective contracts.

If confirmed, I will direct the effort to review the DHS workforce and ensure and appropriate use of contractors and the existence of systems to ensure accountability.

116. DHS has established an investment review process, which calls for executive decision making at key points in an investment's life cycle, including program authorization. However, GAO reported in November 2008 that the process has not provided the oversight needed to identify and address cost, schedule, and performance problems in its major investments. Specifically, GAO reported that the process has been poorly implemented and, in fact, 45 of DHS's 48 major investments requiring milestone and annual reviews did not adhere to the Department's investment review policy. Billions of dollars have been invested in these major programs, which, according to GAO, lack appropriate oversight. The Department's Under Secretary for Management recently issued an interim management directive to try to enhance the investment review process.

a. In your view, what role does an investment review process have in making major agency investment decisions and, if confirmed, how would you ensure effective implementation of the new policy?

It is my understanding that the Department has issued a draft revised policy to strengthen the Acquisition Review Process. If I am confirmed, I will play an active role in reviewing and providing final approval of this policy, ensuring strong oversight and accountability controls are in place. If confirmed, I will strongly

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champion an effective acquisition oversight policy and process improvements by ensuring that executives within headquarters and the components are formally accountable for the execution of acquisition program.

b. In November 2008, the Under Secretary for Management revised the DHS Investment Review Process by issuing Acquisition Directive 102-01, which supersedes Management Directive (MD) 1400. Under the new Directive, the Deputy Secretary is the "Acquisition Decision Authority" for investments with estimated lifecycle costs of $300 million or more and decides whether to proceed with developing a capability to fulfill an identified need. Under this revised directive, the Deputy Secretary's role in the investment review process is more limited than under MD1400.

1. What role do you believe the Deputy Secretary should play in the investment review process?

The Deputy Secretary chairs the Acquisition Review Board that reviews and oversees major departmental acquisitions. The Deputy Secretary also chairs the Program Review Board overseeing the Department's annual programming and budgeting processes. I believe it is appropriate that these important processes be overseen by the Deputy Secretary to enhance alignment and convergence of results and better support the Department's missions.

2. GAO found, in its November 2008 report (GAO-09-29) on the DHS investment review process, that of 39 Level 1 investments requiring Acquisition Review Board approval under MD1400, 18 had never been reviewed by the ARB. One problem identified by GAO was insufficient DHS resources to review investments in a timely manner and conduct follow-up to ensure decisions were implemented. In response to the GAO report, DHS indicated that its Chief Procurement Officer plans to substantially increase staffing from 12 to 58 by the end of fiscal year 2010 to support oversight reviews. As Deputy Secretary, how will you ensure that sufficient resources and expertise are available and that the ARB is successfully implemented?

Consistent success in DHS acquisition programs directly supports the Department's ability to execute its important missions. If I am confirmed, I intend to review the policies and processes for the Acquisition Review Board. Based on those reviews, if confirmed, I intend to provide appropriate support to enable successful implementation and execution of the ARB process.

c. Poor acquisition planning, and in particular, poor definition of requirements for procurements, can lead to a number of problems during the acquisition cycle. How do you plan to ensure that DHS has an appropriate requirements development process in place so that DHS components have a clear understanding of what they need to buy before they embark on a major procurement?

Building solid and well-defined operational requirements is the corner-stone of

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making operations more efficient and effective. I have extensive experience in overseeing the raising of requirements for complex operations. I know the difficulties inherent in this process. If I am confirmed, I will be actively involved in guiding and maturing the DHS requirements process.

117. The need to strengthen the acquisition workforce remains a major management challenge for DHS. A recent GAO report (GAO-09-30) found that while DHS has made significant strides in increasing the number of contract specialists within DHS, there is still a shortage of these specialists in many DHS components. Nearly one-third of DHS contract specialists will be eligible to retire by the end of 2012. Moreover, DHS needs to develop a long-term strategy for bringing in a broader range of skilled employees needed to plan and oversee contracts, such as program managers, systems engineers, and financial managers. What steps will you take to address the long-term challenge of bringing these skills to DHS?

It is my understanding that for the past decade the total number of Procurement Specialists across all government offices has remained relatively constant, while the total real dollars obligated on contract has more than doubled. Additionally, the complexity of the business arrangements has increased over time. It is critical that acquisition management be given more attention and resources if, collectively, we are to succeed. I will work to support the DHS Acquisition Professional Career Program (APCP) to provide a core of future qualified personnel to manage DHS contracts but also to grow related disciplines such a Program Management, Systems Engineering, Financial Management and Test and Evaluation, and Logistics.

118. In 2007 and 2008, the U.N. Procurement Task Force, an independent oversight authority which reported to the U.S. Office of Internal Oversight Services (OIOS) released reports upon completion of their investigations into allegations of corruption, fraud, waste, overpayments, abuse and mismanagement in U.N. contracts. An OIOS report dated October 5, 2007, which compiled information from the Task Force's investigations into the 18-month period between January 2006 and June 2007 noted there were more than 10 significant fraud and corruption cases with an aggregate contract value in excess of approximately $610 million, which resulted in an approximate misappropriation of resources in excess of at least $25 million. On December 26, 2007, the *Washington Post* published a letter to the editor from you, entitled "Overstating Corruption at the U.N." in which you noted that a December 18, 2007 article misrepresented the task force's findings, and that the $610 million figure previously published "represented the aggregate value of contracts in which some degree of fraud was found. The loss is a small fraction of this amount."

a. As the Assistant Secretary-General for Peacekeeping Operations, what was your role in approving and overseeing each of the contracts in question?

During my tenure at the United Nations, my specific responsibilities included overseeing technical staff at headquarters and in the field responsible for ensuring that requirements raised accurately reflected needs on the ground. At no time did I have responsibilities for negotiating or approving contracts. That authority has

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resided and remains in the Procurement Division within the Department of Management. By way of background, prior to the creation of the Department of Field Support, support staff in the field reported through two chains-of-command: one chain leading to my office as Assistant Secretary-General for Peacekeeping Operations, and one chain leading to the Head-of-Mission in the field. My office was responsible for broad managerial oversight of field support personnel and operations around the world, while each mission's respective Head of Mission was responsible for mission operations, including overseeing all mission staff involved in the execution of contracts. In addition, support staff in the field obtained certifying authority to approve contracts directly from the Department of Management. These overlapping authorities and responsibilities were one of the problems we were trying to remedy, and one of the reasons I advocated for the creation of, the Department of Field Support. While many, including myself, argued strongly for the alignment of responsibility, resources, and authorities in the new-Department of Field Support, Member States did not approve this alignment. As such, authority and oversight of contracts remained a divided and shared function between the Heads of Mission in the field, the Department of Management, while the Department of Field Support continued its role supporting the performance of staff in the field.

As such, while I was intimately involved in efforts improve the way requirements were raised by staff under my supervision in support of field operations, and I was responsible for the Peacekeeping system and missions as a whole, my office did not approve or directly oversee any contracts.

b. What interaction did you have with the Task Force investigating the allegations of mismanagement and corruption? Did the Task Force deliver any findings or recommendations to your office, and if so, what was your position at the time? Did you implement the recommendations made, and if not, why not?

While serving at the Department of Peacekeeping Operations and Department of Field Support, I also served on the senior-level Procurement Working Group, established in 2006 by the Secretary-General and led by the Deputy Secretary-General to: (i) address shortcomings in the United Nations procurement system; (ii) manage sensitive issues surrounding suspension of a number of individuals suspected of material wrongdoing with regard to various aspects of procurement; and, (iii) monitor the progress of ongoing investigations conducted by the Procurement Task Force, an ad hoc mechanism also established by the Secretary-General in 2006 to address ongoing allegations of waste, fraud, and abuse.

As the senior Peacekeeping official in the Procurement Working Group, I was a direct recipient of some of the findings and recommendations of the Procurement Task Force and vigorously pursued those recommendations. In addition, I also supported making the Procurement Task Force a permanent, standing body in order to ensure the existence of an ever-present and vigilant watchdog over United Nations operations. With respect to the specific findings of the Procurement Task Force, I agreed with the vast majority of them and with respect to those

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recommendations relevant to Peacekeeping, I ensured that they were pursued. Robert M. Appleton, the former Chairman of the United Nations Procurement Task Force, has noted that while managers of the United Nations "are not formally required to follow or accept the conclusions and recommendations of oversight bodies, Ms. Lute nevertheless reacted swiftly and responsibly, and took immediate corrective action where we found corruption, fraud, or violation of internal rules or procedures of the UN." (Ltr. from Robert M. Appleton to Hon. Joseph Lieberman and Hon. Susan Collins, dated Mar. 2, 2009). On the few occasions when I did not agree with the recommendations of the Procurement Task Force—for example, in one instance the Task Force concluded that an incident was the result of mismanagement, while I insisted that the incident was a matter of misconduct and should be responded to by the United Nations in a more serious manner—I nevertheless personally engaged in ensuring that core issues were addressed, internal controls were strengthened, and operations were made more transparent and accountable.

c. What prompted the investigation? Did any internal mechanisms for finding waste, fraud, or abuse alert your office or the U.N. to the practices or incidents referred to in the reports?

The Procurement Task Force's investigations were initiated in the wake of the Oil-for-Food scandal, in an effort to identify and root out any waste, fraud, and abuse in United Nations procurement activities.

Prior to, and throughout the existence of, the Procurement Task Force, I made clear to my staff the importance of reporting and responding to potential abuse. As a result of this culture of professionalism and accountability that I aimed to create, in many cases, my staff sounded the first alarm and served as the instigator for the referral of matters to the Procurement Task Force. During my entire tenure as Assistant Secretary-General for Peacekeeping Operations, my office routinely referred questionable practices or suspicious activity to the Office of Internal Oversight Services (OIOS) for investigation, even before the creation of the Procurement Task Force. Despite the perspective of some senior leaders that "management issues" were someone else's responsibility, I led efforts to comprehensively overhaul the management and performance cultures in peacekeeping missions and to elevate awareness of management problems to the United Nations' senior leadership in order to encourage action and structural reform. I also worked to overcome preexisting animosities between field missions and internal investigative and oversight services to ensure the timely alerts of suspected misbehavior and mismanagement.

d. In your letter to the editor, you noted that, in order to counter the waste, fraud, and abuse identified by the task force, "we have improved training, and we are constantly improving internal oversight controls. We also believe in the importance of a strong investigative arm within the organization." Please provide details of any measures you implemented while head of the DPKO to improve training, fiscal and management controls, and investigative capabilities for the purposes of catching

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and discouraging waste, fraud, and abuse.

As part of the Secretary-General's Management Committee, I was a vigorous voice in support of the development and administration of a mandatory financial disclosure program that went beyond senior appointees and reached every procurement official, whether they were serving at Headquarters or in the field. In addition, we instituted with the Department of Management, an annual procurement officer's conference to bring together field procurement personnel for training and to raise their awareness and strengthen their ability to adhere to proper controls throughout the procurement process. In addition, I initiated a number of other measures to improve the management of, and performance in, field missions, including regular field meetings with senior mission support staff – often on a regional basis to concentrate discussions on topics most relevant to geographically similar missions – to clarify problems, identify solutions, and institute systemic reform. I also instituted an annual mandatory training session for mission budget and leadership personnel to ensure that the programmatic and administrative sides of each mission were jointly engaged and committed to the timely and accurate preparation of mission budgets. I also led the development and introduction of conduct and discipline teams into major missions (and now all missions) to assist mission leadership with the early identification and remediation of alleged misconduct of all kinds across all mission areas. In addition, I routinely consulted with the Office of Internal Oversight Services (OIOS) to secure its engagement in assisting with effective management of missions. For example, I initiated a request for OIOS to conduct a comprehensive audit of conduct and discipline across all field missions around the world in order to identify any weaknesses and any possible abuse. This audit contributed to the development of a comprehensive program to maintain good order and discipline in Peacekeeping missions.

119. According to an April 19, 2007 memo from you to Mr. Warren Sach, Assistant Secretary-General, Controller, Office of Programme Planning, Budgeting and Accounts, you requested approval for a sole source contract for camp construction and services for the U.N. peacekeeping operation in Darfur. Specifically, you requested Mr. Sach's agreement to negotiate a sole source contract with PAE on the justification that PAE was the only contractor on the ground in Darfur with the capability to support the deployment in a timely manner.

    a. Why did you seek approval for a sole source contract in this case? What was the duration of this contract? Was subsequent work for camp construction and service awarded competitively?

    Genocide was unfolding in Darfur. Millions of people were displaced and hundreds of thousands were dead. In the face of genocide, the peacekeeping mission in Darfur was under enormous pressure to accelerate the deployment of resources needed to protect the lives of civilians. Darfur is not an easy place to work. It is remote and dangerous. Access to Darfur is strictly controlled by the Sudanese government in Khartoum. Getting supplies of any kind into Darfur

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required a synergy of political, military, and financial willingness that was difficult to align and maintain, even in the best of circumstances. Lives were being lost. The international community, including the United States Government, was calling for action. We needed to act quickly.

The recommendation to use PAE to prepare sites and facilities for troop deployment to Darfur reflected the urgency of the situation, the difficulty of gaining access to and working in Darfur, and the need to provide immediate protection to civilians. It was our considered judgment that failure to provide facilities on the ground to facilitate troop deployments would cause the peacekeeping mission to fail, and additional lives to be lost.

At the time, I recognized that the choice of a sole source solution brought risks, but agreed with the determination from my staff on the ground that these risks were outweighed by the risks of failing to provide essential facilities to implement the mandate ordered by the United Nations Security Council for the peacekeeping operation in Darfur. As such, I recommended a sole source solution – fully within the financial rules and regulations of the United Nations – utilizing a contractor which was already operating in the region and had the capacity to meet these difficult requirements against a backdrop of political and military instability. To reduce the risks to the United Nations under the circumstances, the contract was limited to a performance period of six months (plus a limit of two three-month extensions which later proved to be necessary) and was further limited to constructing facilities for what is known as the "Heavy Support Package" – an initiative designed to strengthen the existing African Union peacekeeping mission with the introduction of approximately 4,100 additional troops and associated equipment as part of the phasing in of the United Nations/African Union Hybrid Mission in Darfur (UNAMID). Similarly, in order to ensure transparency, Member States of the United Nations (including the United States Government) were notified about the proposed course of action in advance. Solicitation of all additional and subsequent logistics support work was pursued competitively following normal United Nations procurement procedures.

b. In his response to you, Mr. Sach requested that DPKO develop a logistics concept within three months to prevent the reoccurrence of exceptions to competitive bidding. Did DKPO comply with this request?

It was the view of the Department of Field Support that the extensive elaboration of logistical requirements and operating activities governing the deployment to Darfur represented just such a concept. I understand that an additional mission support concept for Darfur was prepared and is now in place. No other exceptions to competitive bidding were sought.

c. How often did you seek sole-source contracts while serving as Assistant Secretary-General for Peacekeeping Operations?

During my tenure in Peacekeeping, the camps construction project for the Heavy

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Support Package in support of the deployment of the Hybrid United Nations/African Union during the genocide in Darfur was the only sole source solution recommended by my office. Field missions occasionally had individual sole source contracts of much smaller amounts for individual needs/equipment in cases where there simply was only one local supplier (e.g. custodial services in a remote war-affected region). In any case of sole sourcing, the Financial Rules and Regulations of the United Nations were followed.

d. Under what circumstances do you believe it is appropriate for an office, agency, or Department to seek a sole-source contract for materials or services?

I strongly believe that management should rarely seek sole source contracts for material goods and services. Indeed, management must work vigorously to anticipate requirements, institute reliable and comprehensive planning systems, and maintain a visible and consistent commitment and practice to operate within existing rules and procedures governing acquisition and procurement. However, in very rare cases of extremis – such as an unfolding mass atrocity or when lives are at stake – and in conformity with relevant rules and regulations, sole source contracts with proper notifications to appropriate governance authorities may prove necessary as rare exceptions to customary practice.

Human Capital

120. What is your general approach to managing personnel at all levels? What is your general approach to labor relations? What past experiences do you believe best demonstrate your approach and style in personnel management?

My approach to management stems from my training and experience as a leader, first as an officer in the United States Army, and later as a senior executive responsible over the years for organizations and operations of increasing complexity and size. I deeply value people as the most important resource of any organization and I try to communicate that value through my direct engagement with staff and in efforts to understand what they need to successfully accomplish challenging missions.

When I arrived at the United Nations, staff-management relations ranged from mildly antagonistic to overtly hostile. I directly sought out staff union leadership to establish a basis of trust and partnership in identifying staff concerns and in crafting solutions and, wherever appropriate and possible, joint solutions to expedite resolution. I also established a pattern of regular consultations with staff – both formally and informally – to hear their views and engage them in solving problems. Further, I encouraged the formation of staff union organizations among the national staffs serving in Peacekeeping, and regularly scheduled meetings during each field visit with national staff union leadership to hear local concerns and ideas for solutions.

121. What do you consider to be the principal challenges in the area of human capital management at the Department and upcoming challenges in the next four years? If confirmed, how do you intend to address these challenges?

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DHS is one of the largest Departments in the federal government. Over the past five years, it has worked to merge varying and multiple legacy agencies while continuing to grow its workforce. Challenges remain to building a single, cohesive organization and require an unwavering commitment to the effective and efficient use of financial and human resources, enabling technology, strong processes, and superb management. If confirmed, I will work to build and strengthen a Department-wide comprehensive and integrated management approach with specific and measurable goals that support the activities and priorities of the Department.

On a practical level, having a team with the right knowledge, skills, and abilities to support the programs, transform disparate operations, and measure progress against metrics and milestones, is essential to achieve a cohesive effective organization.

122. The Department has consistently received low ratings on employee attitude surveys. The 2007 Best Places to Work in the Federal Government survey, conducted by the Partnership for Public Service, ranked DHS 29 out of the 30 large agencies. According to the 2007 DHS Annual Employee Survey results, decision-making involvement, satisfaction with pay, and the ability of the workforce to accomplish goals continue to be challenges for the Department.

    a. If confirmed, how would you assess the nature and causes of morale problems at the Department, and how would you determine what steps are needed to address them?

    I understand DHS has been making incremental improvement in its Annual Employee Survey scores over the last three years. However, clearly, there is an urgent need, and much room, for improvement. The survey provides a means of assessing the morale of DHS employees, and I know that there is already a cross-component team that meets regularly to assess progress and share best practices. The inclusion of a new requirement that leaders hold focused discussions with the purpose of fleshing out low scoring items in order to better understand them, and brainstorming to come up with actions to improve the underlying issues, will help to further improve the action planning process. By adding the front-line action planning to the Department and component action planning process, I believe it is possible for the Department to meet or exceed the government-wide average.

    b. Many believe that effective human resources management requires that rank and file employees be included in making day-to-day decisions that affect their working lives. Do you agree that involving employees in such decisions is critical to the successful operations of DHS?

    I do. Front-line DHS employees are vital to the success of DHS. Involving them in information analysis and decision-making is critical to successfully accomplishing the DHS mission. Involving employees in decisions is a good way to fully engage the workforce and gain an understanding of the nuances and challenges employees face everyday in accomplishing DHS's critical role of protecting the United States. By involving employees in decisions, the Department and the public are better

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served. Transparency and inclusiveness is important at all levels of the Department to encourage a performance-based culture where each employee's goals tie directly to the Department's mission.

c. You have noted that as Assistant Secretary General for Peacekeeping Operations you led efforts to recruit, retain, and develop thousands of civilian personnel in nearly two dozen specialties. If confirmed as Deputy Secretary, what will you do to help make DHS a desirable employer?

If I am confirmed, I will ensure the Department continues to improve employee training and development; ensure leadership and supervisory training expresses a real sense that employees are critical to mission accomplishment; continue to improve the performance management system, communications and information sharing; bolster the career paths program to increase upward mobility within the Department, and continue with outreach programs designed to recruit a diverse workforce including veterans, women, and minorities. I know the 2008 Federal Human Capital Survey results for DHS tell us that DHS Employees are excited about the DHS Mission, and many make the choice to work at DHS because of this personal commitment to our mission.

d. The President has repeatedly encouraged Americans to aspire to serving the public in a variety of means. How can DHS send a similar message, improve employee morale, and encourage people to seek a career with the Department?

Dedication to mission is one of the primary reasons employees work for and stay with DHS. It is important to reinforce the importance of mission. If confirmed, I will expand upon our recruitment efforts into universities and colleges who offer the best academic programs in the areas which meet DHS's mission and workforce needs. I would promote greater use of internships, cooperative agreements with colleges, and joint efforts with Departments and agencies with similar missions. I would also leverage the talents of our current workforce in recruiting others. Research has shown that productive employees who feel they are doing meaningful work, as ours do, are the best recruiters. To that end, I would explore the potential of a Department-wide Employee Recruitment Referral Bonus system. I would also encourage the use of the various hiring incentives, beyond pay, available, such as student loan repayment, leave enhancement, flexible work life programs, etc., and seek to ensure that our training program at DHS is second to none.

123. The human resource system applicable to Transportation Security Officers (TSOs), who perform security screening at airports for the Transportation Security Administration (TSA), does not allow collective bargaining but does include certain employee rights and protections similar but not identical to those generally available to federal employees. TSA also has established a pay-for-performance system for TSOs. If confirmed, will you reconsider TSA's current workforce system and, in so doing, what criteria will you apply?

I understand the issues surrounding TSA's need for workforce flexibility and the impact

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this has had on operations. If confirmed, I will work with all relevant stakeholders to seriously examine and address the needs of our employees in a manner consistent with our ability to achieve the important mission of TSA.

124. In an April 2008 joint hearing held by the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia and the House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, GAO testified that DHS ranked 23rd out of 25 agencies surveyed with respect to the percentage of minorities in its SES ranks (13.2%) and 20th out of 25 agencies with respect to the percentage of women in the SES (26.2%) (see GAO-08-609T). The following month, at a hearing held by the House Homeland Security Committee, GAO testified that data from both 2003 and 2007 showed that the representation of women at DHS serving as career employees was below the government-wide level. (See GAO-08-815T).

    a. Please describe any previous experience you have had in increasing diversity in your previous positions.

    Throughout my professional career, I have always been aware of the importance and value of building and managing a vibrant and diverse workforce. In my view, gender diversity is, of course important, but so too are other aspects of diversity, such as geographic diversity that can enrich operations with the benefits of multiple perspectives and traditions. Diversity is especially important when multiple stakeholder communities are directly affected by decisions and operations. When I have been in positions of authority, I have demonstrated a commitment to recruiting and cultivating a diverse workforce. In particular, during my tenure as Executive Vice President and Chief Operating Officer of the United Nations Foundation, we actively sought to achieve gender balance in the workplace and succeeded in hiring high numbers of qualified women at all ranks. While the staff of the United Nations represents an extremely diverse workforce, it suffers from a chronic lack of senior women – particularly among the ranks of senior peacekeeping personnel – and of sufficient representation from certain geographical areas.

    In my experience, ensuring a diverse workforce demands an active and ongoing commitment by leadership at all levels to identify and encourage talented staff especially from all backgrounds. During my tenure at the United Nations, for example, I deliberately and systematically attempted to correct these deficiencies, with a particular focus on increasing the numbers of qualified female candidates, including from the developing world, to compete for and win appointment to senior positions in Peacekeeping. I established an office dedicated to improving recruitment of senior leadership in Peacekeeping field mission; the office had a special responsibility to increase the number of women serving in Peacekeeping leadership positions. I also instituted a program within the Department of Field Support focused on increasing the ranks of women engineers, supply, logistics, and transportation specialties in the Logistics Support Division. I also instituted a systematic program to systemize the assignment of senior field support professionals, with an emphasis on developing staff from under-represented

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countries, including men and women.

b. How do you plan to increase diversity at the Department of Homeland Security, if confirmed?

Like the Secretary, I believe that diversity must be an integral part of the DHS culture. If confirmed, I would personally engage in the Department's diversity initiatives. I am committed to a DHS workforce that is diverse at all levels, facilitates the broadest array of innovative ideas and solutions, and emulates the America it serves and protects.

c. Please describe your plans to specifically improve diversity department-wide and at the GS-14-15 levels and the Senior Executive Service.

I believe strongly in a vibrant and diverse workforce. If confirmed, I would draw on my direct experience in this regard to examine the situation within the Department and craft strategies specifically designed to improve diversity.

125. The Homeland Security Act of 2002 gave DHS the authority to waive a number of provisions in the government-wide civil service law, in the areas of pay, performance management, and labor relations, to create a new human capital management system. The Department tried to implement its own pay-for-performance system, known as Max-HR, which ultimately failed. What has been your experience, if any, working with pay-for-performance personnel systems, and what has been your experience with systems under which pay is less flexibly tied to performance? What conclusions have you drawn from these experiences?

For DHS to meet its mission and overcome evolving threats and environmental challenges, it must maintain a high-performing workforce that is flexible, innovative, and motivated. Initiatives such as pay-per-performance can be important elements contributing to success. If confirmed, in order to strike the appropriate balance between pay-per-performance benefits and costs, I would work with senior colleagues to examine these and other incentive structures to help ensure a high-performing and properly motivated workforce.

Cooperation with Oversight Entities

126. In your position as Assistant Secretary-General for Peacekeeping Operations at the United Nations, please describe your relationship with the Office of Internal Oversight Services (OIOS).

a. Specifically, in what ways did you help OIOS achieve their goals of creating an effective and transparent system of accountability and help facilitate their capacity to identify, assess and mitigate the risks that might prevent it from conducting thorough and rigorous oversight?

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When I arrived at the United Nations in 2003, the relationship between OIOS and the Department of Peacekeeping Operations was actively hostile. I immediately recognized the dysfunction in such a relationship and worked vigorously to repair and strengthen this relationship in order to provide Peacekeeping management and oversight with the important tools of investigation and audit oversight. During my tenure at the United Nations, I was an active supporter of OIOS and worked with every facet of their operations to strengthen peacekeeping support operations in the field. My office had the programmatic lead for all audits and investigations in Peacekeeping, and I personally engaged, on a daily basis, with the leadership of OIOS at Headquarters in investigations, audits, reviews of management practices, and facilitating the work of the Procurement Task Force which was established in 2006 to counter waste, fraud and abuse in United Nations procurement.

In addition, I worked closely with the heads of the OIOS investigative and audit services to improve their operations through joint, active management of issues as they arose in missions. I worked directly with the Undersecretary-General for OIOS in a significant restructuring of OIOS designed to ensure more professional and accountable audit and investigative services. We worked to augment OIOS staff assigned to each mission with a strengthened approach to OIOS regional operations, and we collaborated often and frequently with the Department of Management to reform policies and to strengthen management's response to OIOS investigative and audit findings. To combat sexual exploitation and abuse by United Nations Peacekeepers, we worked closely with OIOS to strengthen investigative services and to establish policies that would help prevent, and, if necessary, rapidly and decisively enforce the professional standards expected of all United Nations personnel.

b. When you disagreed with OIOS's recommendations, how did you resolve those differences?

During my entire time in United Nations Peacekeeping, field and headquarters operations were subject to literally hundreds of discrete audits and investigations. Thousands of findings and recommendations were presented by OIOS, the vast majority of which I agreed with and were acted upon. There were times, however, when my staff and I disagreed with an observation, finding, or recommendation of OIOS. In each case, I forwarded a comprehensive written response to OIOS detailing an explanation of our difference in views. As might be expected, OIOS did not always agree with our position; in those cases OIOS carried forward their recommendations as outstanding and in some cases were overcome by a change in circumstances (such as when operations in a particular area terminated). On rare occasions, the Secretary-General has taken the exceptional step of submitting a formal report to the General Assembly outlining management's disagreement with OIOS' findings.

c. Please provide examples of recommendations you implemented and those you did not. For those not implemented, please explain why.

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My staff and I often agreed with the findings and recommendations of OIOS. For example, OIOS found that peacekeeping missions in the field held excessive inventories of spare parts, a practice which exposed the United Nations to potential waste and loss. I directed implementation of a program to properly dispose of these excess assets. In another case, OIOS made a series of recommendations to improve the transparent and open recruitment of personnel for peace operations in the field, including the use of plain language vacancy announcements and administrative safeguards designed to reduce abuse of the recruitment processes through inappropriate tailoring of vacancy announcements to particular individuals. OIOS also made numerous recommendations to strengthen the performance and accountability of field procurement which we adopted along with the Department of Management.

In some cases, we did not accept the findings and recommendations of OIOS. For example, when OIOS found that special measures were not necessary to permit extending the period of time that a staff member could spend on temporary duty to support the deployment of the newly expanding mission in Darfur, we disagreed. We believed that this additional flexibility did indeed assist in manning this critical mission at a critical time. In addition, when OIOS concluded that mismanagement rose to the level of misconduct, we disagreed, inasmuch as under the Staff Rules and Regulations of the United Nations, misconduct is an administrative conclusion that follows a rigorous investigation with guarantees of due process for individual staff members. It should be noted, however, that in the vast majority of cases, literally thousands of times, we did agree with the findings and conclusions of OIOS and I worked to put in place effective implementation of those recommendations.

127. What is your view of the role of the Department of Homeland Security Inspector General? Please describe what you think the relationship between the Deputy Secretary and the Department's Inspector General should be. If confirmed, what steps would you take as Deputy Secretary to establish a working relationship with the Inspector General?

I share Secretary Napolitano's view that the Secretary, Deputy Secretary, and Inspector General (IG) must work cooperatively to improve the effectiveness and efficiency of DHS programs. I also believe it is incumbent upon the Department's senior leadership to ensure the IG is able to carry out his or her statutory mission, and I intend to provide such support if confirmed. In addition, I will work to establish and maintain a cooperative working relationship with the Inspector General. I will also ensure that the Department's employees understand the IG's role and fully support the IG in executing his/her responsibilities.

128. GAO has struggled to conduct its oversight of the Department in the face of cumbersome Departmental policies and procedures that inhibit GAO's access to necessary interviews and documents. If confirmed as the new Deputy Secretary, will you work to establish a streamlined process that allows GAO access to information in a timely manner?

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If confirmed, I will work with the Secretary and the Under Secretary for Management to explore the need for, and implement as necessary, any revisions to DHS's process for responding to GAO requests.

129. The U.N. Department of Peacekeeping Operations (DPKO) has faced some well publicized concerns, at least as far back as 2002, that peacekeepers and civilian personnel affiliated with the DPKO have exploited or harmed refugees and other vulnerable people those peacekeepers and officials were supposed to protect. On March 1, 2005, while serving as the Assistant Secretary General for Mission Support, U.N. Department of Peacekeeping Operations, you briefed the House Subcommittee on Africa, Global Human Rights and International Operations on how DPKO was responding to allegations of sexual exploitation and abuse, both specifically with respect to peacekeeping operations in the Congo, and more generally. At that time, you noted that despite efforts to establish personal conduct units, impose explicit codes of conduct, and deploy training programs in cooperation with member states, incidents continued to occur. You outlined additional measures, such as instituting a victims' assistance policy, that DPKO was putting in place to address the ongoing concern. However, reports by both internal U.N. organizations and non-governmental organizations like Save the Children (UK) have concluded that problems persisted.

    a. While serving in the United Nations, what responsibilities did you have and what actions did you take in addressing these issues?

    In the middle of 2004, reports emerged from eastern Congo alleging rape and other acts of sexual exploitation and abuse by United Nations Peacekeepers against women and children of the local population. These allegations echoed similar reports of abuse and exploitation levied against humanitarian workers in Western Africa several years earlier. In response to this reports, then Secretary-General Kofi Annan appointed Prince Zeid, Permanent Representative to the United Nations from the Kingdom of Jordan, to lead an investigation into the allegations and make recommendations for remedial action.

    In late 2004, Zeid's Report was submitted to the Secretary-General. His report concluded that acts of sexual misconduct and abuse were common, and that all levels of the system, including first-line leaders, Troop Contributing Countries, and the United Nations system itself bore responsibility for this disgraceful behavior and for its eradication. The 'Zeid Report' was subsequently taken up by the General Assembly to determine which of its various recommendations would be approved for action. In late 2004, I was asked by the head of Peacekeeping, Undersecretary-General Jean Marie Guehenno, to lead the organization's effort to implement the Zeid recommendations and, more broadly, to devise a strategy to eliminate sexual exploitation and abuse by peacekeepers.

    To begin, I adopted a strategic approach to what was clearly a strategic problem: United Nations peacekeeping was growing very fast in a very short period of time (over three-fold in just over three years), and it was clear that systems were not in place to address this growth and the associated breakdown in good order and

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discipline. I established a system-wide Task Force (involving representatives from all United Nations entities with field presences, as well as nongovernmental organizations, including Save the Children). The Task Force initially met weekly, and later monthly, to examine each of the recommendations and to begin an accelerated process of implementation. Through various working groups, we developed these recommendations, led their coordination throughout the United Nations system, and presented them to the appropriate Undersecretary (Peacekeeping or Management) or the Secretary-General for approval and adoption.

The operating environment was challenging: over 120 countries provide troops to peacekeeping, rotating them usually every six months. Missions were established in extremely remote environments and local government capacities and public order was often absent. Tens of thousands of civilian peacekeepers from countries with markedly different standards of behavior composed the force in the field. Moreover, in many of the countries where peacekeepers operate, no national laws exist against prostitution or exploitation of women and children, and indeed, in some cultures it has been quite accepted.

Nevertheless, we moved immediately to translate the policy of 'Zero Tolerance' into action, by emphasizing 'zero complacency' on the part of Peacekeeping leadership and 'zero impunity' for a perpetrator when substantiated allegations were established. It is important to note that effectively none of these measures existed or were in place before Zeid's Report and the work of my Task Force began. In truth, very little attention, much less policy or action to deal with the problem in its full complexity, existed before this time. The action program I oversaw resulted in the toughest, most comprehensive approach to dealing with sexual exploitation and abuse ever adopted by any major international organization or agency.

To guide our work, I developed a three part strategy. This strategy formed the basis of the work of the Task Force and the leadership of United Nations Peacekeeping in implementing the Zeid recommendations: Prevention, Enforcement, and Remediation. I was personally and intensively involved with the development, articulation, implementation, and oversight of this strategy, emphasizing an approach of 'constant vigilance' on the part of United Nations leadership to ensure standards were met and compliance was achieved. In an operating environment where over 100,000 peacekeepers turn over every six months, training, messaging, outreach, and standards needed to be constantly reinforced.

In addition, I led effort to clarify behavior standards and extend those standards to all United Nations personnel, regardless of category of service (i.e., military, civilian, contractor). Prior to this, the only standards that existed were ambiguous and of unclear applicability. I also led the effort to develop an extensive inventory of trainings in multiple languages and to make these trainings mandatory before a person deployed to a peacekeeping mission. Further, we worked to expand this training and reinforce the messages of upholding personal and organizational

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standards throughout the length of a staff member's tour, whether or not they were on duty. Soldiers are now trained before they depart their home country and regularly during their tours of duty. Over the course of 2005 training courses were developed and implemented. Today, over 200,000 peacekeepers of all kinds – military, police, and civilians – undergo mandatory cultural awareness and conduct training as part of their service with UN peacekeeping.

On leadership accountability, I led the effort to incorporate specific leadership training into all levels of mission leadership preparations – including military and civilian leaders. Beginning in 2005, every senior mission leader had conduct and discipline standards incorporated into their performance appraisals with their superiors, including Heads of Mission who report to the Secretary-General of the United Nations. Prior to this period, no regularized, much less mandatory training existed for any person assuming a leadership position in peacekeeping.

On community outreach, I led the effort to develop multiple outreach programs designed to reach local communities and their leaderships to educate them on what to expect of United Nations peacekeepers. In many mission locations, joint councils have been established to monitor operations and manage problems that may arise. As a result, relations between Peacekeeping missions and their host communities have significantly improved. A particular example can be found in Southern Sudan, where community-mission groups met regularly to identify problems before they get out of hand and craft strategies to defuse tensions.

In the area of public accountability, I conceived and, working with other members of the United Nations system (UNDP, UNICEF, etc) and the non-governmental community, held the first-ever high-level consultation in December, 2007 and developed a Statement of Commitment that outlined 10 principles for behavior to govern international assistance and Peacekeeping personnel. This represented the first ever such joint public acknowledgement of organizational responsibility to help eliminate this behavior. In addition, the Secretary-General now reports annually on progress being made in this area. To date, 41 United Nations, and 34 non-United Nations entities have signed-up to these standards.

I also led the effort to develop strategic initiatives to reinforce prevention of sexual exploitation and abuse into daily operations. For example, a staff-management initiative was designed to eliminate the demand for and use of prostitution in United Nations mission areas. Community leaders were incorporated into the design of plans to ensure local cooperation and that anti-trafficking strategies would be effective. These efforts included the development of a comprehensive welfare policy to address stress and tensions that exist in all mission areas. Joint initiatives between missions and troop contributing countries have expanded the welfare and recreation activities available to all staff serving in field locations. In Sudan, for example, military and civilian officers work side by side to develop and administer welfare and recreational programs to engage peacekeepers during their time off.

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In addition, we recognized early that the United Nations had neither data on abuses nor any system for tracking trends. To remedy this, I devoted existing resources to develop a comprehensive database to begin tracking allegations, investigations, and disposition of cases in order to understand trends, develop effective strategies, and prevent future service in Peacekeeping by staff and soldiers found to have committed violations. We also established multiple, confidential means of filing complaints in all missions.

I also oversaw a two-year effort that resulted in the General Assembly's adoption of the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel (A/RES/62/214) in 2008. Under this strategy, victims received assistance to address their needs including medical treatment, counseling, social support, legal services, and other limited material care.

Under my leadership of the Task Force, the United Nations also developed a comprehensive public information policy to improve the flow of information to communities on issues such as the outcome of investigations and victim assistance.

b. What steps did you take, or recommend be taken, to address issues raised by any oversight bodies?

I developed with the Office of Internal Oversight Services (OIOS), clearer and tougher standards for Category I offenses (the most serious offenses, including all related to sexual exploitation and abuse – an inclusion I and my staff pushed for as the OIOS standards were being developed) to incorporate all allegations of sexual exploitation and abuse. I also strongly supported the reorganization of OIOS in the field to permit a more rapid investigative response to serious allegations. Working closely with OIOS in evaluating the existing arrangements that left many mission areas uncovered with respect to immediate and responsive investigative capabilities, we developed a new framework to consolidate field investigative capacity and orient it on highest need mission areas. In addition, the new Model Memorandum of Understanding adopted by Member States (A/61/19 part III) in 2007 makes these United Nations standards applicable to military personnel and calls on Member States to ensure personnel are held accountable through disciplinary and criminal proceedings.

In addition, beginning with eight missions in 2005 and expanded to all field operations in 2007, I led the effort to create conduct and discipline teams at Headquarters and in the field, to assist Peacekeeping leadership on developing policies to ensure good order and discipline, and to pursue all allegations to determine if formal investigations were required.

c. When was a "zero tolerance" policy adopted? What actions could the DPKO take under the zero tolerance policy, and when?

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The "zero tolerance" policy was declared by the Secretary-General in a Letter to the President of Security Council dated 9 February 2005. Prior to that sexual exploitation and abuse were prohibited by the United Nations Staff Rules and Regulations which were reinforced by administrative instructions, including the Secretary General's bulletin entitled "Special Measures for Protection from Sexual Exploitation and Abuse" (ST/SGB/2003/13). The Task Force I lead built on the declaration of that policy to craft a strategy of prevention, enforcement, and remediation outlined in the above answer.

d. The 2008 report by Save the Children found that just a fraction of the allegations reported between 2004 and 2006 could be resolved in the same year. What impediments prevented the DPKO from quickly resolving these types of allegations?

The United Nations is limited in its ability to discipline troops contributed to peacekeeping efforts. This authority remains with the Member States of the United Nations under their national laws. During my time in Peacekeeping, I led the effort to develop a strengthened agreement between the United Nations and Troop Contributing Countries that is now the basis for accepting troops into peacekeeping missions. Countries now vouch for the performance and behavior of their troops and agree to joint investigations of serious allegations. I was personally involved in shaping the memorandum of understanding and in leading the negotiations that led to its adoption.

Further, we instituted a policy to immediately remove from mission areas persons against whom allegations of misconduct and abuse are founded. While this measure had long been United Nations policy on paper, it was exercised relatively rarely compared with the level of misconduct we now know must have existed. Prior to the engagement of the Task Force on Combating Sexual Exploitation and Abuse, the United Nations would wait for the Member State to report, if at all, on the onward disposition of any case of repatriation. We established a policy under which the Office of Military Affairs now follows-up at 30-day intervals to determine the disposition of the case and reports via the Secretary-General to the General Assembly on results.

In addition, one of the major findings of the Zeid Report involved recommendations that recognized the responsibility of Member States to ensure good order and discipline, and called for their greater accountability. I led a comprehensive initiative over many months to establish legal lines of responsibility and to engage the Member States to undertake a more proactive stance in holding their nationals accountable for behavior in peacekeeping. In 2008, the General Assembly passed a resolution calling on its members to extend criminal jurisdiction to cover nationals when they commit crimes, including sexual exploitation and abuse, while serving with the United Nations and further, to take all appropriate follow-on legal action when a national is removed from Peacekeeping for a serious violation. The Secretary-General has been tasked to report annually with member state compliance with these provisions.

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e. How many peacekeepers, civilian personnel affiliated with the DPKO, and staff of the U.N. have been disciplined since 2002 for sex offenses or abuse?

Hundreds of United Nations personnel have been disciplined or expelled from missions for sex offenses or abuse since 2002. Further detailed information should be available through official channels with the United Nations.

f. What authority, if any, does the U.N. have to discipline peacekeepers, civilian personnel affiliated with the DPKO, and U.N. staff for these types of offenses?

Aside from repatriation, the United Nations has no ability to discipline military troops provided for Peacekeeping operations for any misconduct they may commit. This authority remains with the troop contributing country which retains sovereign prerogatives in this regard. However, my Task Force and I led the development of a number of measures to ensure more rigorous investigation and enforcement of founded allegations.

In three separate cases during my tenure, for the first time, three entire units were censured or repatriated due to a pervasive failure to uphold UN standards of good order and discipline. In addition, one other unit in its entirety was restricted to barracks pending a full investigation of alleged misconduct. I was at the forefront of these decisions.

g. How many cases were referred to member states with recommendations for discipline by the DPKO or some other office within the U.N.? Are you aware of how many referrals member states accepted, denied, or refused to take action on?

I do not personally have precise information that is responsive to this question. I would estimate that dozens of cases have been referred to member states with recommendations that disciplinary action be taken. Further detailed information should be available through official channels with the United Nations.

130. In the 9/11 Commission Recommendations Act, this Committee reorganized the Privacy and Civil Liberties Oversight Board as a bipartisan, independent body designed to review the nation's efforts to combat terrorism and consider their effects on individual liberties. The statutory language requires that "[t]he head of the department… shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions." Will you commit to responding fully and promptly to requests for information from the Privacy and Civil Liberties Oversight Board once it is reconstituted?

Yes

IV. Relations with Congress

131. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

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Yes

132. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes

133. The 9/11 Commission Report recommended that Congress create "a single, principal point of oversight and review for homeland security." What challenges do you foresee for a Deputy Secretary taking over a department that had direct engagement with, by some estimates, as many as 108 committees and subcommittees in the 110th Congress? How will you deal with this issue?

I am aware of the strong support within this committee and within DHS for consolidating Congressional oversight. However, I am equally aware that such consolidation still faces tremendous hurdles. It is of paramount importance that DHS remains vigorously responsive to the jurisdictional structure that Congress sets to fulfill its Constitutional oversight role. I know that the current organization of Congressional oversight of DHS places a tremendous workload on the Department.

If confirmed as Deputy Secretary, I will ensure that all of DHS shares Secretary Napolitano and my common goal for a proactive and productive relationship with Congress. If confirmed, I look forward to working closely with this Committee in order to build a stronger, better, more effective Department of Homeland Security.

V. Assistance

134. Are these answers your own? Have you consulted with DHS or any interested parties? If so, please indicate the individuals or entities with whom you have consulted, and the nature of the assistance they have provided.

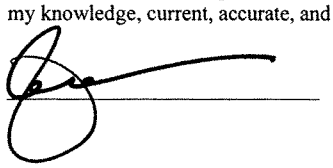
Responding to this questionnaire required a level of specificity and detail regarding DHS components, programs, policies, and draft regulatory proposals about which I did not have first-hand knowledge. In an effort to be as forthright and responsive as possible to the Committee in the time available, I have participated in normal pre-confirmation consultations with the White House and DHS staff. These consultations were used to inform my knowledge regarding the background, current operations and potential policies for the Department. However, and in all cases, these answers are my own, and are based on my understanding and consideration of the information provided to me.

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AFFIDAVIT

I, JANE HOLL LUTE, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



Subscribed and sworn before me this 11th day of March, 2009.

Lydia Stampley
Notary Public

Lydia Stampley
Notary Public, District of Columbia
My Commission Expires 8/14/2010

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Senator Susan Collins
Questions for the Record
Pre-Hearing Questions for Jane Holl Lute
Deputy Secretary, Department of Homeland Security
March 11, 2009

1. You have had several positions in your employment history which appear to have had procurement responsibilities. You began your career as a Second Lieutenant in the US Army, were a Company Commander, were Brigade Signal Officer, were an Action officer during Desert Storm, were the Executive Director at two not-for-profits, and were the Chief Operating Officer at the UN Foundation and Better World Fund. Each of these positions was a leadership role that entailed supervision of staff, budgets, and procurements. Given this extensive management experience, can you please, for each position, answer the following:

   a. The largest or most significant procurement that you;

   I was on active duty service in the United State Military from 1978 to 1994. While I had increasing responsibilities during my service, including the supervision of staff and budgets, I do not recall any major acquisition or procurement action during this time.

   Similarly, following my service in the United States Army, my positions involved successive responsibilities managing staff and budgets, for the Carnegie Commission on Preventing Deadly Conflict, an operating program of the Carnegie Corporation of New York, and for the Project on the Role of American Military Power, an operating program of the Association of the United States Army. I do not recall significant acquisition or procurement actions during this period beyond the purchase of normal goods and services necessary to conduct meetings in various locations.

   During my tenure as Executive Vice President and Chief Operating Officer of the United Nations Foundation and the Better World Fund, my responsibilities again entailed the supervision of staff and budgets. I was responsible for managing and overseeing the general operations of the Foundation, including supervising administrative and financial staff responsible for procurement activities for goods and services associated with managing an enterprise with offices in Washington, D.C. and in New York. I do not recall any major significant acquisition or procurement actions during this period.

   From 2003-2008, I served as Assistant Secretary-General for Peacekeeping Operations responsible for Mission Support, and (later) acting Head of the Department of Field Support. In these positions I had overall oversight and management responsibility for the provision of resources to peace operations globally. This entailed ensuring that requirements needed in the field were met at the required time and place, in a cost-effective manner during all phases of an operation, ranging from start-up and sustainment, to draw-down and liquidation. In terms of

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major acquisitions, this included the establishment of service contracts in a broad range of areas including food, fuel, aviation, and other logistic support, as well as multi-year requirement contracts for all equipment and infrastructure necessary to deploy a mission, such as vehicles, prefabricated buildings, communications and information technology equipment, generators, etc. It also included the provision of fixed and rotary aircraft. Fuel, rations, vehicles, aviation services, and communications and information technology equipment each represented acquisitions in the hundreds of millions of dollars during this period. In 2008, peacekeeping procurement totaled approximately $1.7 billion.

During my tenure at the United Nations, I oversaw the raising of requirements for several billion dollars of procurement activities. I cannot reliably state which contract represented the largest during this period.

b. The challenges you faced for the procurements identified in (a)

As the Government Accounting Office noted in its report on United Nations Peacekeeping dated September 2008, authorities for field procurement remains divided between two departments – the Department of Field Support and the Department of Management. Moreover, at least half of all Peacekeeping procurement was done directly by missions in the field, each contracting for local goods and services within limits established by the United Nations. Thus, the United Nations procurement system is a fragmented one.

Field procurement operates under the same rules and regulations as headquarters procurement – a circumstance that represent an extremely challenging environment inasmuch as it requires field operations to adhere to rules and regulations better tailored for a fixed headquarters location. The United Nations headquarters is located in New York City with access to a dynamic market with multiple suppliers permitting genuine value competition, robust and redundant lines of communications to ensure timely product delivery, a well-established and reliable national and commercial regulatory framework to ensure contracting compliance or speedy remedy, and predictable operational ebbs and flows. Most of modern Peacekeeping operations, however, occur in remote, austere, difficult, and increasingly dangerous places with few of these characteristics. Thus, the most difficult challenges I faced were supporting the field in raising requirements that fully incorporated performance standards regarding timeliness of supply, reliability, durability, associated maintenance and training, etc. I also faced the challenges of conducting operations in places and at times where the assets and resources of neither Member States (as troop and police contributing countries) nor the United Nations itself could fill the need (for example, aviation services in Sudan), and where commercial options were limited to only a few suppliers.

In addition, there are significant challenges to recruiting and retaining experienced and expert procurement personnel, especially for field-based operations under adverse conditions. These challenges are magnified several times over when the

practical requirement exists to conduct highly technical functions fluently in English as well as French (as is the case in many peacekeeping missions) or, increasingly, Arabic.

c. Were there investigations or audit findings with respect to any procurement activities you were responsible for in any of these positions? If so, please provide a copy of these audits; and

During my tenure, Peacekeeping support operations were subjected to literally hundreds of audits and investigations, and thousands of audit findings. Reports from most of these audits are available on the website of the United States Mission to the United Nations: http://www.usunnewyork.usmission.gov/Issues/oversight_main.php.

d. What response or remediation plan did you put in place to address the issues identified in any audits listed in (c)?

I oversaw the preparation of a detailed management response to each OIOS investigation and audit that dealt with Peacekeeping support. During my entire time in United Nations Peacekeeping, field and headquarters operations were subject to literally hundreds of discrete audits and investigations. Thousands of findings and recommendations were presented by OIOS, the vast majority of which I agreed with and were acted upon. Wherever possible, I looked to not only address the finding, but also put in place a system for better operational performance and oversight.

For example, OIOS found that Peacekeeping missions in the field held excessive inventories of spare parts, a practice that exposed the United Nations to potential waste and loss. I directed implementation of a program to properly dispose of these excess assets and to put in place an improved system of inventory management. In another case, OIOS made a series of recommendations to improve the transparent and open recruitment of personnel for peace operations in the field, including the use of plain language vacancy announcements and administrative safeguards designed to reduce abuse of the recruitment processes through inappropriate tailoring of vacancy announcements to particular individuals. I addressed these issues, reorganized the Field Personnel Division to ensure more responsive and accountable service, and instituted initiatives such as personnel 'tiger teams' to assist missions in responding to mission exigencies such as rapid start-up or expansion. OIOS also made numerous recommendations to strengthen the performance and accountability of field procurement which we adopted along with the Department of Management, including strengthened training, expanding core requirements, updating the United Nations Procurement Manual, and undertaking a concerted effort to identify, recruit, and train specialized procurement personnel for service in field missions.

2. In 2007 and 2008, the U.N. Procurement Task Force, a branch of the U.N. Office of Internal Oversight Services (OIOS) released a number of reports (e.g., A/61/264 (2/23/2007), RTF-R011/07 (7/5/2007), RTF-R010/07 (7/16/2007), A/62/272 (10/5/2007), A/62/281 (2/25/2008)) indicating significant amount of corruption, fraud, waste,

overpayments, abuse, and mismanagement in a number of high-value contracts. In particular, the OIOS report dated October 5, 2007, which reviewed the 18-month period between January 2006 and June 2007, identified more than ten significant fraud and corruption schemes in cases with an aggregate contract value in excess of $610 million. This resulted in an approximate misappropriation of resources at least of $25 million.

a. How many and what portion of these contracts reviewed by the OIOS in the October 5, 2007, report fell either within the scope of your responsibility, directly or based on your management responsibilities?

As I recall, most of these contracts were associated with specific field missions which did fall under my management responsibilities as Assistant Secretary-General for Peacekeeping Operations, as I have described in 1.a., above.

b. Please identify which office(s) you worked for, as well as any and all positions held, during the 18-month period reviewed by OIOS.

During this entire time I served as Assistant Secretary-General for Peacekeeping Operations in the Department of Peacekeeping Operations at the United Nations.

3. During your tenure at the U.N., you held several positions.

a. In your capacity as Assistant Secretary-General, Peacekeeping Operations, between 2003 and 2007, what was your role and the role of staff reporting to you with respect to procurement and contracting process? Please be specific with respect to –

i. Acquisition planning;

ii. Requirements development;

iii. Contract award including evaluation; and

iv. Post-award contract management.

v. Please describe the number and responsibilities of any contracting officers, if any, that reported to you in this position.

As described in answer 1.a. above, my specific responsibilities included overseeing the technical staff at Headquarters responsible for the overall support operations, logistics, and communications and information technology support of peace operations worldwide, including technical advice and assistance to mission planning of contractual requirements to be met through competitively tendered commercial contracts. At no time did I have responsibilities for negotiating or approving contracts. No contracting officers reported to me in this position.

The responsibilities of my staff were limited to the identification and validation of requirements, and the development and vetting of specifications for competitive tenders undertaken by the Procurement Division in the Department of Management or in field missions. They worked closely with Procurement Division of the Department of Management in defining requirements for goods and services, and were responsible for the evaluation of bids or proposals from a technical and operational perspective. My headquarters staff also supported missions in the field, for example, by helping to clarify and validate field requirements for leases of buildings or major contracts such as rations, petroleum, oil and lubricants, if and when these were contracted in a mission area.

The delivery of goods and services takes place in the field and this is where contract management is performed. The responsibility for oversight of contracts rests with the contracting party, which in all contracts issued by UN Headquarters, is the Procurement Division of the Department of Management. In the case of local contracts, it is the field procurement office in each Mission, overseen by the Head of Mission in the field.

b. Please answer the same with respect to your tenure as Acting Under Secretary-General, Peacekeeping Field Support, between 2007 and 2008. Please be specific with respect to –

   i. Acquisition planning;

   ii. Requirements development;

   iii. Contract award including evaluation; and

   iv. Post-award contract management.

   v. Please describe the number and responsibilities of any contracting officers, if any, that reported to you in this position.

As Assistant Secretary-General and Acting Head of the Department of Field Support, I held virtually identical responsibilities as outlined above. Therefore, I respectfully refer the Committee to the answers I have provided to question 3(a), ante.

c. Please answer the same with respect to your tenure as Assistant Secretary-General, Peacebuilding Support, between 2008 and present. Please be specific with respect to –

   i. Acquisition planning;

   ii. Requirements development;

   iii. Contract award including evaluation; and

iv. Post-award contract management.

v. Please describe the number and responsibilities of any contracting officers, if any, that reported to you in this position.

Since being assigned as Assistant Secretary-General Peacebuilding Support in August 2008, I have had no responsibility or authority for any of the topics listed above. No contracting officers reported to me in this position.

4. In a letter dated April 19, 2007 that you sent to Mr. Warren Sach, U.N. Assistant Secretary-General, you sought a sole-source contract for camp construction and service for the U.N. deployment in Sudan. The $250 million sole-source contract was awarded to Pacific Architects & Engineers (PAE), a subsidiary of Lockheed Martin.

a. Please describe the circumstances surrounding this request and your rationale for seeking sole-source authority.

Genocide was unfolding in Darfur. Millions of people were displaced and hundreds of thousands were dead. In the face of genocide, the Peacekeeping mission in Darfur was under enormous pressure to accelerate the deployment of resources needed to protect the lives of civilians.

Darfur is a remote and dangerous place to work; access is strictly controlled by the Sudanese government in Khartoum. Getting supplies of any kind into the mission area required a synergy of political, military, and financial willingness that was difficult to align and maintain, even in the best of circumstances. As lives continued to be lost, the international community, including the United States Government, was calling for action. We needed to act quickly.

The recommendation to use PAE to prepare sites and facilities for troop deployment to Darfur reflected the urgency of the situation, the difficulty of gaining access to and working in Darfur, and the need to provide immediate protection to civilians. Furthermore, PAE was already present in Darfur; PAE was also the only contractor already in Darfur and already performing these functions. It was our considered judgment that failure to provide facilities on the ground to facilitate troop deployments would cause the Peacekeeping mission to fail, and additional lives to be lost.

b. At any time within the six months prior to your April 2007 letter, did you meet or discuss with representatives of Lockheed Martin or PAE any of the requirements addressed in the letter to Mr. Warren Sach? If so, please state the nature of the communications.

I did not.

c. During your tenure at the U.N., how many sole-source requests valuing over $1

million have you made (regardless of whether they were approved or rescinded)? Please list all sole-source requests and briefly describe for each the circumstances surrounding the requests, your rationale for seeking sole-source authority, and the outcome of the request.

During my tenure at the United Nations, to the best of my recollection, I made only one recommendation that the United Nations seek a sole-source solution, as described in response to question 4(a), ante.

5. Three months after the April 19, 2007 letter (referenced in question 3), you sent a "Note" to Mr. Sach dated July 12, 2007, entitled "Procurement Challenges," to which Mr. Sach, responded on July 20, 2007. In Mr. Sach's July 20th response, he raised a number of specific and substantive comments.

   a. Please provide your July 12, 2007, "Note" or, if not reasonably available, please describe the nature of its contents in detail.

   In 2007, I wrote a note to Ms. Alicia Barcena, who was at the time, United Nations Undersecretary-General for Management, to request a senior-level meeting to discuss the growing tension between ever-expanding operational demands in the field and an overwhelmed Headquarters procurement process. I identified what we on the Peacekeeping staff perceived to be significant shortcomings in the United Nations procurement system and highlighted a number of operational problems that required reform or, at the very least, attention from United Nations senior leadership, including: a chronic shortage of trained and experienced procurement staff; the intensively technical nature of commercial procurement for field-based peacekeeping operations requiring specialized technical expertise throughout the procurement system not easily established or maintained; excessive delays in processing due to procurement systems designed for fixed headquarters operations rather than the field where an intense operational tempo compounds the already difficult challenges associated with trying to start up and maintain operations in remote, austere and dangerous mission locations, and other issues. The note also proposed several ways to achieve mission performance while maintaining necessary accountability. I concluded my note by asking for a senior-level meeting to consider reform.

   b. Please provide your response to each of the substantive comments raised in paragraphs #3 and #10 of the Sach July 20th response.

   I did not respond in writing to the Controller's note (written in his capacity as officer-in-charge of the Department of Management due to an absence from Headquarters of the Undersecretary-General for Management, Alicia Barcena) inasmuch as it clearly reflected acute perceptions in Procurement Division that they had been unfairly criticized in my original note, and it was those sensitivities that animated this communication. In response to the Controller's note, I and my senior logistics staff met with the Controller and with the acting head of the Procurement Division to address the core problem of an escalating operational tempo in

Peacekeeping and its associated needs for increased procurement responsiveness, while at the same time ensuring fully accountable and transparent processes. We did not go over either my original communication to the Undersecretary-General for Management or the Controller's note point by point. Subsequent to this discussion, the Undersecretary-General for Management and I agreed to mutually withdraw our notes and proceed on the basis of sustained senior-level dialogue and engagement to ensure a smooth working relationship between Peacekeeping and Procurement Division.

With regard to the Controller's specific points:

On the negotiations for a multifunction logistics contract for Darfur, it was my basic view that the procurement system of the United Nations was laboring under an unsustainable burden, without senior management intervention, to cope with the ever-expanding operation requirements in the field. Since late 2003, new and expanding missions were authorized in rapid succession by the United Nations Security Council and, in each case, missions had to be constructed from the ground up with appeals to Member States to contribute military and police forces, to craft mission staffing which, in turn, resulted in recruitment challenges to find and deploy experienced personnel willing to serve in these environments, and in mobilizing and deploying the vast logistics, communications, aviation, and other requirements necessitated in the field. In the case of Darfur, these challenges were exacerbated by the remote distances, harsh operating environment, resistant political position of the Government of Sudan, and the reluctance of troop and police contributing countries to commit forces in advance of clear agreement to their presence from the Government of Sudan. These elements and more contributed to the uncertainty in accurately forecasting and planning requirements for the field, which did not constitute an administrative pattern, but rather an operational and political reality. As a result, my staff and I believed that we needed to work with the Department of Management to address the challenges posed by this reality to the United Nations' normal procurement system, which was already under stress.

Regarding the provision of fuel for Darfur, I disagree that my note to Ms. Barcena attributed delays in signing the contract for the provision of fuel in Darfur solely to Procurement Division. Rather, as noted above, I recall that I highlighted the generalized pressure that Peacekeeping operations were under, and the specific challenges associated with provisioning an ever-changing set of requirements in Darfur, and again sought to work with the Department of Management to address these challenges.

Finally, with respect to support planning for new missions in Chad, the Central African Republic, and Somalia, we were working closely with Procurement Division to manage the challenges posed by these looming missions (simultaneously to the ongoing deployment in Darfur). I sought to reinforce this collaboration between Peacekeeping and the Procurement Division with a joint senior-level commitment by the leaderships of both activities.

c. Please describe the U.N. policy with respect to ratification of unauthorized obligations addressed in paragraph #10 of the Sach July 20th response.

The United Nations Financial Rules and Regulations and the Procurement Manual govern all financial aspects of United Nations activities, including operations in the field and both frown on ex post facto cases involving payments to vendors. There were cases in which, due to delays or complications in process, contracts expired without follow-on provisions being in place—threatening, at times, the availability of food for troops or fuel for operations. In such cases, field missions requested ex post approval for consideration by the Headquarters Contract Committee.

6. Understandably, there are circumstances that warrant less than full and open competition. The federal government has had plenty of experience with procurement under exigent circumstance in the aftermath of Katrina and during Iraq and Afghanistan reconstruction. However, even in a contingency situation, good acquisition processes must be followed. In particular, being able to set clear, meaningful, and specific contract requirements early in the procurement process is an important aspect of preventing cost, schedule, and performance overruns in major procurements, whether in emergencies or during the normal course of business. This is mainly the program office's function. Without a complete requirements document, a contracting office cannot conduct a competition or engage in effective contract negotiation.

An OIOS Report dated, January 2, 2009 (A/63/668), stated, "OIOS reiterates that the Darfur planning team had been in place since March 2006 and that the Department of Field Support was fully aware of conditions in Darfur through UNMIS [U.N. Mission in Sudan] operations." OIOS further stated that "accountability should be determined for the failure to adequately plan the provision of the multifunction logistics services…." (Emphasis added). What was your role in the acquisition planning process described by the OIOS, in particular in the requirements definition process for the PAE sole-source contract? Could additional planning have obviated the need for a sole-source contract under the circumstances?

As described above, during this time, my staff had responsibility for the technical review of requirements raised in the field and for the evaluation of bids for technical and operational suitability. I do not agree that the Department of Field Support or the mission on the ground failed to adequately plan for the provision of logistics services, and believe that this same position was taken in writing by the Department of Field Support (and later by the Secretary-General himself in a report to the General Assembly) in its formal response to the OIOS audit. The deployment to Darfur was subject to near-constant changes in the prevailing operational and political conditions that made it nearly impossible to specify the terms necessary for a contractual statement of work that would have formed a reliable basis for negotiations prior to the time such negotiations were undertaken by the Procurement Service of the Department of Management.

7. In a report dated February 23, 2007 (A/61/264 (Part II)), OIOS discusses its annual effort

to oversee peacekeeping operations and addresses many of the procurement challenges you faced while you were in charge of peacekeeping operations. Some of the OIOS findings describe a "breakdown in one or several components of internal control or a total disregard for controls," "inadequate managerial accountability," and, in general, "serious deficiencies in procurement management."

a. Do you agree with these conclusions? If not, why? Please describe what specific actions you took, or directed others to take, to address the findings in the OIOS report.

As I recall, I did agree with a number of conclusions referenced in this OIOS report. In general, we shared the concern that procurement challenges were considerable and that management was responsible to undertake not only individual remedial measures, but also structural reforms to strengthen procurement systems and accountability. Indeed, these concerns, in part, motivated both my letter to the Controller about which previous questions inquire and other advocacy within the system to strengthen our operation systems. While I do not recall precisely the nature of every issue that formed the basis of the OIOS annual statement on Peacekeeping, I do know that my Department worked closely with Procurement Division in the Department of Management on such structural improvements as expanding the core requirements list to permit greater flexibility in the field, revising the Procurement Manual, devise strengthened training for all procurement personnel in the field, piloting a special program to recruit, train, and deploy procurement personnel to field missions, incorporating sessions on strengthened internal controls and other management issues into the annual conferences convened for Heads of Mission, Chief/Directors of Mission Support, and Force Commanders, etc.

b. In the report, OIOS pointed out that "a number of critical recommendations were not accepted" by the U.N. Mission in the Sudan and that OIOS has "reiterated those recommendations and continues to pursue them." What are the recommendations referred to here by the OIOS, and why did you choose to reject them? If they were not rejected, please describe the specific actions you took to implement them.

There were many audits of the United Nations Mission in Sudan and hundreds of OIOS findings over the course of the relevant year. Each finding was responded to in separate management letters issued by the Mission in Sudan. The report referenced in Question 3 is a summary document generalizing OIOS findings over the course of one year. Without going through each of the hundreds of findings, and each of the Mission's official management letters that resulted, I cannot specifically answer the question as to which findings I agreed with and which I rejected. Generally, OIOS annually reported on findings and characterized as "outstanding" or "unresolved" findings that senior-level management disagreed with or rejected.

8. According to a January 2, 2009 OIOS report (A/63/668), the delays in preparing the statement of work for the PAE contract affected the rest of the procurement process, especially the evaluation of the proposal by the Procurement Division and the review by

the Headquarters Committee on Contracts. As a result, the Headquarters Committee on Contracts was pressured to expedite its review "even though the process of negotiating the cost of the contract with PAE was still under way." The Procurement Division had informed the Headquarters Committee on Contracts that "prices could be further lowered by continuing the negations then under way, which eventually resulted in additional savings of $41 million." One of the obvious benefits of competition is that it is the easiest way to get to the best value available, not just a fair and reasonable price, which is always negotiable.

a. Do you feel that the U.N. received the best value in this sole-source contract?

Having left the Department of Field Support while the contract was still under execution, and not privy to the documentation of its full performance, I do not believe I am in a position to render a judgment on this question.

b. Would more upfront planning have provided additional time for further negotiations?

In my view, and in the view of both the Department of Field Support and the Secretary-General of the United Nations (articulated in a report to the General Assembly responding to the audit): No.

In the face of massive displacement of civilians, mass-atrocities, and a tenuous political relationship with the sovereign authorities, the deployment to Darfur was subject to multiple changes in the prevailing operational and political conditions that made it nearly impossible to specify the terms necessary for a contractual statement of work that would have formed a reliable basis for negotiations prior to the period when such negotiations were undertaken by the Procurement Service of the Department of Management.

9. In an October 5, 2007, OIOS report (A/62/272) on the activities of the Procurement Task Force, the OIOS claimed that a major roadblock to its investigations of U.N. Peacekeeping was the "limited cooperation" from Peacekeeping officials due to the lack of a compulsory process for obtaining documents and testimony.

a. Did you make it compulsory for Peacekeeping officials to cooperate with OIOS?

I instructed my staff to cooperate with any and all investigations of OIOS at all times.

I also made staff available and enabled the provision of time and any necessary documents to assist them in cooperating with OIOS and with the Procurement Task Force.

b. At any point in the OIOS investigations leading up to this report, were you informed of allegations that your staff were not cooperating with OIOS? If so, what actions, if any, did you take?

I was aware at various times that certain staff who were personally subjects of investigations by the Procurement Task Force or OIOS refused or were reluctant to cooperate. As I recall, it was a staff duty under the Staff Rules to cooperate fully with such investigations, but in any case, I strongly maintained the well-known position that they do so.

10. According to Mr. Sach, your decision to recommend the PAE sole-source contract was due to the failure to have a logistics concept in place to embark on a logistics delivery capability at short notice that would also meet U.N. procurement rules. (Lute, Jane Holl, "Logistics Support Arrangements for UN Operations in Darfur for Peacekeeping Operations" Memo to U.N. Controller, Warren Sach, April 19, 2007 and Mr. Sach's response on April 25, 2007). Mr. Sach also requested that you develop a logistics concept within 3 months of his April 25th response to respond to emergency situations of this nature in the future to prevent the reoccurrence of exceptions to competitive bidding. Do you agree with Mr. Sach? If not, please describe your logistics concept that was in use at the time and why it was not sufficient in this instance.

This contract was designed to serve a precise purpose (support for the Heavy Support Package) in the overall plan to strengthen the African Union Mission in Sudan, in order to prepare the way for an eventual unprecedented joint mission with United Nations forces. Projecting requirements in the environment of Darfur – with such extreme political and operational uncertainty – was enormously challenging, and much work went into preparing the detailed requirements that would be necessary for this unprecedented operation that was increasingly subject to considerable pressure to deploy. It was our view that in detailing the support concept and particular role and requirements for this contract, a clear logistics concept was articulated. I also understand that subsequently a mission support concept was put in place.

11. What actions did you take after this incident that would limit sole-source contracting in the future and were you successful in preventing or decreasing the number of sole-source contracts for your missions?

At no other time do I recall recommending a sole-source contract solution to the Department of Management. My staff and I operated with the view that sole source contracting should be an exceptionally rare circumstance which, however, in an effort to expedite the Heavy Support Package to augment the African Union peacekeeping mission in Darfur to stem the violence there, seemed fully justified.

a. How does the U.N. track the number of sole-source contracts issued for Peacekeeping?

Tracking this information would fall within the responsibilities of Procurement Division in the Department of Management, and I cannot reliably relate what systems they may have in place for this purpose.

12. The Procurement Task Force released a report in July of 2007 (PTF-R010/07) regarding its investigation of ground fuel procurement in the U.N. Peacekeeping Mission to Haiti

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(MINUSTAH). The conclusion of the report indicated that the ground fuel procurement process was not conducted in a fair and transparent manner resulting in bid rigging and the awarding of the contract to a company initially ranked as "non-compliant." The report indicates Peacekeeping staff was responsible in the initial contract and both Peacekeeping and Procurement staff were responsible for the second contract issued. The report also indicated that Peacekeeping failed to staff MINUSTAH with experienced fuel supply experts that could evaluate the technical and commercial aspects of the fuel contracting. Do you agree with this report? Why or why not?

I do not recall the specifics of this report, or the official response to it. However, in order to be responsive to this question, I searched the internet to locate the original OIOS report on fuel management, which included an audit of the United Nations Mission in Haiti, which served as the basis for the Procurement Task Force investigation. I note that this report itself observes that management accepted 174 out of 182 recommendations and that most of these recommendations were in the process of being implemented at the time the OIOS report was written. Personally, I was as committed as OIOS was to rooting out bad practice and to undertaking appropriate administrative and, if necessary, disciplinary action to address problems in MINUSTAH.

a. The Task Force indicates that Peacekeeping staff reported problems including the discrepancy between how much fuel was purchased and what was actually delivered, the contractor's use of substandard fuel-tankers, and other problems. When this problem was flagged, what prevented this contract from being pulled and reassigned?

   I do not recall the details necessary to be responsive to this question. When contracts mal-performed or failed outright, we pursued remedy through the established procurement procedures and in accordance with the Financial Rules and Regulations of the United Nations. However, as a practical matter, we also had responsibility to support the missions on the ground to ensure the continuity of mandated operations.

b. Are you aware of other instances when contracts expired but the contractor continued its work with Peacekeeping?

   While cases may have existed (in which instance, the Procurement Division of the Department of Management would have been fully informed), I do not recall specific instances.

c. Please describe the fiscal and management controls in place for Peacekeeping missions you deploy.

   The United Nations Financial Rules and Regulations detail the controls necessary to follow for all United Nations activities, including operations in the field. In addition, during my tenure, I undertook several initiatives to strengthen our performance as well as accountability during mission start up. For example, I pushed to institutionalize a minimum rank (with associated experience and time in service) for all Chiefs/Directors of Administrative Operations (later re-titled Chief/Director Mission Support); established a policy to require a minimum of successful prior

experience in mission start-up prior to assigning anyone to these responsibilities in a newly deploying mission; and developed and instituted a mandatory, senior-level monitoring system – known as the "traffic lights" (red, yellow, green) system with key support issues tracked on a weekly basis by senior Headquarters mission support staff – including myself – to ensure that operations were on track and fully accountable.

13. In a May 21, 2007 report (AP2006/626/02), OIOS describes the Peacekeeping Mission to Liberia as having no internal controls and staffed with procurement requisitioners who are unqualified and inexperienced – and that this could lead to inefficient procurement, wasteful purchases and loss of funds. Do you agree with the OIOS? Why or why not?

While I do not recall the details of the Mission's response to this report (and that response is not publicly available), I believe that the response would have reflected, again, management's agreement with a number of findings and issue taken with others. In general, we shared the OIOS view that procurement in the field was a challenging task, and that continual efforts were needed to strengthen its operations while ensuring adequate safeguards and controls. For this reason, I was a strong advocate for making permanent the Procurement Task Force, for increasing the training of procurement staff in the field, and for other accountability initiatives such as mandatory financial disclosure for all (among other) personnel in procurement-related positions.

Senator Tom Coburn, MD
Questions for the Record
Pre-Hearing Questions for Jane Holl Lute
Deputy Secretary, Department of Homeland Security
March 11, 2009

1. In the February 23, 2007, OIOS report on Peacekeeping operations, the OIOS found that Peacekeeping Operations suffered from weak accountability—that even after instances of mismanagement and fraud were exposed, "program managers have not been consistent in applying the standards to which they hold staff accountable."[1] Do you support this report finding? Why or why not? Do you have a report or documentation to support an alternative view?

The referenced OIOS report is an annual report by OIOS to the General Assembly synthesizing the annual work of OIOS. While I do not have access to reports or documentation that were written by management in response to the original audits underlying the cited OIOS summary, I believe I would have concurred in large part with this particular observation, inasmuch as there were inconsistencies in the way Peacekeeping management at headquarters and in the field interpreted operational standards as well as standards of behavior and performance. The United Nations in general, and United Nations Peacekeeping more specifically, relies on the performance of an extremely diverse workforce in which staff members, military troops, and police forces from around the world bring markedly different interpretations and understandings to every aspect of the Organization's work. To address this diversity of views, the United Nations has over the years promulgated Staff Rules, Administrative Instructions, Secretary-General Bulletins, and other means, to develop, clarify and promote the values, norms, and standards of the Organization.

During the period covered by the OIOS report, it should be noted, United Nations Peacekeeping was undergoing enormous expansion and growth, under tremendous political and operational pressure, to mount new operations in the field while sustaining, and in some cases managing the downsizing of, other missions. This unprecedented growth in operations and in field-based staff simply meant that Peacekeeping was getting very large, very fast. Moreover, the operational pace in the field was (and remains) characterized by operations in which large troop contingents rotated in and out of mission every six months, thus creating an operating situation in which large numbers of mission personnel on the ground were, in effect, new to the mission, new to Peacekeeping, and new to the United Nations. In my view, management has the obligation to recognize such structural factors, understand how such factors can contribute to a diluted or inconsistent application of standards, and be vigilant to uphold the highest standards.

[1] "Report of the Office of Internal Oversight Services Part two: peacekeeping operations," U.N. Office of Internal Oversight Services, February 23, 2007, pg 8.

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2. In the February 25, 2008, OIOS report, OIOS found that Peacekeeping "needed to formulate indicators of achievement and performance measures for the political and civilian affairs components of its operations."[2]

   a. Do you agree with this assessment?

   I absolutely agree. In my view, it is essential that any effort be able to assess its progress in meaningful ways. I do not share the view that political and civil affairs activities are purely qualitative undertakings that do not lend themselves to meaningful measurement and evaluation.

   b. Please provide examples of indicators and performance measures you utilized for Peacekeeping missions.

   For the areas under my responsibility (including field personnel, field budget and finance, field logistics, supply and transportation, communications and information technology support to the field, senior leadership appointments, and coordinating audit response, among others) we developed a number of ways to indicate whether we were improving operations. For example, in personnel, we measured trends in reducing vacancy rates, reductions in overall recruitment times, and reductions in the time it took to deploy newly recruited personnel to the field, among others. In field budget and finance, we tracked budget preparation times, and the numbers of field assistance visits to missions (to understand where weaknesses might be persistent). In other areas, such as conduct and discipline, we initiated the first ever data tracking of allegations and investigations in the field, and tracked follow-up with Member States when military personnel were expelled from missions for allegations of misconduct. These systems are imperfect, but nevertheless represent the first attempt by the United Nations to track allegations and follow-up. Similarly, we instituted systems for tracking audit responses, tracking Boards of Inquiry from the field, improving field vehicle fleet management, and monitoring progress in recruiting and assigning women and under-represented nationalities to senior level peacekeeping appointments.

3. The February 25, 2008, OIOS report found that the Peacekeeping mission UNMIL was deployed without adequate safety and health programs and, as a result, "personnel were being exposed to an unacceptably high risk of accidents and/or health problems" and after the Mission established an Occupational Health and Safety Council, the health and safety regulations still did not meet the required standard and/or were not being enforced.[3] Do you agree? Why or why not?

   I do not recall the details associated with the Mission's response to OIOS's findings, although I do recall that for a period of time the United Nations Mission in Liberia did, as did other missions, experience high rates of malaria and dengue fever – principally

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[2] "Report on the activities of the Office of Internal Oversight Services for the period from 1 January to 31 December 2007," U.N. Office of Internal Oversight Services, February 25, 2008, pg 11.
[3] OIOS, February 25, 2008, pg. 11.

due to a failure of troops to take regular prophylaxes. It is also true that in Peacekeeping generally (and so one can not unreasonably conclude for this period in UNMIL, specifically), road accidents constituted a significant safety concern. To combat the high incidence of road accidents, missions instituted vehicle safety programs that included mandatory training, compulsory testing, and liaison with host communities in order to establish healthy relationship to handle incidents when they occurred.

4. In 2007, you requested a waiver on behalf of a $250 million single-source contract for UN Peacekeeping in the Sudan to a subsidiary of Lockheed Martin.[4] In the February 25, 2008 OIOS report, OIOS found that Peacekeeping Operations will face a "higher-risk exposure to mismanagement, fraud and corruption" as a result of this waiver. What led to your decision to request a waiver from normal competitive contracting rules, despite having had significant time in advance of issuing the contract?[5]

Genocide was unfolding in Darfur. Millions of people were displaced and hundreds of thousands were dead. In the face of genocide, the Peacekeeping mission in Darfur was under enormous pressure to accelerate the deployment of resources needed to protect the lives of civilians.

Darfur is a remote and dangerous place to work; access is strictly controlled by the Sudanese government in Khartoum. Getting supplies of any kind into the mission area required a synergy of political, military, and financial willingness that was difficult to align and maintain, even in the best of circumstances. As lives continued to be lost, the international community, including the United States Government, was calling for action. We needed to act quickly.

The recommendation to use PAE (a subsidiary of Lockheed Martin) to prepare sites and facilities for troop deployment to Darfur reflected the urgency of the situation, the difficulty of gaining access to and working in Darfur, and the need to provide immediate protection to civilians. Furthermore, PAE was already present in Darfur and was already performing similar functions. It was our considered judgment that failure to provide facilities on the ground to facilitate troop deployments would cause the Peacekeeping mission to fail, and additional lives to be lost.

5. At a February 2008 press conference[6], you stated that the contracting process was transparent. Please explain why you believe the process was transparent.

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[4] Lute, Jane Holl, "Logistics Support Arrangements for UN Operations in Darfur for Peacekeeping Operations" Memo to U.N. Controller, Warren Sach, April 19, 2007 and Mr. Sach's response on April 25, 2007 - http://tinyurl.com/coetkl

[5] Lute, Jane Holl, "Logistics Support Arrangements for UN Operations in Darfur for Peacekeeping Operations" Memo to U.N. Controller, Warren Sach, April 19, 2007 and Mr. Sach's response on April 25, 2007 - http://tinyurl.com/coetkl

[6] Lee, Matthew Russel, "UN's Jane Holl Lute Admits No-Bid Lockheed Martin Deal Caused 'Confusion,' Says No Conflict of Interest In Iraq and Afghan Overlap with Husband's Role," Intercity Press, February 11, 2008 - http://tinyurl.com/cvycq6

My recommendation to the Controller and his agreement to pursue a sole-source solution to part of the deployment challenge in Darfur was fully consistent with the Financial Rules and Regulations of the United Nations and was fully disclosed to the Member States (including the United States), in part through joint personal outreach by myself and the Controller to the Chairs of the relevant Committees of the General Assembly (i.e., the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee). At no time did either I or my staff, or the Controller or his staff (including the Procurement Division in the Department of Management), or any staff on the ground, attempt to conceal or in any way obscure the fact that we were seeking this extraordinary and unusual step in direct response to the operational challenges on the ground in Darfur, where the United States had recognized genocide was unfolding. In addition to our internal outreach and engagement, I also answered multiple press enquiries and appeared, as did the Controller, before the appropriate legislative bodies to respond directly to questions presented by the Member States.

6. During your tenure at the U.N., how many sole source contracts were issued for Peacekeeping Operations, and how many were you personally involved in?

My staff and I operated with the view that sole source contracting should be an exceptionally rare circumstance which, however, in an effort to expedite the Heavy Support Package to augment the African Union peacekeeping mission in Darfur to stem the violence there, seemed fully justified. At no other time do I recall recommending a sole-source contract to the Department of Management.

7. In December of 2007, the *Washington Post* reported on U.N. Procurement Task Force investigations of U.N. Peacekeeping. The article quoted directly from OIOS reports saying:

> "The task force identified multiple instances of fraud, corruption, waste and mismanagement at U.N. headquarters and peacekeeping missions, including ten significant instances of fraud and corruption with aggregate value in excess of $610 million."[7]

In your response to the *Washington Post* a week later[8] you wrote that "the organization has suffered losses in the hundreds of millions." You also stated that there was no "pattern of corruption" but "it is unfortunately inevitable" that corruption will take place within U.N. Peacekeeping Operations.

a. How should reconcile your statements: that there is no pattern of corruption but that corruption is inevitable?

In my view, the use of the phrase 'pattern of corruption' implied a willful scheme undertaken systematically, deliberately, and comprehensively by staff across the United Nations system to defraud the Organization. I intended to convey the message

[7] Lynch, Colum, "U.N. Finds Fraud, Mismanagement in Peacekeeping," *Washington Post*, December 18, 2007.
[8] Lute, Jane Holl, "Overstating Corruption at the U.N.," *Washington Post*, December 26, 2007.

that I did not believe this was the case in Peacekeeping, despite the unfortunate reality that individuals exist in nearly every large, complex or far flung organization who attempt to enrich themselves or bypass established rules, regulations, and procedures for personal gain.

I also wanted to communicate the message that management – both in the field and at Headquarters – was not turning a blind eye to actual or potential for waste, fraud and abuse. Where we found instances of misbehavior, corruption or abuse, my staff and I moved swiftly to ensure an appropriate level of investigation and follow-up, giving important due regard to the rights of staff members. We were strongly supported in these efforts by our colleagues in the Department of Management, in the Office of Inspection and Oversight Services (OIOS), and specifically in the Procurement Task Force. In my view, the instances cited in the reports of the Procurement Task Force did represent unacceptable and intolerable instances of actual and potential loss. It was also clear to me, however, that the operating conditions in the field, where an ever-increasing operational tempo in some of the most difficult, austere and challenging environments in the world, were not well served by processes and procedures more suited to a well-established fixed station headquarters.

In my view, it was the responsibility of management to address this tension that appeared, at times, to force staff to choose between following the rules and fulfilling the mandates assigned to them by the United Nations Security Council.

b. What steps should be taken with Peacekeeping procurement to reduce the amount of corruption and what roadblocks did you face that prevented you from taking these steps?

During my tenure in United Nations Peacekeeping, I was part of many initiatives designed to reduce actual or potential waste, fraud, and abuse in procurement. I was a vigorous voice in support of the development and administration of a mandatory financial disclosure program that went beyond senior appointees and reached every procurement official, whether they were serving at Headquarters or in the field. In addition, with the Department of Management, we instituted an annual Procurement Officers' conference to bring together field procurement personnel for training and to raise their awareness and strengthen their ability to adhere to proper controls throughout the procurement process. In addition, I initiated a number of other measures to improve the management of, and performance in, field missions, including regular field meetings with senior mission support staff – often on a regional basis to concentrate discussions on topics most relevant to geographically similar missions – to clarify problems, identify solutions, and institute systemic reform.

To reinforce a culture of professionalism and accountability, I also instituted an annual mandatory training session for mission budget and leadership personnel to ensure that the programmatic and administrative sides of each mission were jointly

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engaged and committed to the timely and accurate preparation of mission budgets. I also led the development and introduction of conduct and discipline teams into major missions (and now all missions) to assist mission leadership with the early identification and remediation of alleged misconduct of all kinds across all mission areas. In addition, I routinely consulted with the Office of Internal Oversight Services (OIOS) to secure its engagement in assisting with effective management of missions. For example, I initiated a request for OIOS to conduct a comprehensive audit of conduct and discipline across all field missions around the world in order to identify any weaknesses and any possible abuse. This audit contributed to the development of a comprehensive program to maintain good order and discipline in Peacekeeping missions.

While there are some individuals who may be reluctant to adopt more rigorous standards of accountability and the additional work this entails, the management of the United Nations, including at the senior-most levels of United Nations Peacekeeping, Management, and Field Support must be committed to this path. Management cannot be complacent in its efforts to establish a professional and accountable workforce, while at the same time recognizing and respecting the dignity and diversity of the United Nations staff members.

8. In your opinion, are there any U.N. Peacekeeping Missions that are underperforming, wasteful, duplicative, or has served its purpose and should be de-authorized?

I do not believe it is appropriate for me, in my current position, to offer a personal opinion on this question.

9. In your C.V., you stated you were responsible for designing and implementing a "global action program to help prevent and respond to serious misconduct in the field." How does this program work, when was it first initiated, and how do you measure its success?

In the middle of 2004, reports emerged from eastern Congo alleging rape and other acts of sexual exploitation and abuse by United Nations Peacekeepers against women and children of the local population. These allegations echoed similar reports of abuse and exploitation levied against humanitarian workers in western Africa several years earlier. In response to this reports, then Secretary-General Kofi Annan appointed Prince Zeid, Permanent Representative to the United Nations from the Kingdom of Jordan, to lead an investigation into the allegations and make recommendations for remedial action.

In late 2004, Zeid's Report was submitted to the Secretary-General. His report concluded that acts of sexual misconduct and abuse were common, and that all levels of the system, including first-line leaders, Troop Contributing Countries, and the United Nations system itself bore responsibility for this disgraceful behavior and for its eradication. The 'Zeid Report' was subsequently taken up by the General Assembly to determine which of its various recommendations would be approved for action. In late 2004, I was asked by the head of Peacekeeping, Undersecretary-General Jean Marie Guehenno, to lead the organization's effort to implement the Zeid recommendations and,

more broadly, to devise a strategy to eliminate sexual exploitation and abuse by peacekeepers.

To begin, I adopted a strategic approach to what was clearly a strategic problem: insufficient systematic attention had been paid to this issue in the past. In addition, United Nations peacekeeping was growing very fast in a very short period of time (over three-fold in just over three years), and it was clear that even basic systems were not in place to address this growth and the associated breakdown in good order and discipline. The system-wide Task Force I led involved representatives from all United Nations entities with field presences, as well as nongovernmental organizations (including Save the Children). The Task Force initially met weekly, and later monthly, to examine each of the recommendations and to begin an accelerated process of implementation. Through various working groups, we developed recommendations, led their coordination throughout the United Nations system, and presented them to the appropriate Undersecretary (Peacekeeping or Management) or the Secretary-General for approval and adoption.

The operating environment was challenging: over 120 countries provide troops to Peacekeeping, rotating them usually every six months. Missions were established in extremely remote environments and local government capacities and public order was often absent. Tens of thousands of civilian peacekeepers from countries with markedly different standards of behavior composed the force in the field. Moreover, in certain of the countries where peacekeepers operate, no national laws exist against prostitution or exploitation of women and children, and indeed, in some cultures it is acceptable or tolerated behavior. Nevertheless, we moved immediately to translate the policy of 'Zero Tolerance' into action, by emphasizing 'zero complacency' on the part of Peacekeeping leadership and 'zero impunity' for a perpetrator when substantiated allegations were established. To guide our work, I developed a three part strategy of Prevention, Enforcement, and Remediation. I was personally and intensively involved with the development, articulation, implementation, and oversight of this strategy, emphasizing an approach of 'constant vigilance' on the part of United Nations leadership to ensure standards were met and compliance was achieved. In an operating environment where over 100,000 peacekeepers turn over every six months, training, messaging, outreach, and standards needed to be constantly reinforced.

In addition, I led efforts to clarify behavior standards and extend those standards to all United Nations personnel, regardless of category of service (i.e., military, civilian, contractor). Prior to this, the only standards that existed were ambiguous and of unclear applicability. I also led the effort to develop an extensive inventory of trainings in multiple languages and to make these trainings mandatory before a person deployed to a peacekeeping mission. Further, we worked to expand this training and reinforce the messages of upholding personal and organizational standards throughout the length of a staff member's tour, whether or not they were on duty. Soldiers are now trained before they depart their home country and regularly during their tours of duty. Over the course of 2005, a number of training courses were developed and implemented. Today, over

200,000 peacekeepers of all kinds – military, police, and civilians – undergo mandatory cultural awareness and conduct training as part of their service with UN peacekeeping.

I also led the effort to incorporate specific leadership training into all levels of mission leadership preparations – including military and civilian leaders to improve leadership accountability. Beginning in 2005, every senior mission leader had conduct and discipline standards incorporated into their performance appraisals with their superiors, including Heads of Mission who report to the Secretary-General of the United Nations. Prior to this period, no regularized or mandatory training existed for any person assuming a leadership position in peacekeeping.

On community outreach, I led the effort to develop multiple outreach programs designed to reach local communities and their leaderships to educate them on what to expect of United Nations peacekeepers. In many mission locations, joint councils have been established to monitor operations and manage problems that may arise. As a result, relations between Peacekeeping missions and their host communities have significantly improved. A particular example can be found in Southern Sudan, where community-mission groups met regularly to identify problems before they get out of hand and craft strategies to defuse tensions.

In the area of public accountability, I conceived and, working with other members of the United Nations system (UNDP, UNICEF, etc) and the non-governmental community, held the first-ever high-level consultation in December, 2007 that developed a Statement of Commitment outlining 10 principles for behavior to govern international assistance and Peacekeeping personnel. This represented the first ever such joint public acknowledgement of organizational responsibility to help eliminate this behavior. In addition, the Secretary-General now reports annually on progress being made in this area. To date, 41 United Nations, and 34 non-United Nations entities have signed-up to these standards.

I also led the effort to develop strategic initiatives to reinforce prevention of sexual exploitation and abuse into daily operations. For example, a staff-management initiative was designed to eliminate the demand for and use of prostitution in United Nations mission areas. Community leaders were incorporated into the design of plans to ensure local cooperation and that anti-trafficking strategies would be effective. These efforts included the development of a comprehensive welfare policy to address stress and tensions that exist in all mission areas. Joint initiatives between missions and troop contributing countries have expanded the welfare and recreation activities available to all staff serving in field locations. In Sudan, for example, military and civilian officers work side by side to develop and administer welfare and recreational programs to engage peacekeepers during their time off.

In addition, we recognized early that the United Nations had neither data on abuses nor any system for tracking trends. To remedy this, I devoted existing resources to develop a comprehensive database to begin tracking allegations, investigations, and disposition of cases in order to understand trends, develop effective strategies, and prevent future

service in Peacekeeping by staff and soldiers found to have committed violations. We also established multiple, confidential means of filing complaints in all missions.

In the area of remediation, I also oversaw a two-year effort that resulted in the General Assembly's adoption of the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel (A/RES/62/214) in 2008. Under this strategy, victims received assistance to address their needs including medical treatment, counseling, social support, legal services, and other limited material care. We also developed a comprehensive public information policy to improve the flow of information to communities on issues such as the outcome of investigations and victim assistance.

In measuring the impact these combined efforts have had, it is important to note that effectively none of these measures existed or were in place before Zeid's Report and the work of the Task Force began. In truth, very little attention, much less policy or action to deal with the problem in its full complexity existed before this time. The action program I worked on with my colleagues throughout the United Nations system resulted in the toughest, most comprehensive approach to dealing with sexual exploitation and abuse ever adopted by any major international organization or agency.

10. Peacekeeping Operations had access to information as early as 2004 about sexual exploitation of children at the Republic of Congo Peacekeeping Mission. According to *The Independent*, children as young as 13 were being sexually exploited or raped as part of the widespread abuse that included a pedophile ring and more than 150 cases brought against Peacekeeping officials.[9] According to investigative journalists who interviewed the alleged victims, the investigations that Peacekeeping Operations conducted were flawed. Reports claim there was limited if any medical care and that victims' rights, including witness protection, were not protected.[10] Without revealing the identities of the victims, please provide documentation regarding the specific actions you took for each allegation of abuse or exploitation by Peacekeeping officials at the Congo Mission.

In order to be responsive to an earlier such request, I wrote to Angela Kane, Undersecretary-General for Management at the United Nations urging that documents specified in this question, as well as in a previous staff request be made available. It is my understanding that these documents need to be requested by a Member State of the United Nations.

11. According to Helga Konrad, the special representative in combating human trafficking for the Organization for Security and Co-operation in Europe, "The misconduct of senior-level employees of peacekeeping missions and UN institutions is seriously undermining global peace-keeping operations."[11] Please describe actions you took concerning Peacekeeping

[9] Holt, Kate and Sarah Hughes, "UN: When peacemakers become predators," *The Independent*, January 11, 2005
[10] Holt, Kate and Sarah Hughes, "U.N. Staff Accused of Raping Children in Sudan," *The Daily Telegraph*, January 4, 2007 - http://tinyurl.com/ympgtn
[11] Holt, Kate and Sarah Hughes, "UN: When peacemakers become predators," *The Independent*, January 11, 2005

officials that were either alleged or confirmed to have abused or exploited civilians located in or around Peacekeeping missions.

When cases of sexual exploitation and abuse, sexual harassment, or other allegations of indiscipline, fraud or abuse were brought to my attention, I took immediate action to ensure that a competent fact-finding investigation was undertaken and, if the allegations were founded, that appropriate administrative or disciplinary action was taken. Although troop contributing countries maintain sovereignty and jurisdiction to prosecute cases found to be credible, I exercised all options under my purview—including recommendations regarding termination of employment and repatriation (in some cases of entire units), as well as mobilizing pressure on Member States to assume responsibility for the actions of their troops. For example, when it was brought to my attention that a senior staff member under my supervision was engaged in inappropriate behavior, I immediately convened an independent panel to examine the facts and make recommendations. Upon receiving their recommendations, I immediately removed this individual from their position of authority. In another instance when allegations of abuse and inappropriate behavior arose regarding a senior staff member with a long record of service in the field, I urged again, that the facts be established. When these allegations proved founded, he was removed from his post and has not served again since in United Nations peacekeeping. In a further example, I vigorously opposed the return to service of a senior staff member whose reputation for abuse of authority appeared to be common knowledge among staff.

In addition, and in order to put in place a more systemic approach, I developed with the Office of Internal Oversight Services (OIOS), clearer and tougher standards for Category I offenses (the most serious offenses, including all related to sexual exploitation and abuse – an inclusion I and my staff pushed for as the OIOS standards were being developed) to incorporate all allegations of sexual exploitation and abuse. I also strongly supported the reorganization of OIOS in the field to permit a more rapid investigative response to serious allegations. Working closely with OIOS in evaluating existing arrangements that left many mission areas uncovered with respect to immediate and responsive investigative capabilities, we developed a new framework to consolidate field investigative capacity and orient it on highest need mission areas. In addition, the new Model Memorandum of Understanding adopted by Member States (A/61/19 part III) in 2007 makes these United Nations standards applicable to military personnel and calls on Member States to ensure personnel are held accountable through disciplinary and criminal proceedings.

Moreover, beginning with eight missions in 2005 and expanded to all field operations in 2007, I led the effort to create conduct and discipline teams at Headquarters and in the field, to assist Peacekeeping leadership on developing policies to ensure good order and discipline, and to pursue all allegations to determine if formal investigations were required. I also led the effort to develop a strengthened agreement between the United Nations and Troop Contributing Countries that is now the basis for accepting troops into peacekeeping missions. Countries now vouch for the performance and behavior of their troops and agree to joint investigations of serious allegations. I was personally involved in shaping the memorandum of understanding and in leading the negotiations that led to its adoption.

Further, we instituted a policy to immediately remove from positions of authority persons against whom allegations of misconduct and abuse were founded. We also established a policy under which the Office of Military Affairs now follows-up at 30-day intervals to determine the disposition of the case and reports via the Secretary-General to the General Assembly on results.

In addition, one of the major findings of the Zeid Report involved recommendations that recognized the responsibility of Member States to ensure good order and discipline, and called for their greater accountability. I led a comprehensive initiative over many months to establish legal lines of responsibility and to engage the Member States to undertake a more proactive stance in holding their nationals accountable for behavior in peacekeeping. In 2008, the General Assembly passed a resolution calling on its members to extend criminal jurisdiction to cover nationals when they commit crimes, including sexual exploitation and abuse, while serving with the United Nations and further, to take all appropriate follow-on legal action when a national is removed from Peacekeeping for a serious violation. The Secretary-General has been tasked to report annually on Member State compliance with these provisions.

Finally, in three separate cases during my tenure, for the first time, three entire units were censured or repatriated due to a pervasive failure to uphold United Nations standards of good order and discipline. In addition, one other unit in its entirety was restricted to barracks pending a full investigation of alleged misconduct.

As you are aware, some of the most prominent independent advocates working on this topic have written to the Committee recognizing my leadership on this issue. Both Prince Zeid, who led the independent investigation regarding sexual abuse and exploitation by Peacekeepers, and Jasmine Whitbread, Executive Director of Save the Children UK (an organization that has been at the forefront of agitating for international response to this issue) have recognized my leadership on, and determination to end, this appalling conduct.

a. Was any of this information provided to the victim or made available to member states or the general public?

While I did oversee the development and dissemination of a public information strategy specifically designed to address problems of conduct and discipline, including sexual exploitation and abuse (as discussed above), I do not recall cases with sufficient clarity to be responsive to this question.

12. Responding to the allegations of rape and abuse of refugees by Peacekeeping officials at the mission of southern Sudan (UNMIS), you are quoted as saying, "There could be truth. These environments are ones in which it is difficult to ascertain the truth."[12] However, in the same article, your regional coordinator for UNMIS, James Ellery, refuted the claims

[12] Holt, Kate and Sarah Hughes, "U.N. Staff Accused of Raping Children in Sudan," *The Daily Telegraph*, January 4, 2007 - http://tinyurl.com/ympgtn

of abuse and argued there is no substantiating evidence. His is quoted as saying the following:

We investigated all allegations made and no evidence was forthcoming. None of these claims can be substantiated. This is the most backward country in Africa and there are lots of misunderstandings as to the UN's role. Over 90 per cent of people here are illiterate and rumours therefore spread very quickly. . . There are a wide range of countries being represented in the UN forces and among these there is always going to be a bad apple.

13. How does the literacy of alleged victims of rape, pedophilia, or other sexual crimes affect the degree of credibility that U.N. Peacekeeping officials afford to the allegations of abuse?

Without recalling the specific cases or allegations under discussion here, I reject the nature and tone of the comments quoted. While it is true that a significant potential exists in field-based peace operations for unsubstantiated allegations to be made, it is also true that a serious problem existed in Peacekeeping -- one that we acknowledged and tried to address systematically. Leadership at all levels must stay vigilant at all times to establish a professional culture of performance and accountability from the top-down and to respond swiftly, decisively, and consistently with the due diligence necessary to stamp out abuses when they occur. At the same time, they must continue to inspire, respect, and value the vast majority of staff that work diligently, honestly, and with high integrity in some of the most difficult operating environments in the world.

a. Even though Peacekeeping officials claimed there was no evidence of wrongdoing at the U.N. Peacekeeping mission for Southern Sudan, the U.N. Office of Internal Oversight Services issued a report in 2006 that substantiated allegations that U.N. peacekeepers in the Sudan had sexually abused four women.[13] Were you aware of these reports?

Yes.

b. Please describe the "chain of command" between you and Mr. Ellery in 2007 when he was quoted in the *Daily Telegraph*.

Mr. Ellery did not report to me, either directly or indirectly.

c. Is Mr. Ellery still working at the United Nations, and if so, in what capacity? Does he currently have a role in investigations of Peacekeeping abuse?

To my knowledge, he does not, nor does he have any current role in investigations.

[13] "Report of the Office of Internal Oversight Services Part two: peacekeeping operations," Office of Internal Oversight, February 23, 2007.

14. In 2008, the non-governmental organization, Save the Children, reported that Peacekeeping officials were sexually abusing young children in war zones and disaster areas in the Ivory Coast, southern Sudan, and Haiti—and going largely unpunished.[14] Save the Children reports, "Children as young as six are trading sex with aid workers and peacekeepers in exchange for food, money, soap and, in very few cases, luxury items such as mobile phones."

According to Marianne Mollman of Human Rights Watch, the current status of the U.N. response to peacekeeping abuses continues to be poor. In a phone interview with my staff on February 2, 2008, Ms. Mollman describes investigations of the abuse carried out by U.N. Peacekeeping as follows:

- Lack of speed of investigations,
- Lack of transparency and follow through of investigations; one might see an investigation but never know what happens and whether people were brought to justice;
- Lack of breadth of investigations; the U.N. might look at individual perpetrators but not at command/management responsibility.

a. Do you agree with these assessments? Why or why not?

While I am not currently in a position of responsibility associated with United Nations Peacekeeping, I recognize that during my tenure, many of these observations were valid – in whole or in part. Indeed, Human Rights Watch, as Save the Children and other nongovernmental organizations, serve as important independent voices to help hold United Nations Peacekeepers to the highest standards. I also know that the Secretary-General has put all senior management on notice regarding their responsibilities in this regard, and that the senior management of Peacekeeping operations and Field Support – at Headquarters and in the field – continue to build on the work of the Task Force that I led and to strengthen and improve the conduct, discipline and performance of Peacekeeping missions.

b. Please describe the effectiveness of Peacekeeping investigations of the abuse and any follow-up materials regarding the current status of the abuse cases, the perpetrators, and victims.

I believe that the United Nations continues to improve its policies, training, investigations, and follow-up with respect to allegations and instances of sexual exploitation and abuse. Ultimately the effectiveness of the system depends on the unwavering commitment of management and leadership at all levels, in all operations, to stamp out this intolerable behavior. Similarly, all leaders must personally associate themselves with the highest standards and ensure that they

[14] Corinna Csáky, "No One to Turn To: The Under-Reporting of Child Sexual Exploitation and Abuse by Aid Workers and Peacekeepers," Save the Children, 2008 - http://tinyurl.com/cun6zb

cultivate a climate of professional pride that will help, in turn, reduce the space within which unacceptable behavior happens or is tolerated. The Member States of the United Nations must also continue to strengthen their collective commitment to upholding the highest standards.

15. The U.N. Foundation (UNF), founded by Ted Turner, has come under criticism for having what some call an "incestuous" financial relationship with the special office within the U.N. Secretariat that has been set up for the sole purpose of receiving UNF funding and diverting it to various U.N. programs and causes.[15] This U.N. Secretariat office, the U.N. Fund for International Partnerships (UNFIP), is part of the U.N. Secretary General's office, but reports indicate the salaries and expenses of UNFIP are paid for by the UNF.[16]

a. Is this accurate?

The salaries of the United Nations Fund for International Partnerships staff were funded by a grant from the United Nations Foundation. This arrangement was necessary, since United Nations core funds cannot be used to manage extra-budgetary resources. UNFIP's role is to provide programmatic oversight of the projects funded by UNF.

b. Did the U.N. budget committee or any other oversight body provide authorization and oversight for UNFIP's funding decisions? If not, please describe the process for how this authorization and oversight was developed and carried out.

Since its inception, the activities of the United Nations Fund for International Partnerships, including the administration of grants from UNF and other partners, have been overseen by a board of eminent international persons, chaired by the Deputy Secretary-General. The Advisory Committee on Administrative and Budgetary Questions as well as the Fifth Committee exercise oversight of UNFIP. In addition, UNFIP submits annual reports to the General Assembly on all of its programs and expenditures. UNFIP has also been subject to regular internal audits by the Office of Internal Oversight Services and to external audits by the United Nations external Board of Auditors.

c. In 2003, the OIOS completed a report on UNF/UNFIP projects that was leaked to the public. According to this report, UNFIP appeared to be operating "without legally established functions and organizational structures."[17] Specific irregularities in the programs included the release of $1.2 million in UNF funds to the Secretary General in a manner "constitut[ing] a breach of internal controls." The report also concluded that the high level of unliquidated obligations (about 46% of the total expenditures)

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[15] Rosett, Claudia, "How Corrupt is the United Nations?."Commentary Magazine, April 3, 2006 - http://tinyurl.com/awtc2f

[16] Rosett, Claudia.

[17] "Audit Subject: United Nations Funds for International Partnerships (UNFIP)," U.N. Office of Internal Oversight Services, February 13, 2003.

likely indicates low levels of project performance and delays in achieving project objectives.

a. In 2003, Congress appropriated $28.7 million to UNF for fiscal year 2004. Did UNF provide Congressional appropriators a copy of this report? Why or why not?

To the best of my knowledge, Congress has never appropriated funding to the United Nations Foundation. I do not recall any instance between Congress and the United Nations Foundation involving OIOS reports of any kind during my tenure at the United Nations Foundation.

b. What actions, if any, did you take when the OIOS released its report regarding UNFIP?

I do not recall any specific actions that I took with respect to the report in question. It is my recollection that UNFIP fully implemented the findings of the OIOS report and I believe they continue to address the vast majority of OIOS operational findings in relevant audits.

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 3, 2009

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Jane H. Lute, who has been nominated by President Obama for the position of Deputy Secretary, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated February 26, 2009, from Ms. Lute to the agency's ethics official, outlining the steps she will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date with any action she agreed to take in her ethics agreement.

Based thereon, we believe that Ms. Lute is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick
Director

Enclosures

REDACTED

Senator Susan M. Collins
Additional Questions for the Record
Nomination Hearing of Jane Holl Lute
March 26, 2009

1. The President's budget proposes eliminating the Coast Guard's LORAN program. The federal government has already invested $160 million over the last 10 years to modernize LORAN-C in an effort toward deploying eLORAN as a national Position, Navigation, and Timing (PNT) back-up to GPS. GPS, because it uses a low-power satellite signal, is vulnerable to atmospheric interference and jamming. A national back-up system is therefore vital for mariners, aviators, and critical infrastructure operators. I am concerned that the decision to eliminate funding for the LORAN program is being done without considering the value that eLORAN would provide as a national PNT back-up.

   In 2006, DHS and the Department of Transportation jointly commissioned the Institute for Defense Analyses to conduct an assessment of the continuing need for the current LORAN infrastructure, as well as evaluate eLORAN as a potential next generation PNT back-up to GPS. The Institute created an Independent Assessment Team (IAT) to conduct this analysis, with a diverse group of senior decision-makers and experts from government, industry, and academia. The IAT reviewed about 40 previous reports and interviewed key stakeholders, industry representatives, and other relevant subject matter experts. I understand that the IAT unanimously concluded that eLORAN should serve as the national PNT back-up system for GPS and U.S. LORAN infrastructure should be maintained until full eLORAN deployment.

   a. In your policy question responses, you acknowledge that DHS has not finished its assessment of whether a single, national system is needed to back-up GPS. If confirmed, will you ensure that LORAN infrastructure is maintained and funded until a final decision is made on whether eLORAN should serve as the national PNT back-up system for GPS?

      I appreciate the importance of this issue to the citizens of Maine. If confirmed, I commit to working with you to ensure that the most appropriate possible solution is reached to meet both national needs and those of local stakeholders.

      According to the briefings I have received from DHS, I understand that consistent with the 2008 Federal Radionavigation Plan, the Department of Homeland Security will continue to work with other Federal agencies to look across the critical infrastructure and key resource sectors identified in the National Infrastructure Protection Plan to determine if a single, domestic system is needed as a GPS backup. The Department of Homeland Security will also continue to work with Federal agencies to clarify operational requirements. As I have been informed, if a single, domestic national system

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to back-up GPS is identified as being necessary, the Department of Homeland Security will complete an alternatives analysis. Enhanced LORAN (e-LORAN) would be one of the systems considered.

Enhanced Loran (eLoran) does not exist in the United States. Congress has not appropriated any funding to modernize Loran-C to eLoran since an FY2006 FAA Appropriation. Significant additional government investment of hundreds of millions of dollars could be required to transform the Loran-C system to eLoran to potentially serve as a systemic backup for GPS if a Positioning, Navigation, and Timing (PNT) backup were required. It is my understanding that terminating transmission of the Loran-C signal does not impact the Government's analysis as to whether a systemic backup for GPS is necessary.

b. When, specifically, does DHS expect to complete its assessment to determine if a single, national back-up system is needed for GPS?

I am told that the assessment is expected to be completed by July 30, 2009.

c. I realize there are multiple, limited systems that could back-up GPS, but these would not provide a national system with universal coverage for users. DHS is presently conducting a survey of critical infrastructure operators on their need for GPS back-up systems, but this has not been completed. Do you agree that it would be premature to discontinue the LORAN program before the Department reviews the operators' surveys and considers the comprehensive risk of not having a national system?

Based on the information I have received from DHS, I understand that the Loran-C system was not established as, nor was it intended to be, a viable systemic backup for GPS. The Loran–C system was a valuable position, navigation, and timing system when it was established in 1957. As a result of technological advancements over the last 20 years and the emergence of the U.S. Global Positioning System (GPS), Loran-C may no longer be required by the armed forces, the transportation sector, or the Nation's security interests.

Significant additional government investment establishing additional transmitting sites would be required to transform the Loran-C system to eLoran to potentially serve as a systemic backup for GPS if a Positioning, Navigation, and Timing (PNT) backup were required.

d. Please provide the Committee a copy of the Independent Assessment Team's report.

The Institute for Defense Analysis (IDA) Independent Assessment Team's report is attached. Although published in January 2009, it should be noted that the IDA report, as its Executive Summary notes, is based primarily on

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data collected and analyzed prior to December 2006 and presupposes requirement of a systemic backup to GPS. The initial study conducted by DHS found that a wide variance of contingency plans, processes, and redundancies existed across Critical Infrastructure and Key Resource sectors, is more recent and assesses the fundamental question as to whether a systemic backup is required. DHS expect to complete its assessment to determine if a single, national back-up system is needed for GPS by July 30, 2009.

2. History has repeatedly shown that terrorists do not always operate solely in areas that they intend to ultimately strike. They plan, recruit, train, and live in places like Norman, Oklahoma, Portland, Maine, and Decatur, Georgia - all places the 9/11 hijackers visited. I believe it is therefore imperative that we build prevention and protection capabilities across America – in both urban and rural areas. As Secretary Napolitano recently articulated, every area of America faces some level of risk.

   How will you ensure that smaller communities and rural States and localities receive adequate federal assistance to prepare to prevent or respond to terrorist attacks?

   I agree with the assessment that all communities face some level of risk. DHS uses risk to inform the balance of its investments in State and local capabilities. As you have noted, smaller communities and rural areas face homeland security risks, and several DHS grant programs provide funding to support small and rural areas, including the State Homeland Security Grant Program, the Emergency Management Performance Grant program, and the Assistance to Firefighters Grant program. DHS balances these needs with the need to provide focused efforts on higher risk areas with large populations and significant critical infrastructure. If confirmed as Deputy Secretary, I will work with the Secretary and the FEMA Administrator to ensure that DHS continues to provide appropriate assistance to smaller communities and rural States and localities to prevent, as well as to respond, to terrorist attacks.

3. I remain concerned that the Department still has not complied with a key provision of the 2007 homeland security law, which requires the development of an all-hazards risk formula for allocating interoperability grant funding. The formula used by the Department for the past 3 years is simply a slightly modified version of the terrorism formula used for the State Homeland Security Grant Program.

   However, this modified formula fails to take into account available data regarding natural disaster risk. This significantly harms many states, including Maine, which routinely experience significant and damaging natural disasters. What steps will you take to develop an all-hazards risk formula?

The Secretary has repeatedly affirmed her support for all-hazards preparedness, including natural disaster preparedness, and I echo this support. DHS is charged with preparing the Nation for all hazards, and for determining the best method for allocating available Federal preparedness assistance across a range of threats and hazards. If confirmed, I will work with the Secretary to review the Department's risk methodology and process for grant allocation to ensure that the Department is complying with applicable law in its efforts to keep America safe.

4. In your responses to the Committee's policy questions, you stated that the Department has already taken steps to build program management rigor and discipline into DHS's troubled SBInet program, which is focused on building a virtual fence along the southwest border. You also committed to continue to assess the effectiveness of SBInet.

I am concerned that the SBInet program has not been corrected and that it will not be as effective as intended. In an updated operational requirements document last November for the deployment of the first 50 miles of SBInet, the threshold requirement for both detection and identification of persons and items of interest was lowered to 70%.

a. Do you think failing to detect or identify properly 30% of suspicious border crossers is a good return on the taxpayers' investment?

I am familiar with the challenges and recent progress of the SBInet program. I have not reviewed the specific operational requirements document mentioned in the question and feel it would be premature to comment on the details contained therein. However, based on my experience with international borders, I believe that successful control of any border requires a comprehensive strategy of personnel, tactical infrastructure and technology. I have also stated that the Department must judge success quantitatively and with identifiable measures. If I am confirmed as Deputy Secretary, I will work with the Commissioner of Customs and Border Protection to understand the operational requirements of all border technology projects, as well as the deliverables, milestones and metrics associated with efforts to deploy them, to include the adequacy of existing thresholds for detection and identification. In all cases, I pledge to ensure that the taxpayers' technology investments are justified by the border security returns obtained as a result of those investments.

b. Should the system be improved before it is deployed along the border?

As noted above, and as Secretary Napolitano has said publicly, I believe successful control of the border requires a comprehensive strategy of personnel, tactical infrastructure and technology. If I am confirmed, I will work with the Commissioner of Customs and Border Protection, the Under

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Secretary for Management, and others to ensure any border security technologies deployed by the Department are capable of meeting the operational needs and requirements of the men and women working on the border.

5. If confirmed as Deputy Secretary, you would have a critical role in managing interagency programs and their coordination with other Federal departments and agencies. For example, the Merida Initiative, which is led by the State Department, will require DHS components, particularly Customs and Border Protection and Immigration and Customs Enforcement, to commit personnel over an extended period of time to help train Mexican law enforcement and customs officials. To avoid pulling resources from ongoing U.S. border security operations, DHS needs a comprehensive interagency reimbursement agreement with the State Department, which received funding for Merida in a law that passed last June.

   Will you vigorously advocate for DHS in interagency negotiations on the Merida Initiative to ensure that DHS equities are represented and a reimbursement agreement is completed?

   Yes. I look forward to supporting the Secretary's efforts in the larger interagency coordination process to ensure not only that DHS equities are adequately represented and funded, but that the over-arching Administration goals under Merida are achieved. My extensive experiences in the domestic interagency process and in international diplomacy have prepared me well to support the Secretary in this area.

6. Under the Comprehensive National Cybersecurity Initiative, the National Cyber Security Center was created at DHS to lead collaboration on cybersecurity among federal agencies and with the private sector. The Initiative recognized that effective cybersecurity had to be coordinated and not left to each individual agency, as in the current system. However, the former Director of the Center, Rod Beckstrom, recently resigned, citing his concern that the Center had been marginalized and was not playing its envisaged role.

   While you were at the United Nations, you oversaw the Communications and Information Technology Service, which had responsibilities for ensuring secure information exchange between and among various peacekeeping operations and with the United Nations headquarters. Rather than leaving information security to each individual operation, the United Nations appears to have also adopted a centralized approach to cybersecurity, at least in the area of Peacekeeping.

   Based on your experience, do you believe that having a strong central coordinating organization – like the National Cyber Security Center – is an important part of an effective cybersecurity program?

   Yes. Drawing on the findings of the ongoing Cybersecurity review from the White House, I look forward to working with the Administration and with stakeholders such as this Committee, to ensure that a strong central coordinating organization for Cybersecurity is appropriately prioritized, resourced, and staffed.

IDA

INSTITUTE FOR DEFENSE ANALYSES

Independent Assessment Team (IAT) Summary of Initial Findings on eLoran

Dr. Bradford Parkinson, Chair
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January 2009

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Appendix B: Policy Decision Announcement B-1

This work was conducted under contract DASW01-04-C-0003, Task EF-2-1918, for the Under Secretary for Policy, Department of Transportation. The publication of this IDA document does not indicate endorsement by the Department of Defense, nor should the contents be construed as reflecting the official position of that Agency.

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Science & Technology Division

15 January 2009

eLoran Independent Assessment Team
Executive Summary

Task: In August 2006, Department of Transportation (DOT) Under Secretary for Policy sponsored a task at Institute for Defense Analyses (IDA) to form an Independent Assessment Team (IAT) to review the need for enhanced Loran (eLoran). The sponsor also invited the Department of Homeland Security (DHS) Deputy Under Secretary for Preparedness to participate as co-sponsor. eLoran is an upgraded and fully modernized version of the Loran-C system (see charts 7 and 20 in this report).

The IAT assessed prior studies; conducted detailed interviews with researchers from those studies, agency representatives, other stakeholders, user groups, and international partners; and undertook a "deep dive" into eLoran financial data. Based on the foregoing data collection and its independent assessment of national needs, *the IAT unanimously found and recommended* to the sponsor and co-sponsor on 13 December 2006 *that eLoran be completed and retained as the national backup system* for critical safety of life, national and economic security, and quality of life applications currently reliant on position, time, and/or frequency from GPS.

Report: The sponsor and co-sponsor accepted the IAT conclusions and recommendations and directed that the IAT report (attached 11-chart chart briefing, with 27 backup charts) be given to senior officials throughout all cabinet departments and stakeholder groups (see Appendix A). The final report was the briefing given to the DOT Extended Position-Navigation Executive Committee (consisting of senior representatives of all departments and agencies) and to the DHS Geospatial and Position-Navigation-Timing (PNT) Executive Committee on 20 March 2007.

eLoran Decision: Based on the IAT report, DOT and DHS jointly recommended to the National Space-Based PNT Executive Committee (NPEC) on 28 March 2007 that eLoran be the national backup for GPS. The policy decision, eLoran as national backup, was reached at that NPEC meeting, with implementation assigned to DOT and DHS. The formal announcement was made in a press release by DHS on 8 February 2008 (Appendix B).

IAT Conclusions and Major Recommendation (see report charts 4, 10, 37, and 38)**:**

- Reasonable assurance of national PNT availability is prudent and responsible policy, needed for ubiquitous, *critical safety of life and national and economic security*, as well as quality of life, applications dependent upon GPS-based PNT.
- eLoran is the *only* cost-effective backup for national needs; it is completely interoperable with and independent of GPS, with different propagation and failure mechanisms, plus significantly *superior robustness* to radio frequency interference and jamming. It is a *seamless backup*, and its use *will deter threats* to US national and economic security by disrupting (jamming) GPS reception.
- The US Government policy decision is needed to motivate users to equip and to demonstrate continued leadership internationally.

Thus, the IAT *unanimously recommends* that the U.S. Government complete the eLoran upgrade and commit to *eLoran as the national backup* to GPS for 20 years.

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Alternatives Considered: IAT reviewed all prior studies and discussed backup needs with stakeholder groups; each study had been undertaken by an individual agency, transportation mode, or user group. All studies thus considered backup systems only from a single use-specific perspective. After reviewing all prior studies and conducting detailed interviews, the *IAT found that eLoran was the only system which could provide position, navigation, time, and frequency backup capability for all current and potential needs.* Alternatives examined included the following (see report charts 5 and 16-19):

- VOR, DME, ILS: legacy en route and approach aviation systems, applicable only to aviation users.
- Buoys, lighthouses, and State-licensed pilots: legacy maritime systems for port entry and approach; applicable only to maritime users and only in the port environment.
- Local reference frequency standards or oscillators: Time and frequency users' local backups; generally in cellular phone base stations, network nodes, etc. Useful for a few seconds to hours, depending on quality, design, and maintenance; data showed little industry standardization and often poor performance.
- Just-in-time delivery and inventory-in-motion tracking: no identified backup.
- Other transportation modes: limited (generally untested) procedural backup in some cases and no indentified backup in others.
- eLoran: Full position (2-dimensional) and time and frequency backup, adequate for maritime accuracy, aviation integrity, and time and frequency "Stratum 1" needs (collectively, the most demanding requirements), as well as for all other identified and future needs.

Status: eLoran upgrades of existing infrastructure are about 70% complete, funded by Congressional appropriations totaling $159M during FY1997-2006. The most costly upgrades are to the transmitters; all 18 CONUS transmitters and two of six in Alaska have been upgraded to eLoran, which enable immediate staffing reductions (and significant operations and maintenance (O&M) savings). Remaining eLoran work (30% not yet completed) includes completing Alaskan upgrades, adding new unstaffed differential monitors and upgraded time transfer systems, as well as implementing four additional transmitters recommended in CONUS.

Costs: In November 2006, the IAT conducted a "deep dive" into costs. Data were collected from USCG, FAA, and other US Government sources, and checked against data from potential commercial operators and from European countries currently operating eLoran. All government data were used at face value (unchallenged); if two agencies' cost categories could not be determined identical, both categories were included (costs added), and if values differed in any given category, the larger value was used. In summary:

- Decommission existing Loran: $146M ($49M CONUS, $97M Alaska)
- eLoran upgrades (less new transmitters): $83M ($51M CONUS, $32M Alaska)
- New eLoran transmitters: $60M (CONUS only)
- O&M at current staffing: $37M/year
    - At reduced staffing: $20M/year
- Deferred infrastructure repairs: $289M ($44M CONUS, $245M Alaska)
    - Average cost over 20-year life: $15M/year ($2M CONUS, $13M Alaska)

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Cost Assessment: The IAT assessment of costs is extremely conservative, effectively *a worst case, overbounded estimate of costs,* which IAT believes could be significantly reduced through immediate application of automation, judicious use of contractor support, and other means to avoid costs of major infrastructure repairs. The assessment in brief follows; this summary is reflected on chart 7 of the main report, and in more detail on charts 24-25 of the backup:

- eLoran (including the recommended four new transmitters) costs about half one new GPS on-orbit satellite.
- If offset by decommissioning cost of existing Loran infrastructure, eLoran is free.
- Deferred maintenance can be addressed, in order of need, by O&M savings, and the largest expenses for buildings, runways, fuel depots, etc. might be avoided altogether by moving two Alaskan transmitters.
- *Bottom line & worst case:* eLoran requires existing $37M/year USCG O&M base funds plus $20M/year new funds for 5-8 years to complete all upgrades, new transmitters, and "jump start" deferred maintenance until de-staffing O&M savings fully kick-in.

Global leadership: The world is dependent upon position, navigation, and time and frequency (PNT) from GPS, and increasingly other nations have recognized the vulnerability of GPS. For example, the General Lighthouse Authorities (GLA) of the UK and Ireland (equivalent to USCG for maritime safety) have committed to eLoran as the automatic backup to GPS/DGPS in its e-Navigation concept for maritime safety in crowded waterways. Essential to the global success of eLoran as such a backup, for maritime and virtually all other safety of life, national and economic security, and other critical applications, is continued US leadership and support.

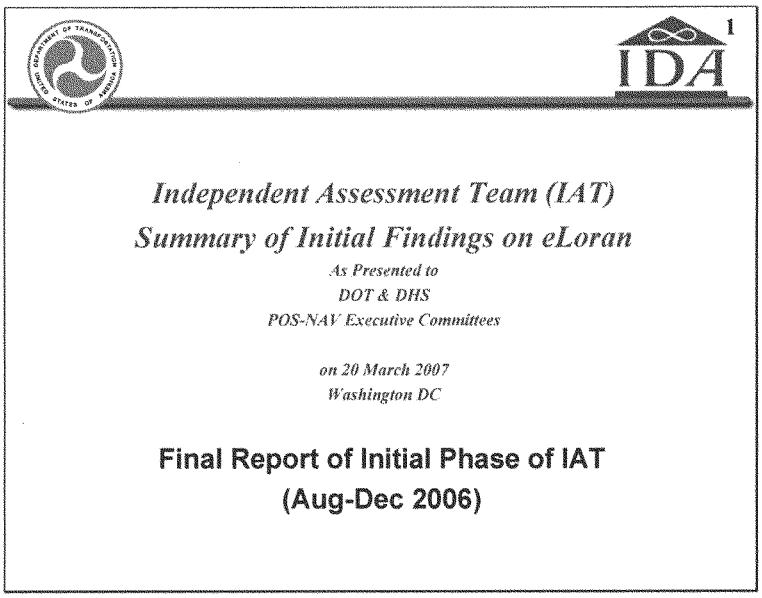
Report: This IDA document consists of an Executive Summary, an 11-chart briefing, with 27 backup charts, and a discussion of subsequent developments as an appendix. The formal IAT report is this chart set, entitled "Independent Assessment Team (IAT) Summary of Initial Findings on eLoran." This was accepted by the sponsor and co-sponsor in December 2006, and at their request, it was formally presented to and fully endorsed by, the DOT Extended POS-NAV and DHS Geospatial-PNT Executive Committees on 20 March 2007 in Washington, DC.

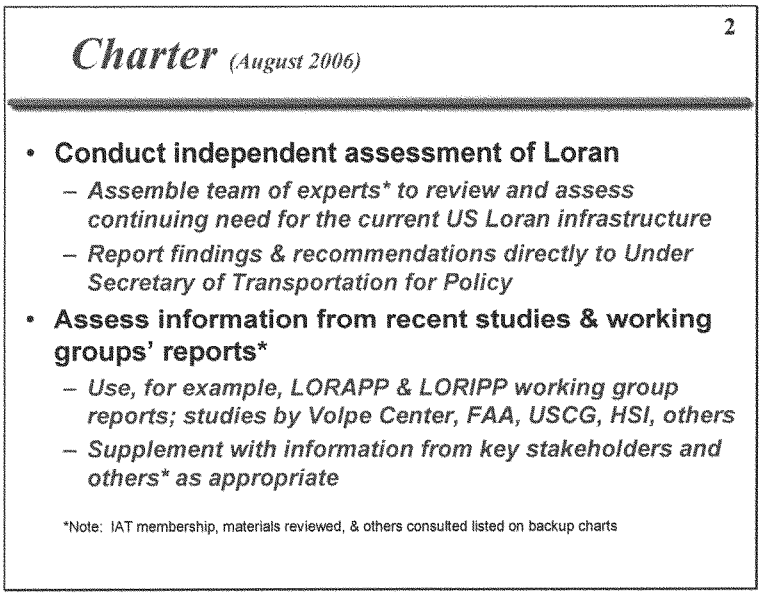
Independent Assessment Team Members: (see chart 12)

- Dr. Bradford Parkinson, Chair
- James Doherty, Executive Director
- John Darrah
- Arnold Donahue
- Dr. Leon Hirsch
- Donald Jewell
- Dr. William Klepczynski
- Dr. Judah Levine
- Kirk Lewis
- Dr. Edwin Stear
- Phillip Ward
- Pamela Rambow, Research Assistant

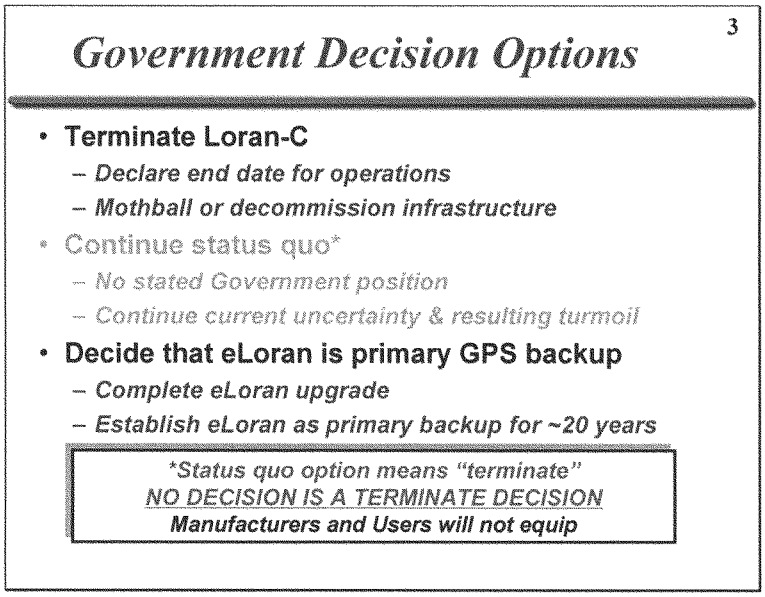
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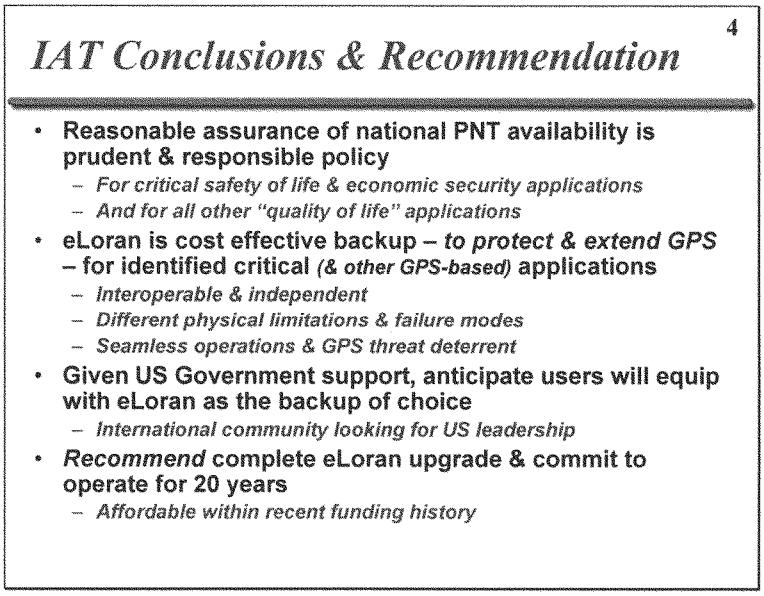
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5

Studies Indicate

- **GPS backup (dissimilar failure modes) needed for critical infrastructures requiring position, time, frequency services**
  - *Vulnerability studies demonstrate impact to critical systems due to local interference or jamming of GPS*
  - *Types of GPS uses & numbers of users increasing dramatically*
  - *Technical studies review capabilities of eLoran to provide backup to GPS when needed – interoperable & independent*
  - *Cost/benefit studies appear to support decision to retain eLoran as a backup service to GPS for a broad range of applications*
- **Government agencies & user groups report adequate, but individual system-by-system, backups to GPS already exist**
  - *Most report either equipment or procedural backups in place*
  - *User trade space is cost of equipping with backup system vs. risk*
  - *Studies (limited scope) conducted dominantly in "stovepipes"– limited to domain or area of interest of one agency or user group*

6

Current & Future GPS Vulnerabilities

- **Inherent vulnerabilities in systems using RF spectrum**
  - *Increased due to unique GPS characteristics*
    - *Very low signal power*
    - *Single civil frequency – future mitigated with multiple frequencies*
    - *Simple known signal structure – future mitigated with new signals*
- **Unintentional interference – generally local & short duration**
  - *Radio frequency interference (RFI) & GPS testing activities*
  - *Ionospheric disturbances – exacerbated by solar activities*
- **Spectrum competition from non-radionavigation systems**
- **Intentional interference – could be 100 miles & last days**
  - *Jamming (hackers or terrorists)– denial of use*
  - *Spoofing & its variations – counterfeit signals*
  - *Global military & civil use of GPS encourages "disruption industry"*
    - **Jamming techniques well known & devices available or easily built**
- **Disruption of GPS constellation or ground control segment**
- **Human factors**
  - *Errors, over-reliance, lack of knowledge/training*
  - *Mitigated with planned upgrades to GPS control segment (OCX acquisition)*

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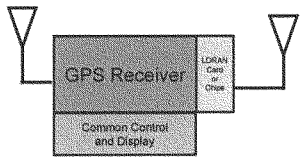
Why eLoran

- **eLoran meets needs of identified critical applications – and others**
  - *10-20 meter accuracy for harbor entrance*
  - *0.3 nautical mile required navigation performance (RNP 0.3)*
  - *Stratum 1 for time & frequency users – 50 ns time accuracy*
- **eLoran is NOT 1958 Loran-C**
  - *New infrastructure – solid state transmitters, state-of-the-art time & frequency equipment, uninterruptible power supplies*
  - *New operating concepts – time of transmission, all-in-view signals, message channel with differential corrections, integrity, etc.*
  - *New user equipment - digital, processes eLoran & GPS signals interchangeably, compact H-field antennas to eliminate "p-static"*
- **eLoran upgrade & 20 year ops affordability**
  - *$159M invested to date – nonrecurring $17-25M/yr*
    - **Additional $143M will complete eLoran – 5-8 years at current funding level**
  - *Ops & maintenance currently $37M/yr – recurring*
    - **Reduce routine O&M costs with eLoran efficiencies – apply savings to identified major maintenance backlog ($289M)**
  - *Avoid $146M costs of decommissioning existing Loran-C infrastructure*

8

eLoran Is "Seamless" Backup

- **Many backups require different skills; e.g., for professional navigators:**
  - *Switch to buoys or radar*
  - *Switch to DME or VOR*
- **Some traditional skills have been found to atrophy in the GPS era**
  - *Operational efficiencies provide fewer opportunities to practice*
  - *Trends expected to continue*



- **eLoran nascent user equipment industry**
  - *"All up" prototypes exist – limited production possible near term*
  - *Focus is on integrated eLoran & GPS digital receivers*
- **Designed as seamless backup, with common operator interface**
  - *GPS calibrates eLoran while GPS available*
  - *eLoran extends GPS service into GPS-challenged situations*
  - *Receiver seamlessly switches to eLoran when GPS is lost*
- **The implications for safety and ease of use are significant**

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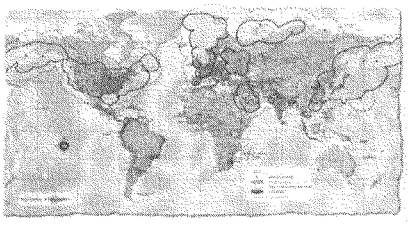
National Benefits of eLoran

- **Useful in aviation safety of life applications (DOT/FAA)**
  - *RNP 0.3, NPA, ADS-B*
  - *But legacy backups (eg, DME, VOR, ILS, etc.) exist*
- **Useful in maritime safety of life applications (DHS/USCG)**
  - *Harbor entrance & approach*
  - *But legacy backups (eg, buoys, harbor pilots, etc.) exist*
- **Useful in timing & frequency applications (DOC?)**
  - *Digital cell phone towers & Stratum 1 network switches*
  - *Local oscillators used for backup—varying quality*
- **Useful in defense, security, & other applications (DoD, DHS, others)**
  - *Extend GPS indoors & under foliage*
  - *Augment GPS in urban & natural canyons*
- **Useful as a deterrent to disruption of GPS (DHS, DoD, others)**
  - *Enables most applications to continue uninterrupted*
  - *Hence "why bother" to disrupt (jam) GPS*
- **Much benefit overall – no one agency to claim "ownership"**
  - *Traditionally DOT (i.e., USCG (pre-DHS) & FAA) provided civil "navigation" systems, which also sufficed for other users' needs*

10

The Way Ahead

- **Implement IAT recommendations** (13 Dec 2006 briefing)
  - *Decide to retain eLoran for 20 years as primary backup to protect & extend critical (& other) GPS applications*
  - *Fund completion of eLoran*
  - *Reduce eLoran staffing (O&M costs) – start now*
  - *Stimulate eLoran receiver development & equipage*



Closing thoughts

- *Established capability*
- *Well proven*
- *High cost to re-establish*

vs.

- *Low cost to retain*

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11

Backup

12

IAT Members

Dr. Bradford Parkinson – Stanford University – Chair
James Doherty – IDA, former USCG NAVCEN – Exec Director
John Darrah – IDA, former Chief Scientist AF Space Command
Arnold Donahue – NAPA, former OMB
Dr. Leon Hirsch – IDA Research Staff Member
Donald Jewell – IDA, former AF Space Command
Dr. William Klepczynski – IDA, former US Naval Observatory
Dr. Judah Levine – NIST Time Services
L. Kirk Lewis – IDA, Executive Director GPS IRT
Dr. Edwin Stear – IDA, former VP Boeing & AF Chief Scientist
Philip Ward – IDA, former Texas Instruments (GPS receivers)
Pamela Rambow – IDA Research Assistant

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13

Who We Met with

Government Agencies

- *Department of Transportation (DOT)*
- *Federal Aviation Administration (FAA)*
- *Volpe National Transportation Systems Center (VNTSC)*
- *Department of Homeland Security (DHS)*
- *US Coast Guard (USCG)*
- *Homeland Security Institute (HSI)*
- *US Naval Observatory (USNO)*
- *National Security Space Office (NSSO)*
- *National Institute of Standards & Technology (NIST)*
- *National PNT Coordination Office (NPCO)*

User Groups & Organizations

- *International Loran Association (ILA)*
- *Aircraft Owners & Pilots Association (AOPA)*
- *National Boating Federation (NBF)*
- *American Pilots Association (APA)*

User Equipment Industry

- *Cross Rate Technology*
- *Megapulse*
- *Peterson Integrated Geopositioning*
- *Rockwell Collins*
- *Symmetricom*
- *Timing Solutions Corporation*

14

Studies Reviewed (Principle Investigators)

- *GPS Vulnerability (VNTSC)*
- *Timing (HSI, NIST, USNO)*
- *PNT Architecture (NSSO)*
- *eLoran Costs & Benefits (USCG, FAA, VNTSC, Megapulse, Trinity House)*
- *Loran Integrity Performance Panel research & findings (LORIPP)*
- *Loran Accuracy Performance Panel research & findings (LORAPP)*
- *eLoran Characteristics (FAA, USCG, Stanford University, Peterson Integrated Geopositioning)*
- *Aviation Backup Requirements (FAA, Aviation Mgmt Associates)*
- *Aviation Certification Issues (FAA)*
- *Aviation eLoran Performance (FAA)*
- *Maritime Backup Requirements (former TASC/Litton/Northrop Grumman)*
- *Maritime eNavigation (Trinity House & University of Wales)*
- *Interference Detection & Mitigation (IDM) Plan (DHS, USCG)*
- *eLoran Performance Data (Ohio University, Stanford University, Peterson Integrated Geopositioning)*
- *Location-Based Security (Logan Scott Associates, Stanford University)*
- *eLoran as Time & Frequency System (Timing Solutions Corporation)*

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IAT Schedule

- **Mid-Aug 2006** — **IAT begins**
  - *Establish membership & select chair*
  - *Collect read-ahead materials & provide to members*
  - *Develop data collection plan (meetings & briefers)*
- **19-20 Sep 2006** — **First meeting – IDA**
  - *Focus on vulnerability study, user requirements, & other major studies*
- **10-11 Oct 2006** — **Second meeting – IDA**
  - *Meet with DOT sponsor & invited DHS co-sponsor*
  - *Focus on other studies plus international, environmental, other issues*
- **1-2 Nov 2006** — **Final meeting – Stanford**
  - *Focus on user equipment – availability, cost, market research, etc.*
  - *Review need for standards & other equipage issues*
- **6 Nov-12 Dec 2006**
  - *Detailed eLoran cost review*
- **13 Dec 2006** — **Initial report – DOT HQ**
  - *Chair & Executive Director*
  - *DOT Under Secretary for Policy, DHS Deputy Under Secretary for Preparedness, & USCG Assistant Commandant for Prevention*

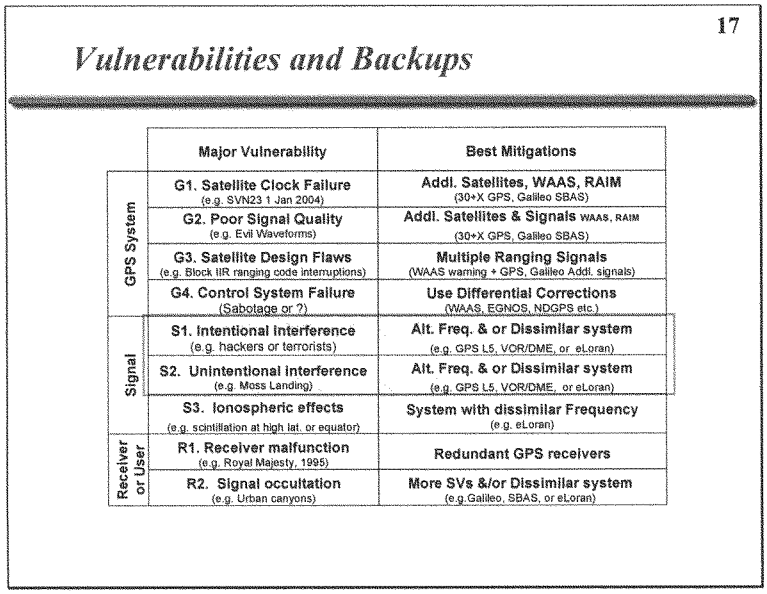
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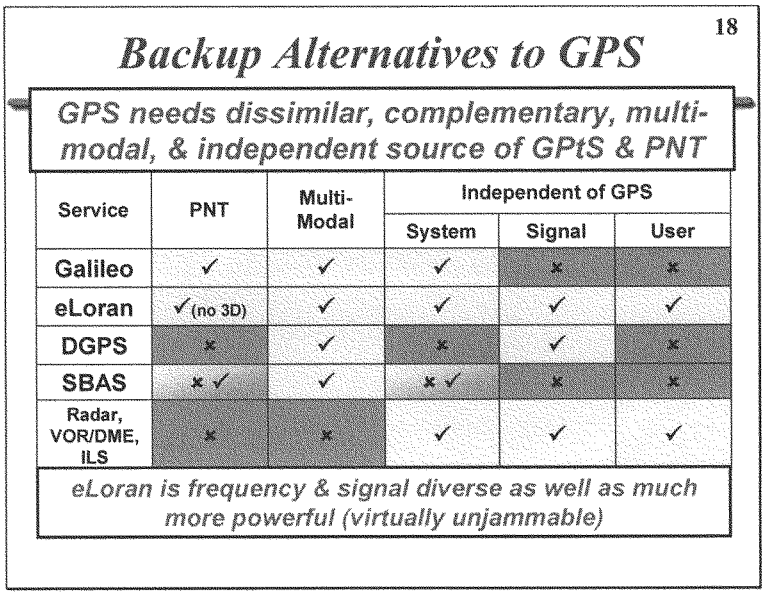
Key Questions

- **To what degree, & in what way, is GPS vulnerable to persistent outages or local transient discontinuities?**
- **What are the impacts of such events for safety-of-life, economic disruption, or inconvenience?**
- **What techniques or alternatives are available as to ameliorate such situations?**
- **In what time frame & at what costs (& to whom) could such methods be implemented?**
- **To what degree would we expect the affected users to take advantage of these methods?**
  - *What is the proper Government role?*
- **What course of action is most reasonable for DOT?**

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If not eLoran – Current Backup Plans

Mode	Applications	Backup
Aviation	• Precision Approach • Non-Precision Approach	Traditional Ground-Based Navigation, Procedures
Maritime	• Harbor & Harbor Approach • Constricted Waterway	Conventional Navigation Methods
Land	• Tracking Radioactive Items • Collision Notification	Conventional Procedures, Dead-Reckoning, etc.
Positioning	• Survey & Geodesy	Optical and Inertial Systems
Timing	• Communications, Power Grids, etc.	Loran-C, WAAS, Clocks

Source: National Space-Based PNT Coordination Office

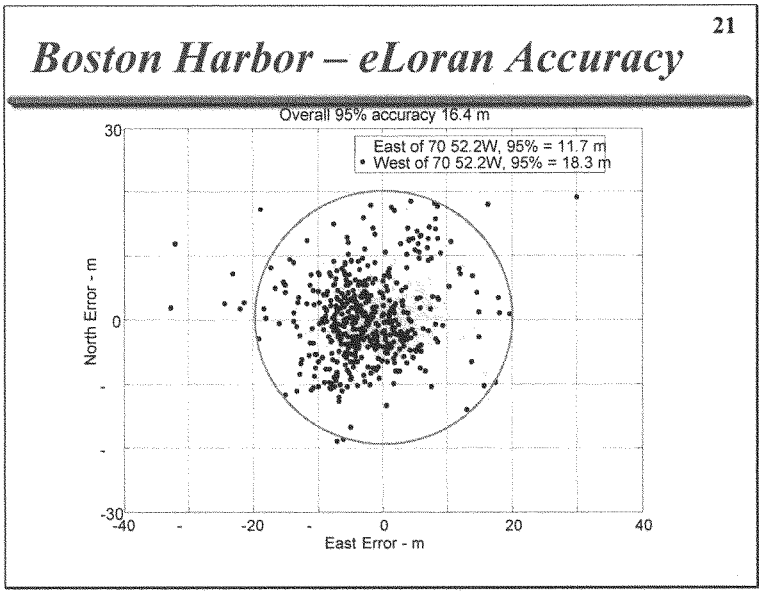
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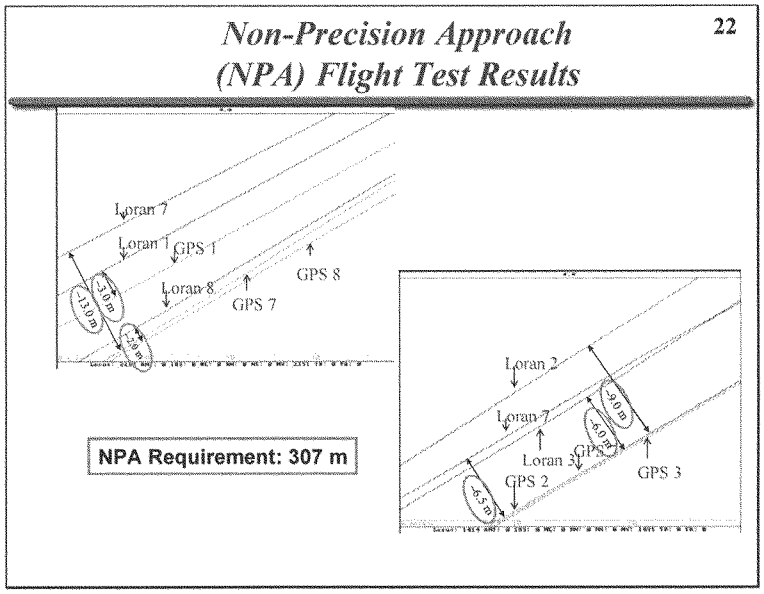
eLoran (upgrades well demonstrated)

- **Upgrade of Loran infrastructure & operations concept**
  - ***Signal in space updated for digital use*** *(GPS-like, digital user equipment)*
  - ***Time of arrival (TOA) or "pseudo-range" navigation*** *(same as GPS)*
  - ***New Messaging channel increases position & time accuracy using differential Loran*** *(About 10-20m within 20 miles from monitor)*
  - ***Backward compatible for legacy users***
- **"All-in-view" navigation**
  - ***All masters & secondary transmitters directly synchronized*** *(<20ns) enabling "cross chain" or "all-in-view" navigation*
  - ***User stores or calculates Additional Secondary-Phase Factor (ASF) corrections for improved accuracy***
  - ***All received signals useable*** *(improves geometry/accuracy, extends coverage)*
- **eLoran transmitter stations**
  - ***Solid state transmitters*** *– "soft fail" devices*
  - ***Emergency generators & full transmitter battery*** *– no "momentaries"*
  - ***Ensembled atomic clocks at each transmitter***
    (compatible with GPS, yet independent of GPS)

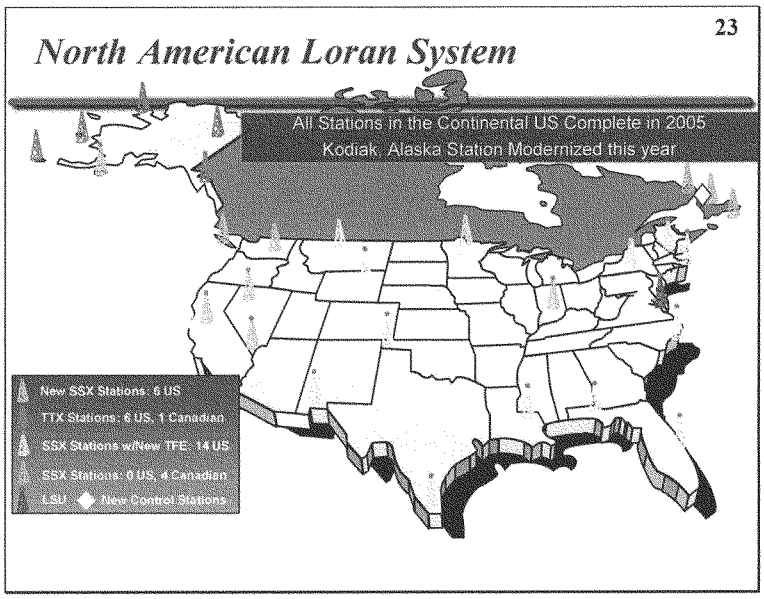
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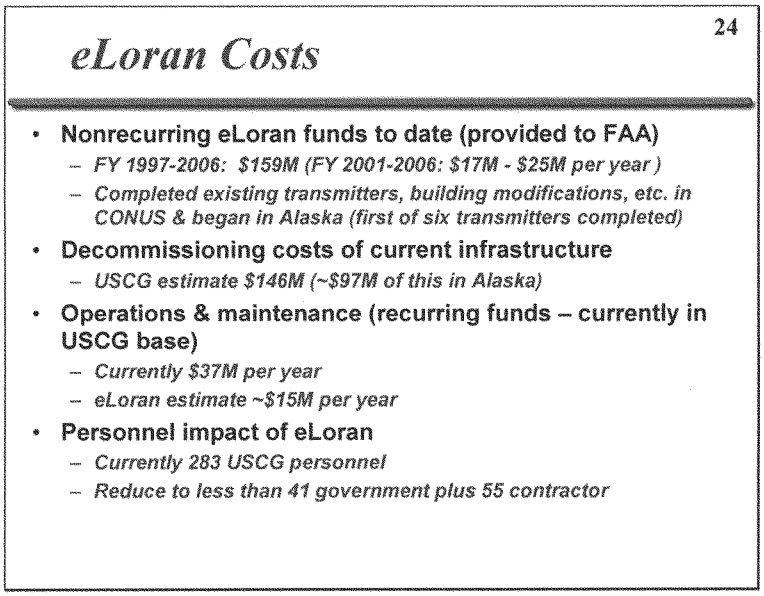
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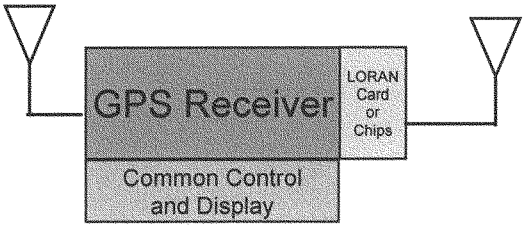
IAT Assessment of Costs

- **Based primarily on USCG reported costs – overbound of costs**
- **For eLoran in CONUS**
  - *eLoran upgrades remaining* — *$ 51M (nonrecurring)*
  - *eLoran expansion (4 xmtrs @ $15M)* — *$ 60M (nonrecurring)*
  - *Major maintenance (backlog & deferred)* — *$ 44M ($2.2M/yr for 20 yrs)*
- **Alaska**
  - *eLoran upgrades remaining* — *$ 32M (nonrecurring)*
  - *Major maintenance (backlog & deferred)* — *$245M ($12.25M/yr for 20 yrs)*
- **Initial assessment**
  - *Provide additional nonrecurring funds – $143M (over 5-8 years)*
    - *$111M to complete eLoran in CONUS*
    - *$32M to complete eLoran in Alaska*
  - *Reduce current O&M ($37M/yr) thru eLoran economies*
    - *Begin with available economies available in CONUS today*
    - *Apply savings to major maintenance*
- **Full eLoran is achievable within current funding**
  - *$20-25M/yr acquisition funds (currently in FAA) for 5-8 years*
  - *$37M/yr (currently in USCG) for life of system*

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Discussion of Loran User Equipment

- **Manufacturers**
  - *Have demonstrated "all-up" prototypes*
  - *Incremental manufacturing cost <$300 in volume*



- **Stand alone Cost <$1000 in volume**

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Discussion of User Equipment

- **Impact of GPS on Loran**
  - *User equipment industry shifted from Loran-C to GPS by early 1990s*
  - *Loran-C receivers are old analog designs & virtually impossible to find (even used)*
- **Small niche eLoran industry developed recently**
  - *Based on Congressional eLoran funding (beginning FY1997 & continuing)*
  - *Universities, individual researchers, & 4-6 small/medium companies interested*
- **Essential technical developments needed for eLoran user equipment**
  - *Digital receivers – virtually identical signal processing for eLoran & GPS signals*
    - **Enables integrated GPS-eLoran receiver sets**
    - **Stores & applies local databases (eg, ASF correction tables)**
    - **Processes Loran data messages**
  - *H-field antennas – eliminates former Loran-C aviation "p-static" problems*
- **Several (at least 3) integrated GPS-eLoran receiver products**
  - *Available within a few months in up to10K quantities for $700-1000 each*
  - *Plans to reduce unit price within a year to <$100 if approaching quantities 100K assured*
  - *None yet certified for aviation (RNP 0.3, NPA) –universities & researchers have tested & continue to test various models in flight situations*

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Discussion of User Equipment

- **Market research**
  - *At least two firms report robust potential markets for combined GPS-eLoran user equipment – unit cost ranging $400-$7000*
  - *Major selling point reported is reliability (to continue operation if GPS is interrupted and to deter intentional disruption of GPS)*
  - *Additionally to enhance GPS (for example, inside buildings or with additional capabilities, such as authentication messages for assured location-based services & security)*
- **User categories & market size (# potential units)**
  - *Maritime (GPS backup) – 750K*
  - *Military & first responder (GPS backup & indoors) – 32K*
  - *Fleet management (GPS backup) – 1000K*
  - *Timing (cell towers, TV, cable—GPS backup & assured location based services) – 27K*
  - *Network servers (indoors & GPS backup) – 1000s/yr.*
- **One researcher estimates market value**
  - *$1.1B today*
  - *Growing to $2B by 2010*

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Would Users Equip with eLORAN?

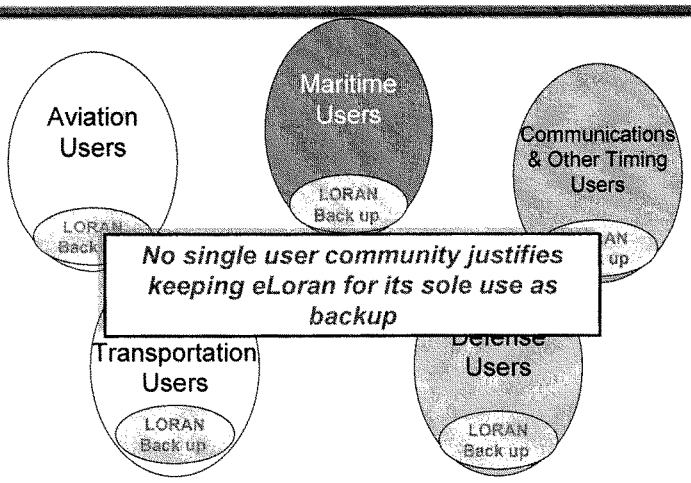
- **Necessary conditions**
  - *USG commitment (at least 15 years)*
  - *UE available at small incremental costs*
- **Motivation**
  - *Rules and regulations*
  - *Perceptions of threat*

IAT believes speed of equipage (after necessary conditions met)
Will be driven by future events not now predictable

The USG should assume responsibility to have an affordable backup to GPS in place

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Current Situation – GPS is Primary

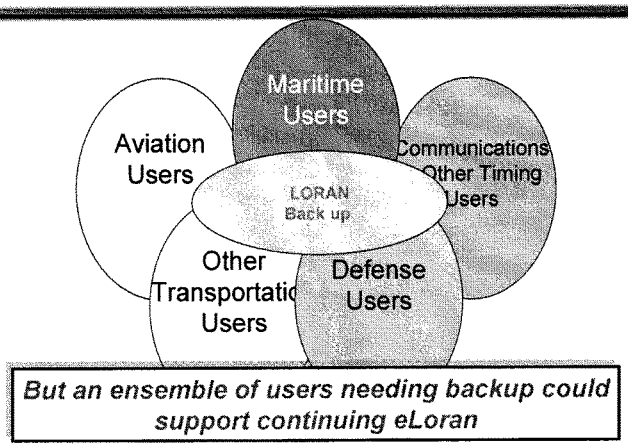


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Combined Community Need – GPS Primary



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Summary of Findings (1)

- **eLoran is Independent of, but compatible with, GPS**
  - *Source of both position & time information*
- **eLoran is robustly engineered system**
  - *Ensembled frequency standards at each transmitter*
  - *Soft-fail transmitter & uninterruptible power supply*
- **Most users will not *now* voluntarily equip with a "backup" system**
  - *Interference threats could rapidly change perception*
  - *Regulation and/or incentive programs would speed more widespread use*

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Summary of Findings (2)

- **eLoran is not yet completed**
  - *Transmitters in CONUS completed*
  - *Transmitters in Alaska & Canada need eLoran upgrade*
  - *Differential Loran sites needed, ports & other locations*
    - **For harbor accuracy**
    - **For time accuracy**
  - *Additional transmitters needed*
    - **For maritime coverage in southern Florida/Caribbean & southern California**
    - **For aviation integrity in Midwest**
- **eLoran costs must be reduced if system persists**
  - *Reduce/eliminate transmitter staffing*
  - *Relocate transmitters to more accessible sites in Alaska*

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Summary of Findings (3)

- **There is no eLoran user equipment**
  - *Legacy Loran (Loran-C) receivers no longer available*
  - *Loran-C receivers will not provide eLoran benefits*
- **Prototype eLoran user equipment exists**
  - *Several companies pursuing integrated GPS & eLoran receivers*
  - *Cost <$1000 in 10K unit quantities; anticipate reduce to <$100 in 100K quantities*

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Summary of Findings (4)

- **Principal threat to GPS is deliberate or inadvertent jamming of the GPS signals**
  - *This would be local and could cause significant disruptions in GPS service. Particularly:*
    - Timing
    - Harbor Entrance and Approach (particularly congested harbors)
    - Aircraft Non Precision Approach
  - *Government Agencies generally have some form of backup*
    - Economic costs of such disruptions could still be substantial
  - *Some risk to safety of life, but it is probably low*
- **Enhanced and modernized eLoran has been well-demonstrated, could quickly be operational** (less than 3 years)
  - *The Europeans have continued to upgrade their LORAN and are already operating "unmanned"*
  - *Full Investment cost < $250M more than cost of total LORAN deactivation (~$143M)*
  - *Operating costs (as demonstrated by the Europeans) ~$15M per year, requires changes in USCG operating policies*

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Summary of Findings (5)

- **eLoran is capable of being a backup for most GPS-enabled critical applications**
  - *Important Missions*
    - Aviation – RNP 0.3 & NPA
    - Maritime – harbor entrance & approach
    - Time & frequency – 50 ns & stratum 1
  - *As an addition to a GPS receiver, the manufacturing cost should be less than $300*
- **As a backup to GPS**
  - *A good backup such as eLORAN may be an effective deterrent to hackers or terrorists deliberately interfering with the signals GPS*

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Conclusions

- **Reasonable assurance of national PNT availability is a prudent and responsible policy**
- **Fully upgraded eLORAN is a very cost effective backup to GPS**
  - *Particularly useful for Timing, NPA and HEA*
  - *Incremental net investment of ~$250M*
  - *Also has some deterrent value*
- **With USG support for the system, users expected to gradually add the eLORAN backup**
  - *It wll become an economically appealing insurance policy (Δ cost for mfr. ~$300)*

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Unanimous Recommendations of IAT

- **Retain eLoran as primary backup for critical GPS applications**
  - *Fund completion of eLoran*
  - *Commit to 20 years*
- **Develop funding plan for completion of eLoran**
  - *Add differential sites for maritime & timing needs*
  - *Review alternatives for reducing costs in Alaska*
  - *Add transmitters for maritime & aviation use in CONUS*
- **Convert to unmanned model (as in Europe)**
  - *Goal $15M/year operating costs*
- **Stimulate receiver development & equipage**
  - *Integrate eLoran as backup within GPS receivers*
  - *Reduce costs through mass production*
  - *Consider regulation or incentives for equipage in key applications*

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eLoran Independent Assessment Team
Appendix A
Subsequent Developments December 2006 – October 2008

Policy Decision: Following acceptance of the report and approval of its recommendations by the DOT sponsor and DHS co-sponsor, they tasked the IAT to take its report to senior leaders throughout the US Government and to other stakeholders. The final "pre-decisional" IAT briefings were given in March 2007 to the DoD Position Navigation Time Senior Warfighter Forum (PNT SWarF), introduced by the senior DHS/USCG representative (Assistant Commandant Marine Safety); to the Extended (all civil agencies) DOT Position Navigation Executive Committee, introduced by the DOT Under Secretary and DHS Deputy Under Secretary; and to the DHS Geospatial PNT Executive Committee, also introduced by the DOT Under Secretary and DHS Deputy Under Secretary. After extensive discussion in all three forums, the PNT SWarF acknowledged the need for eLoran as the national backup for civil users, and both DOT Extended and DHS EXCOMs unanimously approved eLoran as the national backup for all civil users. Subsequently, DOT and DHS jointly recommended to the National PNT Executive Committee on 28 March 2007 that eLoran be the national GPS backup; this recommendation was approved at that meeting and DOT and DHS were directed to coordinate implementation.

Follow-on Briefings: At the request of the sponsor and co-sponsor, the IAT report remains in briefing format. The briefing includes eleven charts, plus 27 more in backup. From December 2006 through October 2007, the report (this chart set) was fully briefed to senior officials throughout the US government and elsewhere. In each case, there were detailed questions, and all admitted the brief helped them understand the national need for GPA backup and that the eLoran was only alternative meeting the technical requirements at reasonable cost. Paper or electronic copies of the charts, including backups, were given to all those briefed.

Officials who also received the IAT report include the following principals, plus key subordinates and senior staff:

- Deputy Secretary of Transportation (DOT)
- Deputy Secretary of Homeland Security (DHS)
- Assistant Secretary Defense for Networks and Information Integration (ASD/NII)
- Under Secretary of Defense for Intelligence (USD/I)
- Deputy Chief Information Officer for Director of National Intelligence (DNI)
- Deputy Administrator, Federal Aviation Administration (FAA)
- Deputy Administrator, National Geospatial-Intelligence Agency (NGA)
- Assistant Commandant for Marine Safety, US Coast Guard (USCG)
- DOT, DHS, FAA, USCG examiners, Office of Management & Budget (OMB)
- Maritime Security Advisor, National Security Council (NSC)
- National PNT Coordination Office
- National Security Space Office (NSSO, National PNT Architecture)

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Additionally, the sponsor and co-sponsor also requested that several outside organizations be briefed; key among these were the following:

- Industry Executive Subcommittee (IES) of the National Security Telecommunications Advisory Committee (NSTAC); this was in response to a request from the Homeland Security Advisor
- National PNT Advisory Committee
- Cross government group (i.e., interagency group) of the UK government in London; this was a request from the Ministry for Transport (MfT)

eLoran User Equipment: An important question for almost all those who received the IAT report was about the availability and estimated cost of user equipment. Fortunately, the IAT had collected data from the nascent eLoran user equipment industry, and through the industry, substantial market survey information. When told that eLoran receivers would be embedded in GPS receivers for seamless backup, and based on data provided to the IAT, for nominal cost increase, they were satisfied that eLoran would be cost effective "reliable GPS." Example used was usually that of an equipment set for vehicle (truck) tracking and reporting; installed, a GPS-only system was reported to the IAT as costing about $6000, and a GPS with seamless backup eLoran would be about $6500.

San Diego Incident: It is important to note, that shortly after the IAT had completed its deliberations and delivered its report briefing to the sponsor and co-sponsor, there was an interference incident that confirmed the need for eLoran as a seamless national backup. For about 3 hours one afternoon, Navy technicians in San Diego turned on a test signal which interfered with GPS reception; once the technicians discovered their error, they turned off the interfering signal. The interfering signal affected GPS reception in San Diego harbor and approaches, in the downtown area including the international airport, and throughout the surrounding area for about 10 miles inland and all the way south to the Mexican border.

Although no safety of life accidents occurred, all civil and commercial user categories were affected. The maritime DGPS system and Automated Identification System (AIS) were shut down, commercial, recreational, and Coast Guard vessel operations affected, some aviation users were affected, two cell phone base stations were shut down and upwards of 150 others were degraded, and a first responder pager network was shut down. It is safe to assume that had it been possible to get reports, delivery vehicles which navigate, report their position, and keep track of pick ups and deliveries by GPS coordinates would also have demonstrated that "just-in-time" deliveries and "inventory-in-motion" tracking were disrupted.

The GPS disruption not only caused loss of position or navigation data for ships, boats, aircraft, trucks, and automobiles. It also disrupted the critical communications systems that rely on GPS to condition a local reference frequency source or provide stable timing. One unique demonstration of the seriousness of the impact was disruption of the USCG Automatic Identification System (AIS). AIS is a self-organizing, time-division multiplexed communications network used for vessel-vessel collision avoidance and port safety, port security, and vessel traffic management by the Coast Guard. It requires time-

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tagging based on GPS Time to assign time slots to messages sent and received by all participants in the network. Without GPS, it can not self-organize or remain in synchronization. This demonstrated loss of position and navigation information among the maritime participants, and also inability to communicate with each other through loss of both time and frequency synchronization in the network.

In other words, this was a very serious incident.

Although the technicians self-corrected, had they not, USCG, FAA, FCC, and others applied an analysis to determine likely location of the interference source. This process took approximately 36 hours, and localized the jammer with about a 1 mile uncertainty. Unfortunately, the analysis indicated it was on Coronado Island, not the mainland—the next step was to knock on doors, so it would have taken quite some time to go from Coronado over the bridge to the mainland to find the interference source.

Had eLoran been implemented, however, all of the adversely impacted users above would have operated seamlessly through the incident. The interference source had been stationary and continuously on, i.e., it was not being deceptive; imagine if someone were deliberately deceptive, with multiple jammers, moving randomly, and turning on and off at random intervals. eLoran would, however, deter someone from such extensive efforts.

Federal Register Notice: On January 8, 2007, the Secretaries of DOT and DHS requested public input on the need for Loran-C (current system) and eLoran (proposed) in a Federal Register Notice. The response period was about a month, with several public hearings, and the response was quite large—about 1000 individual responses, all but a handful in favor of retaining Loran. Respondents included aviation, maritime, and communications users, including both private citizens and corporate officials.

Implementation Considerations: Since World War II, or for the entire history of Loran (Loran-A, Loran-C, and now eLoran), USCG has been the developer and operator of Loran in the US (and until 1995 throughout the world). Since 1997, Congress has directed funds to FAA for eLoran upgrade. In 2003, with the creation of DHS, USCG moved from DOT to DHS, taking oversight of eLoran out of one department (DOT) and moving into the interagency.

Funding any program or system through the interagency process is difficult. For example, GPS is a ubiquitous military and civil "utility." The current process is to assign GPS to an executive agent, the best being USAF in DoD, to assured continued funding of improvements and reliable O&M. The same is probably needed for eLoran. The choices based on funding history are USCG in DHS or FAA in DOT; a subsequent draft assessment by the IAT showed that the combination of FAA for upgrade and USCG for O&M, though awkward, appeared to be workable. However, if not a combination, leaving all in USCG would be next best, followed by FAA. Almost no other agency has the necessary background or experience to provide what is first and foremost a "safety of life" navigation system, which also provide full interagency position, navigation, time, and frequency backup for critical applications based on GPS.

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Current Status – October 2008: Policy decision has been made (March 2007) and announced jointly by Secretaries of DOT and DHS in February 2008. Announcement was accompanied by implementation plan—move eLoran from USCG to DHS NPPD (National Communications System) effective with start of FY2009. In July 2008, DHS and USCG appropriations committee language indicated Congress did not approve the implementation plan and directed that eLoran remain in USCG. Since this was appropriations language, it is effectively a "one year" disapproval of the implementation plan. However, one should probably consider this a bellwether indication—Congress believes that eLoran should remain in USCG.

International and Other Considerations: The General Lighthouse Authorities (GLA) of the UK and Ireland (equivalent to USCG for maritime safety) requested the IAT briefing given above to the UK cross government group. The reason is that the GLAs have committed to e-Navigation for maritime safety, using GPS/DGPS as primary input, eLoran as secondary or backup, and electronic charting.

Based on the GLA initiative, the International Association of Lighthouse Authorities (IALA) has undertaken to define international standards for e-Navigation, and as needed for eLoran. In Europe, France, Germany, Denmark, Netherlands, and Norway are cooperating in this endeavor. Additionally, Russia, Italy, Saudi Arabia, Japan, Korea, and China, all of which operate Loran systems, continue to monitor these developments. Informal assessments are that if US joins the mix effectively, eLoran will become the maritime backup of choice.

Currently, the Radio Technical Commission for Maritime Services (RTCM) has initiated a process to identify signal in space and receiver performance standards for eLoran in the maritime environment. It is likely that the Radio Technical Commission for Aeronautics (RTCA) would engage in a similar effort for aviation users. These national efforts in the US would provide input to the International Maritime Organization (IMO) and International Civil Aviation Organization (ICAO) to broaden these standards globally.

Finally, for decades, "navigation" requirements have been the pacing requirements for "navigation systems" such as GPS and eLoran. Time and frequency users were delighted to make use of these systems for their needs. However, in the global search for bandwidth for wireless applications, cell phones, location based services, etc., more and more the needs for time accuracy and frequency precision are becoming the pacing requirements, with the result that navigation users would also be delighted. In addition to this change, there is another fundamental shift in the user community for "navigation" systems. That is, use of these systems is no longer limited to the small professional community of military, maritime, and aviation navigators and engineers and scientists in the time and frequency laboratories. These systems are ubiquitous and being used by everyone in ways never before imagined.

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eLoran Independent Assessment Team
Appendix B
Policy Decision Announcement

U.S. Department of Homeland Security

Homeland Security

February 7, 2008
Contact: (202) 282-8010

STATEMENT FROM DHS PRESS SECRETARY LAURA KEEHHNER ON THE ADOPTION OF NATIONAL BACKUP SYSTEM TO GPS

Today the U.S. Department of Homeland Security will begin implementing an independent national positioning, navigation and timing system that complements the Global Positioning System (GPS) in the event of an outage or disruption in service.

The enhanced Loran, or eLoran, system will be a land-based, independent system and will mitigate any safety, security, or economic effects of a GPS outage or disruption. GPS is a satellite-based system widely used for positioning, navigation, and timing. The eLoran system will be an enhanced and modernized version of Loran-C, long used by mariners and aviators and originally developed for civil marine use in coastal areas.

In addition to providing backup coverage, the signal strength and penetration capability of eLoran will provide support to first responders and other operators in environments that GPS cannot support, such as under heavy foliage, in some underground areas, and in dense high-rise structures. The system will use modernized transmitting stations and an upgraded network.

IDA

The Institute for Defense Analyses is a non-profit corporation that administers three federally funded research and development centers to provide objective analyses of national security issues, particularly those requiring scientific and technical expertise, and conduct related research on other national challenges.

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Senator Tom Coburn
Additional Questions for the Record
Nomination Hearing of Jane Holl Lute
March 26, 2009

Please provide a yes or no answer followed by an explanation.

1. Do you have experience outside of the broken procurement system of the U.N. that qualifies you to manage large and complex federal acquisitions at the Department of Homeland Security (DHS), understanding that in addition to procurement of equipment and supplies, DHS also contracts out many of its key mission functions?

   Yes. My experience in acquisitions and procurement, while most intense at the United Nations with mission support responsibilities for Peacekeeping worldwide (which has grown to represent the second largest deployed military presence in the world), began early in my career when I was assigned in the Communications-Electronics Division of United States Command Berlin. Since that time, across several responsibilities, I have had increasing exposure to the challenges of raising realistic requirements and justifying resource requests (not only for commodities and supplies, but also for services) and responsibility for oversight of personnel responsible for directly engaging and supervising the provision of contract services. My experience in United Nations Peacekeeping included overseeing operations responsible for the complex and challenging task of specifying support requirements across the full range of support activities, supervising personnel who have provided technical analysis of bids and proposals, devising strategies to strengthen controls, ensure a trained and ready workforce, and meet ever increasing operational demands. It also represents direct experience working in a large, far-flung and complicated bureaucracy, subject to many audits and investigations on an annual basis, and answerable to multiple governance and oversight agencies. As previously noted to the Committee, nearly all of these audit and investigation reports are available publically on the United States Mission to the United Nation's webpage.

2. A significant portion of DHS procurement is related to high tech and complex equipment and capabilities. Previous Deputy Secretaries have had strong backgrounds in these acquisitions. It appears your experience with large-scale procurement is with the U.N Peacekeeping field procurement – moving fuel, blankets, tents, food. Do you have experience with high tech acquisitions for such things as nuclear detection devises and SBI*net*? Have you ever developed the technical specifications for high-tech acquisitions or ensure contractors are meeting those specs?

   Yes. While procurement for United Nations Peacekeeping does include essential operating commodities such as rations and fuel on a major scale, it also includes everything from building maintenance to aviation services. United Nations

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Peacekeeping involves large, complex military operations in some of the most austere environments in the world. I oversaw efforts that raised requirements to support these operations, including highly technical and complex requirements for transportation, communications and information technology, including development of rapid deployment teleport systems, mounted C-band satellite earth stations, ATVs for remote site operations and satellite systems acquisitions, including INMARSAT, IRIDIUM, and Thuraya. During my tenure as head of Peacekeeping support operations, my staff also developed technical specifications for information technology systems to support the dynamic management of vehicle fleets, ensure the tracking of complex supply and financial operations in widely-dispersed mission locations, and ensure continuous and reliable worldwide satellite communications and business continuity for United Nations Peacekeeping operations, including such platforms as Galileo, Mercury. My staff also developed requirements for and oversaw the Veritas back-up system for business continuity as well as developed requirements for the Peacekeeping system-wide enterprise resource platform. In addition, we undertook a major initiative to develop a secondary backup site for the United Nations system. To advance this initiative, we established requirements based on the complex, world-wide operations of the United Nations system, evaluated nearly one dozen complicated and sensitive national proposals in two separate rounds, conducted on-site visits and evaluations, and worked directly with the Office of Internal Oversight Services to ensure a transparent and legitimate process. In addition, my communications and information technology staff oversaw the daily performance of TRIGYN contractors performing highly technical services, providing ongoing supervision and technical engagement to ensure that contractors were performing services at a level consistent with contractual provisions.

3. Do you have experience successfully unifying long-standing organizations with their own parochial turf, different history, and concepts of mission – such as the 22 agencies within DHS – and directing them to serve the overall mission objective of the entire enterprise?

Yes. Some of my earliest professional experience came as the Brigade Signal Officer for the United States Berlin Brigade with responsibilities to ensure the continuous and reliable voice and data communications for all Brigade operations. These responsibilities included working closely with British and French counterparts to build interoperable systems and procedures and involved direct, sustained liaison and coordination to ensure that three entirely different militaries with distinct histories, concepts of mission, traditions, and procedures could come together, including in crisis, and operate as a coherent whole.

During my tenure at the National Security Council staff under both President George H.W. Bush and President William Jefferson Clinton, my responsibilities included handling all aspects of the crisis and conflict in the former Yugoslavia during the early 1990s. My daily responsibilities included bringing together all

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parts of the Executive Branch to formulate and execute a common policy with multiple parts to protect and advance the interests and role of the United States in helping to end this conflict. In addition, I had responsibilities for other issues as well, including those related to Greece, Turkey, Cyprus, Germany and German-speaking Europe, the United Kingdom, Ireland, Canada, and NATO, among others. In each of these areas, I was responsible for bringing together the relevant stakeholders, overcoming bureaucratic obstacles, and unifying efforts in order to present the President with well-considered strategies and options for policymaking.

During my tenure at the United Nations, I was at the center of daily efforts to unify the disparate strands of multinational military, civilian, and police components in a multi-partite effort to support Peacekeeping mandates. I was also a leading figure in the joint development/humanitarian/peacekeeping effort to create and strengthen integrated missions on the ground, bringing together personnel from well-established but markedly different fields in a common effort that emphasized joint purpose and common cause at a strategic level (delivering as "one UN"), to operational collaboration and coordination (promoting regional cooperation among Peacekeeping and other United Nations efforts within geographical regions), and at a tactical level as a key proponent of the "common services" approach to vital support functions.

4. Do you have experience working with state and local officials and the private sector to encourage preparedness or securing critical infrastructure such as nuclear reactors and chemical plants?

Yes. I do have experience working with state and local officials and with the private, nongovernmental sector, in the context of United Nations field-based peace operations, to encourage preparedness and safeguard key infrastructure important to the success of United Nations Peacekeeping operations (and, in turn, the local communities as well).

At the United Nations, I routinely met with state and local officials from countries around the world and with representatives of nongovernmental organizations to understand how the presence of, in many cases, the large military and police presence of individual Peacekeeping missions impacted local communities or other operations and undertook to promote collaborative strategies to reduce vulnerabilities and promote common awareness and successful operations. While the infrastructure in many areas served by United Nations Peacekeeping does not reach the level of complexity of nuclear reactors or advanced chemical plants, there are many aspects of infrastructure use, safety, and security that involve securing critical lines of communication (including roads, bridges, and tunnels), essential production or market facilities, and other assets that are critical to the success of local communities and of the Peacekeeping missions deployed.

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5. Did you specifically manage the $5 to $6 billion Peacekeeping budget at the U.N.? If so, what part of the budget? What qualifications do you have for managing DHS's $40 billion budget?

Yes. While I was not the Chief Financial Officer, I did have responsibility for managing all Peacekeeping budgets. The Peacekeeping budget grew during my tenure from $1.8 billion to nearly $8 billion in five years. As part of my responsibilities in the Department of Peacekeeping Operations and later as head of the Department of Field Support, I oversaw the Field Budget and Finance Division which was responsible for the preparation, presentation, and monitoring of Peacekeeping budgets within the United Nations Financial Rules and Regulations, as well as supporting the deliberations of the legislative bodies of the United Nations (specifically the Advisory Committee on Administrative and Budgetary Questions, and the Fifth Committee of the General Assembly) on mission budgets and performance.

As for my qualifications for managing DHS's budget, I have first-hand experience with organization-wide budget preparation and reporting from my service as the Executive Vice-President and Chief Operating Officer of the United Nations Foundation which involved the formulation, management, and accountability of the annual operating budget, as well as the engagement of public-private partnerships to leverage the Foundation's contributions. I deepened and expanded my experience through my responsibilities in United Nations Peacekeeping, where I oversaw accurate and timely budget preparations and submissions for all field-based peace operations (nearly $8 billion), related ongoing operational requirements to resource requests, responded to the resource and financial implications of sudden changes in mandate or operating conditions on the ground, formulated financial implication statements for the United Nations Security Council as new or expanded mission mandates were under consideration, and compiled performance data and reports for United Nations governance bodies.

In addition to these daily operational responsibilities, I undertook strategic initiatives to strengthen budget and finance operations for the field, including leading the effort to develop and employ budget templates for mission budget preparation – frameworks which resulted in a significant reduction in budget preparation times, while increasing the accuracy of budget formulations. I also initiated a practice of sending budget and finance teams (called "abacus teams") to the field to directly assist on-the-ground operations in the preparation of budgets and performance reports. In addition, under my leadership, we also prepared the Contingent-Owned Equipment Review of Member States – the major quadrennial review which establishes the definitive schedule of allowable costs for every aspect of Member State contributions to Peacekeeping Operations. In addition, I was the focal point for direct liaison with the audit and investigative functions of the Office of Internal Oversight Services, as well as with the United Nations External Board of Auditors.

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6. Do you have experience managing DHS portfolios such as border security and immigration, port security, counterterrorism, state and local information-sharing and interoperability, and critical infrastructure protection?

Yes. I have experience managing portfolios that have directly supported border security operations and issues related to the movement and settlement of people. For example, in the United Nations Mission in Ethiopia and Eritrea, I was directly involved in managing issues related to the operations and maintenance of that border mission during my tenure in United Nations Peacekeeping, including during critical crisis periods – in particular, the period that led to the closure and restructuring of the mission. In addition, in Haiti, I directed mission support efforts to help establish, supply, equip and support to this complex Peacekeeping operation with responsibilities for border security and management where stopping the flow of illegal arms and narcotics is a central part of the Mission's mandate. My experience in Peacekeeping has also involved support to maintaining secure and reliable port operations in such places as on the Congo river in the Democratic Republic of Congo, and including the first ever naval operation as part of the United Nations Interim Force in Lebanon. Similarly, many Peacekeeping operations have had to contend with the movements of large numbers of people, often suddenly, as when natural disaster or conflict has threatened. Many Peacekeeping missions during my tenure had to cope with managing significant migrations of war-affected populations and displaced persons.

Interoperability is an issue that I have deep familiarity with, and I have direct experience managing programs designed to ensure and achieve interoperability. For example, as a communications-electronics officer assigned to the United States Army in Berlin, I had direct responsibility for ensuring interoperable communications between United States Forces in Berlin and U.S. allies. In addition, I was responsible for ensuring that communications with local authorities was established and continuously functioning during exercises and in crisis circumstances (for example, a number of airline hijackings occurred during my assignment).

I also oversaw the Communications and Information Technology Service in United Nations Peacekeeping with responsibility for ensuring the continuous and reliable voice, data, and increasingly video communications throughout United Nations Peacekeeping operations worldwide. This entailed ensuring that the wide variety of communications equipment and practices brought to United Nations Peacekeeping operations by military and police units from around the world were interoperable with other parts of the mission.

With respect to counter terrorism, as a leader in United Nations Peacekeeping I managed support to field operations in some of the most dangerous places in the world. I am intimately familiar with the threat posed by terrorists and the

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challenges inherent in protecting against their strike. Responsible for worldwide support operations of the second largest deployed military presence in the world, I worked closely with United Nations colleagues and with multiple Member States and other stakeholders to ensure that appropriate information was shared in timely ways and that standards were established to protect the safety and security of personnel, facilities, and operations in mission environments in which there were active threats of terrorism. In addition, while serving on the National Security Council staff, I was directly involved in facilitating Presidential decision-making on United States' relations with a number of countries where terrorists were known to operate and where terrorism was a central aspect of issues under consideration.

My experience working in an international context with all levels of governments, including local and, frequently, camp elders in refugee or internally-displaced camps has vividly illustrated to me the importance of incorporating stakeholders' perspectives at all levels into all operations.

In addition, I would respectfully ask to incorporate my response to Question No. 4, ante, with respect to my experience navigating the challenges of protecting critical infrastructure.

7. According to the head of U.N. Management, you had 18 months to prepare for the mission to Darfur when you pushed through the no-bid contract. We also knew for years that Darfur was in crisis, and two years prior to the mission being deployed, the Security Council issued a report detailing the situation. It was the nature of your job to prepare for and deploy Peacekeeping missions in difficult environments at a moment's notice. Was the head of U.N. Management correct when he stated you did not have adequate logistics concepts in place to facilitate rapid deployment without skirting competition? Why or why not?

No. To begin, I believe the issue cited in this question was raised by the Controller of the United Nations, not the Under Secretary-General for Management (as the question suggests), as part of a response to a note I prepared to Ms. Alicia Barcena (then-Undersecretary-General for Management) requesting senior-level engagement on a series of issues regarding the ability of the procurement system of the United Nations to keep up with ever-expanding Peacekeeping requirements in the field. I did not "push through" this no-bid contract, and indeed, this unique recommendation and the decision to support a sole-source solution to a grave and worsening problem on the ground was fully by the Department of Management and the Secretary-General, fully within the Financial Rules and Regulations of the United Nations, and fully disclosed to the Member States, including the United States. I do not agree that the situation was one in which responsible personnel – whether in the Department of Field Support, the Procurement Division of the Department of Management, or in the Mission on the ground – failed to adequately plan for the provision of logistics services. The

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Secretary-General has taken the same view in a report to the General Assembly (A/63/668/Add. 1).

Moreover, while the current crisis in Darfur began unfolding in 2003, it was not until November, 2006 that United Nations Peacekeeping was called upon to engage on the ground. Until that time, peacekeeping in Darfur was conducted by the African Union. In late-2006/early-2007, planning commenced for the deployment of the heavy support package (one phase in the multi-phased plan to facilitate the establishment of an unprecedented joint United Nations/African Union peacekeeping mission in Darfur). This period was characterized by significant political and operational uncertainties and delays. These delays included the direct refusal of the Government of Sudan to approve many aspects of the deployment, including permission to allow important heavy support package capabilities to be provided by troop-contributing countries. Under these extremely unpredictable conditions, it was not possible to finalize requirements suitable for a statement of work at an earlier time.

8. In 2008, U.N. auditors reported that the political and civilian affairs components of your operations lacked performance indicators. In your response to one of my pre-hearing questions, you agreed with the report but then listed several performance measures you used.

   a. Why is there a discrepancy between you and the U.N. auditors?

The auditors referred to the need for indicators of achievement and performance measures for the political and civil affairs components of Peacekeeping operations. Political and civil affairs were not activities which fell in my area of programmatic responsibility for support operations to Peacekeeping worldwide. I understood the pre-hearing question to ask that I provide examples of indicators and performance measures that I utilized for Peacekeeping missions and outlined examples of those my staff and I put in place for the areas that were under my responsibility (mission support), including field personnel, field budget and finance, field logistics, supply and transportation, communications and information technology support to the field, senior leadership appointments, among others.

   b. Is there any record of these performance measures you listed or any reports that audit your operations based on these indicators? If so, will you provide this Committee with copies of each?

While I am confident that in some of the hundreds of OIOIS reports that covered my tenure at the United Nations some of the performance measures listed would be mentioned or reflected, I cannot recall specifically which report or which measure. I should take this opportunity to underscore to the Committee that the measures I outlined were initiatives undertaken by me and my staff as proactive

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measures to improve operations in the field, and not simply as measures in response to any particular report of the Office of Internal Oversight Services.

9. Will you provide the Committee with reports that record the number of rape and abuse victims you assisted, the type of care you provided, the amount of funds you spent each fiscal year directly assisting victims, and the number of U.N. personnel that have been successfully prosecuted during your tenure while you were responsible for the U.N.'s response to the abuse?

The United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel was adopted by the General Assembly on March 7, 2008. I am not aware that any reports exist which record the number of rape and abuse victims that have been assisted since this policy was adopted.

I do know, however, that publically available reports have documented the dramatic decline in sexual exploitation and abuse by Peacekeepers following the implementation of my Task Force's recommendations. These reports are issued every year by the Secretary-General and are entitled Special Measures for the Protection from Sexual Exploitation and Sexual Abuse. I understand that your staff has been provided with copies of most of these Reports, and I am attaching complete copies of the 2005, 2006, 2007, and 2008 report to this response. Specifically, I call your attention to the Secretary-General's most recent report dated June 25, 2008 in which he concludes that "[t]he total number of allegations of sexual exploitation and abuse has substantially declined, with only 159 cases reported in 2007 compared with the 371 reported in 2006." Special Measures for Protection From Sexual Exploitation and Sexual Abuse, Report of the Secretary-General (A/62/890) at p. 5.

With respect to victims' assistance, I know that the Department of Peacekeeping and the Department of Field Support, together with other United Nations agencies, funds and programs (e.g. UNICEF) are in the process of developing guidelines for the implementation of the newly adopted victim's assistance policy. The policy, which was adopted by the General Assembly (comprised of the 192-Member States), does not provide for any new or additional funds within United Nations Peacekeeping missions to provide assistance to victims of sexual exploitation and abuse, but rather, requires that such support be provided through existing services and programs. The policy does outline assistance such as medical care, legal services, support to deal with the psychological and social effects of the experience and immediate material care, as necessary. As a means of addressing the needs of victims before this official policy was approved by the General Assembly, the Task Force I led on Preventing Sexual Exploitation and Abuse formulated a strategy whereby United Nations Peacekeeping Missions would work closely with partner United Nations agencies on the ground, such as UNICEF, and their implementing non-governmental partners to provide a base of support to victims that were identified. I am unaware of whether or to what extent

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United Nations Peacekeeping missions have begun to identify costs within current allocations that have been associated with providing such assistance.

Regarding the accountability and prosecution of personnel identified to be responsible for sexual abuse, my Task Force and I built on the findings of the Report of Prince Zeid to the Secretary General in 2004 and engaged an independent group of legal experts to specifically address these issues. I commissioned the group of legal expert's report on "Ensuring Accountability of UN Staff and Experts on Mission With Respect to Criminal Acts Committed in Peacekeeping Operations." (A/60/980). It was this report that led to the General Assembly's adoption of Resolution A/RES 62/63, Criminal Accountability of United Nations Officials and Experts on Mission in December 2007, calling on all 192 Member States to extend jurisdiction to cover criminal misconduct of United Nations officials or experts on mission. In addition, the General Assembly encouraged Member States to cooperate with each other and with the United Nations in the exchange of information and facilitation of investigations and, as appropriate, the prosecution of the persons found to be responsible for such conduct. It is my understanding that the United Nations regularly issues reporting summaries pursuant to this General Assembly Resolution. The "Criminal Accountability of United Nations Officials and Experts on Mission" A/63/260 report (which covers the reporting period December 2007 –June 2008) found that between December 2007 – June 2008 two United Nations officials and one expert on mission have been referred to their countries of origin for criminal prosecution. This report is available online and, for the Committee's east of reference, I have appended it to my answer.

a. Which official at the U.N. is ultimately responsible for tracking this information, how is it tracked, what are the titles and dates for each report containing this information, and who receives the reports?

The General Assembly has, via Resolution A/57/306 of 15 April 2003, requested that the Secretary-General maintain data on investigations into sexual exploitation and related offences. The Secretary-General reports annually on data collected on the occurrence of cases of sexual exploitation and abuse within the United Nations system and on the efforts underway to prevent such acts. Publication details follow for the annual reports of the Secretary-General on Special Measures for Protection from Sexual Exploitation and Sexual Abuse: A/58/777 (23 April 2004); A/59/782 (15 April 2005); A/60/861 (24 May 2006); A/61/957 (15 June 2007); and A/62/890 (25 June 2008). I understand that these reports have already been provided to Committee staff. I am attaching them here, again, for the Committee's ease of reference.

10. You indicated that you were in charge of a two year effort to have the U.N. adopt a victims' support strategy in 2008 – years after the Peacekeeping abuse scandals erupted under your watch. What is the budget spent for this new program, how many victims has it assisted, and has there been any audits or reports on its

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effectiveness? If so, will you share with this Committee those audits and reports?

The United Nations Comprehensive Strategy on Assistance and support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel was adopted by the General Assembly on 7 March 2008 (A/RES/62/214). It is important to recognize that the Victims Assistance Working Group of my Sexual Exploitation and Abuse Task Force commenced work in 2005 as one of the earliest initiatives of my Task Force (which I was assigned to run in late-2004/early-2005). At the outset, the Working Group repeatedly and consistently engaged with the 192-Member States of the United Nations and others to develop a strategy that was acceptable to the General Assembly (a body on which every country has a seat and a vote). The time it took to develop a strategy is indicative of the nature of getting 192-countries to agree on a strategic approach to a proposal that directly implicates the behavior of their own nationals. My staff and I doggedly pursued this agenda. I reject any suggestion that my Task Force staff in any way contributed to any delay in devising and promoting such a strategy. Indeed, as the Committee has heard from leading independent advocacy organizations on this issue (like Save the Children), I pushed these reforms through a system that, in many ways, did not want to address the problem.

While I left the Department of Field Support shortly after the General Assembly's adoption of this strategy, I understand that the Departments of Peacekeeping Operations and Field Support have worked with partners in the United Nations system – via the joint Executive Committee for Peace and Security/Executive Committee for Humanitarian Assistance, United Nations Country Teams in the field, individual Peacekeeping missions, and with non-governmental organizations on the ground – to develop an implementation guide covering all aspects of the strategy. Building on the Conduct and Discipline teams that now exist in every single United Nations mission (as a direct result of the findings of the Zeid report and the work of my Task Force) and are comprised of United Nations staff, in-country working groups have been established in all large Peacekeeping missions focused on preventing sexual exploitation and abuse and drawing upon the larger-international community, including non-governmental organizations. I understand that responsibility for leading these working groups designed to ferret out problems related to sexual exploitation and abuse has now been incorporated into the core job description for United Nations Resident Coordinators (one of the most senior UN officials on the ground). I also understand that work is ongoing to put in place guidelines regarding the support and coordination structures and mechanisms to aid those who require assistance. These mechanisms include medical care, legal services, support to deal with the psychological and social effects of abuse, and immediate material care, as necessary.

The strategy adopted by the General Assembly specifies that all assistance and support should be provided through existing services, programs, and their networks (not new budgetary allocations) and that, as the United Nations

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develops further guidelines that may include new services, duplicative structures should be avoided. I understand that in Liberia, for instance, a number of initiatives are in place with on-the-ground networks that promote awareness campaigns, training, and other measures to prevent abuse, and that rapid response teams have been formed to respond to cases of alleged rape and abuse. I do not have information on the numbers of victims that may have been assisted by United Nations Peacekeeping missions, inasmuch as the overall implementation of the strategy is only at the very earliest stages. I am not aware that the strategy or steps on its implementation have yet been audited, although I do know that the General Assembly has called on the Secretary-General to report on the implementation of the policy at its 64th Session, which begins September 2009.

In conclusion, I would like to underscore my professional and personal repudiation of the sexual abuse and misconduct that has plagued United Nations Peacekeeping. On every level, personally and professionally, not only as a human being, but also as a mother, and as a female Army officer who began service in the 1970s, I have a personal investment in, and deep commitment to, eradicating this kind of behavior. I, quite simply, have zero tolerance for it and have worked extremely hard to eliminate it. While we should all be outraged by what transpired, there should be no question about the strength of my response to it. The Committee, however, does not need to take my word for it. Jasmine Whitbread, Executive Director of Save the Children UK (the leading independent organization working on addressing sexual exploitation and abuse), an organization that has been deeply critical of the United Nations has written, "Ms. Holl Lute has consistently engaged fully with our research findings and recommendations on this issue and responded positively and decisively to any challenges they raise. Ms. Holl Lute has made an important contribution to the zero tolerance of SEA (sexual exploitation and abuse)...she has championed this issue...she leaves a legacy of sustained UN-wide engagement in tackling this issue."

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United Nations A/58/777

General Assembly

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Fifty-eighth session
Agenda items 127 and 134

Human resources management

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Special measures for protection from sexual exploitation and sexual abuse

Report of the Secretary-General*

Summary

The present report is submitted in compliance with General Assembly resolution 57/306 of 15 April 2003, in which the Assembly requested the Secretary-General to maintain data on investigations into sexual exploitation and related offences. The report sets out data collected on the occurrence of cases of sexual exploitation and abuse within the United Nations system and on the efforts under way to prevent such acts. The report also describes the progress made in the development of guidelines and tools to establish a reporting process that is sensitive to the needs of victims and towards the promotion of a culture in which sexual exploitation and abuse are not tolerated.

* The delay in the submission of the present report was due to the need to obtain a number of responses from the wide range of United Nations entities providing data on cases of sexual exploitation and abuse.

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I. Reports of sexual exploitation and abuse in 2003

1. The General Assembly in its resolution 57/306 of 15 April 2003, requested the Secretary-General to, inter alia, maintain data on investigations into sexual exploitation and related offences by humanitarian and peacekeeping personnel, and all relevant actions taken thereon. Pursuant to that resolution, the Secretary-General issued his bulletin ST/SGB/2003/13 of 9 October 2003 on special measures for protection from sexual exploitation and sexual abuse. As defined in the bulletin, "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. The term "sexual abuse" means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

2. In response to the request in resolution 57/306, and in accordance with the Secretary-General's bulletin, the present report provides information on investigations into cases of sexual exploitation and abuse in 2003 and the measures taken to deal with such cases within the United Nations system.

3. In response to the Secretariat's query regarding investigations into cases of sexual exploitation or sexual abuse, 48 United Nations entities responded. Forty-two entities stated that they had received no reports of sexual exploitation or abuse in 2003. Six entities (the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) reported that investigations into newly reported cases were opened last year. The Department of Peacekeeping Operations reported 24 new cases. In two of the five cases where the alleged perpetrators were civilian personnel, serious misconduct was found to have occurred and appropriate disciplinary action was taken. As for the 19 cases in which military personnel were allegedly involved, investigations revealed serious misconduct in eight cases and appropriate action was taken. Investigations into the remaining 14 cases in the Department (both civilian and military) are currently under way. The Office for the Coordination of Humanitarian Affairs reported one case, now closed (the alleged perpetrator's contract expired and he left the country). UNHCR reported that 24 new cases emerged; 22 have been closed (12 because the alleged perpetrator was not a UNHCR staff member, 6 because the allegations could not be substantiated, and 3 because the perpetrator was dismissed) and 2 remain under investigation. UNRWA reported 2 cases; 1 is closed (the alleged victim refused to sign the required affidavit) and 1 is under investigation. UNICEF and WFP reported 1 case each and both are currently under investigation.

II. Observations

4. The Secretariat is aware that the data gathered on cases of sexual exploitation and abuse perpetrated by personnel affiliated with the United Nations may not reflect the true extent of these deplorable incidents. Complaint procedures and victim support mechanisms are not yet adequate. In many cases, victims are reportedly too frightened or ashamed to lodge a complaint. In addition, once they have reported an allegation, some victims fail to provide evidence during the

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investigation phase due to confusion or, in some cases, intimidation. In addition, staff members may not yet be fully aware of the responsibilities placed on them by the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13). Considerable additional efforts are required to establish a system within which misconduct of this kind is systematically reported on and effectively followed up, while safeguarding the rights of the victims.

5. However, as detailed in the next section of the report, a number of concrete measures have recently been put in place that are expected to improve the situation during 2004. These include enhanced sensitization on the issue for managers and staff, particularly those in the field, and the development of tools and guidelines for the appropriate handling of complaints of sexual exploitation and abuse.

III. Progress in implementing special measures for protection from sexual exploitation and sexual abuse

6. Further to the information provided in the previous note on this subject (A/58/559), significant progress has been made towards full implementation of the bulletin following its promulgation in October 2003.

7. Several United Nations entities have adapted their codes of conduct to incorporate the specific principles outlined in the bulletin on the prevention of, response to and reporting of cases of sexual exploitation and sexual abuse. Moreover, a number of non-governmental organizations that work in partnership with United Nations agencies have taken similar steps. Several donor Governments have placed funding restrictions on agencies that do not subscribe to the core principles.

8. At the request of the Secretary-General, in November 2003 the Executive Committee on Humanitarian Affairs established a working group to design a system for implementation of the bulletin by all parts of the United Nations system in the field, whether in peacekeeping operations or in development contexts. The working group collaborated closely with the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises.

9. The following measures, aimed at ensuring consistent and coherent implementation of the bulletin, were agreed upon by the working group:

(a) Any United Nations entity with a substantial presence in a particular country will appoint a senior-level sexual exploitation and abuse (SEA) focal point and alternate in their respective field operations;

(b) The SEA focal point (or alternate) will be a female staff member and will receive specialized training on the handling of complaints;

(c) All focal points will work together in a country-level network, which should include any SEA focal points designated by NGOs;

(d) All communications to staff and local populations about prevention of sexual exploitation and abuse and about channels of recourse for victims of such exploitation and abuse will be issued in the relevant languages by the in-country

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networks, under the auspices of the special representatives of the Secretary-General or the resident coordinators/humanitarian coordinators.

10. While responsibility for implementation of the bulletin rests primarily with the heads of individual United Nations entities, the Secretary-General has confirmed that his special representatives, resident coordinators and humanitarian coordinators are in the best position to ensure that the bulletin is implemented coherently in the field. Therefore, they bear specific responsibilities in this regard. The importance of these responsibilities was emphasized at the humanitarian coordinators' retreat in November 2003, organized by the Office for the Coordination of Humanitarian Affairs, as well as at the March 2004 heads of mission conference, organized by the Department for Peacekeeping Operations.

11. In December 2003, the decisions on implementation outlined above were communicated together with a copy of the bulletin to all field operations by all members of the Executive Committee on Humanitarian Affairs, including the Department of Peacekeeping Operations, the Department of Political Affairs, the Office for the Coordination of Humanitarian Affairs, UNICEF, UNHCR, OHCHR, the United Nations Development Programme (UNDP), WFP and UNRWA. This communication stressed the responsibility of managers for creating and maintaining an environment free of sexual exploitation and abuse and for ensuring that all complaints are dealt with sensitively and followed up in an appropriate manner.

12. The Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises has completed a number of guidelines designed to assist with implementation of the bulletin. These include model terms of reference for field-level focal points; model terms of reference for in-country networks on sexual exploitation and abuse; and a simple information sheet for local communities on sexual exploitation and abuse and how to report complaints. In addition, the Task Force has compiled a number of training programmes on sexual exploitation and abuse, which are available to United Nations staff and to staff of other interested organizations on the Internet.

13. Model complaints procedures and investigative protocols for cases of sexual exploitation and abuse have been finalized by the Inter-Agency Standing Committee Task Force and are being reviewed by the Office of Human Resources Management. The Task Force is also working to ensure that new national and international recruits to the United Nations system receive a copy of the bulletin in the appropriate working language as part of the induction process.

IV. Conclusions

14. The intention of the Secretary-General in promulgating the bulletin on protection from sexual exploitation and sexual abuse was to ensure that all categories of personnel serving under the United Nations flag would be fully aware of the standards of conduct expected of them, and that they would abide by them in the areas of prevention of sexual exploitation and sexual abuse. In addition, the Secretary-General calls on Member States to incorporate the core principles enshrined in the bulletin into the standards and codes of conduct for their national armed forces and police forces. He also seeks the support of Member States in ensuring that military personnel serving with United Nations peacekeeping operations are held accountable for any acts of sexual exploitation and abuse. The

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Secretary-General welcomes the ongoing commitment of the Inter-Agency Standing Committee to addressing the issue of sexual exploitation and abuse, and to promoting a culture of prevention and protection throughout its membership.

15. **The General Assembly is requested to take note of the present report.**

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Fifty-ninth session
Agenda items 114 and 123

Human resources management

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Special measures for protection from sexual exploitation and sexual abuse*

Report of the Secretary-General

Summary

The present report is submitted in compliance with General Assembly resolution 57/306 of 15 April 2003, in which the Assembly requested the Secretary-General to maintain data on investigations into sexual exploitation and related offences. The report presents data on allegations of sexual exploitation and abuse in the United Nations system in the period from January to December 2004. It also describes progress made in the creation and implementation of measures designed to prevent sexual exploitation and abuse, and measures for processing allegations.

* The tardy submission of this report is due to the delay in receipt and analysis of data (up to 31 December 2004) as well as the necessity to consult widely once the data was finalized.

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I. Reports of sexual exploitation and abuse in 2004

1. The General Assembly in resolution 57/306 of 15 April 2003 requested the Secretary-General to, inter alia, maintain data on investigations into sexual exploitation and related offences by humanitarian and peacekeeping personnel, and all relevant actions taken thereon. Pursuant to that resolution, the Secretary-General on 9 October 2003 issued his bulletin ST/SGB/2003/13 on special measures for protection from sexual exploitation and sexual abuse. It was addressed to all staff of the United Nations, including staff of separately administered organs and programmes. As defined in the bulletin, "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. The term "sexual abuse" means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

2. In response to the request in resolution 57/306, and in accordance with the Secretary-General's bulletin, the present report provides information on the number and type of allegations of sexual exploitation and abuse in 2004. It also sets out the status of investigations into those allegations as at 31 December 2004, and an update on the creation and implementation of measures designed to prevent sexual exploitation and abuse. It also describes the actions that have been taken to enforce United Nations standards of conduct related to sexual exploitation and abuse.

3. In response to the Secretariat's query regarding allegations of sexual exploitation or sexual abuse in 2004, the Office of the Assistant Secretary-General for Human Resources received responses from all 47 United Nations entities from which it solicited responses. These included United Nations Secretariat departments and offices, as well as United Nations agencies, funds and programmes.

4. Forty-one entities received no reports of sexual exploitation or abuse in 2004. Six entities reported that investigations into new cases were opened last year. The number of allegations reported by all entities totalled 121. Annex I presents a list of the nature of allegations by United Nations entity and category of personnel.

5. Annex II presents the status of investigations as at 31 December 2004 in United Nations entities other than the Department of Peacekeeping Operations. The United Nations Children's Fund (UNICEF) had reported 2 cases; 1 had been dismissed due to insufficient evidence and 1 had been sent to United Nations Headquarters for disciplinary action. The World Food Programme (WFP) had reported 1 case; it was pending further investigation. The Office of Internal Oversight Services had reported 1 case; it had been closed owing to the staff member's resignation. The Office of the United Nations High Commissioner for Refugees (UNHCR) had reported 10 cases; 6 had been classified as unsubstantiated or closed, and 4 cases were pending further investigation. The United Nations Volunteers Programme (UNV) had reported 2 cases; 1 case had been dismissed after a preliminary investigation and 1 was pending further investigation.

6. Annex III presents the status of investigations of allegations concerning the Department of Peacekeeping Operations as at 31 December 2004. It had reported 105 new allegations in 2004: 89 against uniformed personnel and 16 against civilian personnel. The majority of these, or 80 allegations, were brought against military personnel, who constitute three quarters of all peacekeeping personnel in the field,

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and 9 allegations were related to civilian police. Fifteen allegations involved United Nations staff and one was related to a civilian. The investigation process for allegations against United Nations staff and other civilian personnel (consultants and independent contractors) in the Department provides for them to be examined first by the Head of Mission. He/she either decides that no further action is required, or that a preliminary investigation is necessary. Based on the preliminary investigation, the allegation is either deemed to be unsubstantiated or sent to Headquarters for action. For staff of the Department of Peacekeeping Operations and other civilian personnel in 2004, 1 allegation had been deemed to require no further action and 15 were investigated. Of the 15 investigations, 7 cases had been sent to Headquarters for disciplinary action, 7 were pending investigation and 1 allegation had been classified as unsubstantiated as at 31 December 2004.

7. The same examination of allegations by the Head of Mission, followed by a preliminary investigation, exists for complaints against uniformed peacekeeping personnel, namely, members of national military contingents, military observers and civilian police (referred to as "experts on mission"). However, for personnel in these categories, the preliminary investigation is followed by a Board of Inquiry investigation. In cases in which individuals are found to have committed sexual exploitation or abuse, the Head of Mission can recommend repatriation to the Under-Secretary-General for Peacekeeping Operations. If he/she approves the recommendation, the Permanent Mission of the uniformed personnel concerned is notified and the expenses of the repatriation are paid by the relevant Member State. Among the 89 allegations against uniformed personnel, the Head of Mission decided that no further action was necessary for 6 allegations, 6 allegations were pending a preliminary investigation, and 4 allegations had been deemed unsubstantiated as at 31 December 2004. Seventy-three allegations against uniformed personnel had been sent to the Board of Inquiry: 15 were pending investigation, 5 had been found unsubstantiated, and allegations had been substantiated in 53 cases as at 31 December 2004. In substantiated cases, the military personnel were repatriated on disciplinary grounds. The Department of Peacekeeping Operations is following up with Member States to obtain information on disciplinary and/or criminal action taken.

8. From May to September 2004, the Office of Internal Oversight Services investigated allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). The status of those allegations are laid out in the investigation by the Office of the Internal Oversight Services into allegations of sexual exploitation and abuse in MONUC (A/59/661).

II. Observations

9. The total number of 121 allegations of sexual exploitation and abuse registered in 2004 was more than double the 53 allegations reported in 2003. The increase in allegations is deeply troubling. It should be noted, however, that the recorded increase may result in part from the newly implemented measures to prevent and respond to sexual exploitation and abuse. Focal points have been designated to facilitate receipt of complaints, reporting procedures have become more clearly defined, and managers have clearly and publicly indicated that sexual exploitation and abuse will not be tolerated. In these new work environments, it is to be expected

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that victims, United Nations personnel and others will be more inclined to come forward with their allegations.

10. Sixteen allegations were reported from all United Nations entities other than the Department of Peacekeeping Operations. The types of allegations ranged from inappropriate verbal conduct to sexual assault and rape. The majority of all allegations, or 105 of the total 121, are from the Department of Peacekeeping Operations. Forty-five per cent of those allegations involve sex with minors and 15 per cent involved rape or sexual assault. Over one third (31 per cent) involved prostitution with adult women and the remaining 6 per cent involved other forms of sexual exploitation and abuse.

11. Although allegations have doubled since 2003, the Secretariat is aware that the data may still not reflect the true extent of these deplorable incidents. Complaints mechanisms still need to be developed in many remote field locations. Although some United Nations personnel may now be more ready to come forward with complaints, others may still be inhibited by a lack of trust in current complaints, investigative and disciplinary systems, and some victims still may be too afraid to come forward. Doubts about the confidentiality of the process are a further deterrent. Some United Nations entities lack the resources needed to bolster efforts to prevent sexual exploitation and abuse. In addition, in cases involving exchange of money or employment for sex there is little incentive, economic or otherwise, for victims to come forward to report, resulting in a probable under-reporting of this form of misconduct. The Secretariat continues to work towards improving these measures; progress made in this regard is described in the following section.

III. Progress in implementing special measures for protection from sexual exploitation and sexual abuse

12. During 2004, further progress was made in implementing baseline measures that will both discourage the occurrence of sexual exploitation and abuse and facilitate responding to and reporting on such incidents when they occur. The Office of Human Resources Management oversees this by monitoring the progress that United Nations entities are making with regard to the Secretary-General's bulletin on sexual exploitation and abuse (ST/SGB/2003/13). All entities are to uphold certain specific minimum standards, including:

(a) The designation of a focal point for receiving complaints of sexual exploitation and abuse in each United Nations entity, and informing staff of the existence and purpose of the focal point. Entities with field operations and missions are also required to inform the local population of the existence and purpose of the focal point;

(b) Distribution of Secretary-General's bulletin ST/SGB/2003/13;

(c) Taking prompt action in accordance with established rules and procedures to deal with cases of staff misconduct;

(d) Promptly informing the Department of Management at Headquarters of investigations into cases of sexual exploitation and abuse, and the actions an office has taken as a result.

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13. With regard to focal point designation and awareness, all 47 United Nations entities have appointed sexual exploitation and abuse focal points, and have made their staff aware of their existence and purpose. However, while staff members have been made aware of these focal points and their functions, the local population has not always been sufficiently informed. This is partly due to the need to establish better complaints and response mechanisms before launching comprehensive information campaigns.

14. With regard to the second measure above, all 47 entities reported that they have communicated the Secretary-General's bulletin to their staff. The Office of Human Resources Management has also noted that it appears that entities have become more vigilant and efficient about taking action when sexual exploitation and abuse allegations are made, and in informing the Department of Management.

15. In addition to ensuring that the measures described above are implemented so that the minimum standards of protection against sexual exploitation and abuse are in force across all entities, the Office of Human Resources Management consults with and participates in the activities of a number of inter-agency and interdisciplinary task forces and working groups, including those established by the Executive Committees on Peace and Security and Humanitarian Affairs.

16. One of these groups, the Inter-Agency Standing Committee Task Force,[1] was established in May 2002 by the Inter-Agency Standing Committee and the Executive Committee on Humanitarian Affairs. The major achievements of the Task Force were outlined in its final report, of June 2004. They included clarifying specific standards of conduct and establishing practical measures to address sexual exploitation and abuse by civilian personnel employed by or affiliated with the United Nations or other organizations. Individual agencies and organizations have now taken on the responsibility for following up on the work of the Task Force.

17. One set of standards developed by the Task Force included six reference tools which now apply formally to the entire United Nations system and partners in cooperative arrangements with the United Nations, and informally to all Inter-Agency Standing Committee partners. In May 2004, after approval by the Office of Human Resources Management, they were issued jointly by the Chairperson of the Inter-Agency Standing Committee and the Under-Secretary-General for Management to all heads of departments, offices, funds and programmes and Standing Committee principals. A brief description of the tools follows:

(a) Terms of reference for in-country focal points on sexual exploitation and abuse. These terms of reference elaborate the responsibility of focal points for

[1] The Inter-Agency Standing Committee Task Force was chaired jointly by the Office for the Coordination of Humanitarian Affairs and UNICEF and comprises the Office of the Special Adviser on Gender Issues, the Department of Peacekeeping Operations, WFP, UNHCR, the United Nations Office for Project Services, the Office of the United Nations High Commissioner for Human Rights, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, the International Federation of Red Cross and Red Crescent Societies, and the non-governmental organization consortia Interaction and the Steering Committee for Humanitarian Response, including Save the Children-United Kingdom and Oxfam. A large number of other United Nations and non-humanitarian and development organizations provided input to the work of the Task Force. It also liaised with the Office of Human Resources Management, the Office of Legal Affairs and Member States.

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receiving and channelling complaints through appropriate mechanisms and making recommendations on prevention strategies;

(b) Terms of reference for in-country networks on sexual exploitation and abuse. These terms of reference elaborate the networks' responsibility for information sharing and coordination and oversight on prevention and response to sexual exploitation and abuse;

(c) Model information sheet for local communities. This alerts beneficiaries to the standards of behaviour expected from humanitarian personnel, as well as basic mechanisms to report abuse;

(d) Model complaints referral form. This is designed to allow for systematic monitoring and investigation of cases;

(e) Scenarios covering prohibited acts. These are designed to assist organizations in training and staff sensitization, so that humanitarian workers and peacekeepers have a full understanding of the acts prohibited under the Secretary-General's bulletin;

(f) Implementation guidelines. These provide guidance on the roles and responsibilities of different levels of managers in implementing the Secretary-General's bulletin and utilizing the tools described above.

18. From May 2004 to the time of writing, the Inter-Agency Standing Committee Task Force Co-Chairpersons have maintained an informal network to provide policy guidance and advice to the field as required. This network has provided support to two training missions to Liberia and the Democratic Republic of the Congo, in July and December 2004. It also contributed to the comprehensive training programme on investigation protocols initiated by the International Council of Voluntary Agencies.

19. A wide range of measures were put in place in peacekeeping operations in 2004 to prevent and respond to sexual exploitation and abuse and to enforce United Nations standards of conduct in this regard. Some specific actions included the following:

(a) At Headquarters, late in 2004, the Department of Peacekeeping Operations created a multidisciplinary task force on sexual exploitation and abuse led by the Assistant Secretary-General, Jane Holl Lute. The task force is intended to support peacekeeping operations in addressing sexual exploitation and abuse effectively. The task force is focusing on producing policy and other guidance, particularly relating to data management and reporting, training, welfare, planning and public information and communications;

(b) A full-time Personnel Conduct Officer was assigned to MONUC in April 2004 to provide the Mission with increased capacity to address conduct issues. Similar posts have been established in Côte d'Ivoire, Burundi and Haiti, and an Officer has been appointed in Burundi;

(c) On the prevention side, the majority of peacekeeping operations issued memoranda during 2004 reminding all members of the mission about the standards set out in ST/SGB/2003/13. Basic induction training on United Nations standards of conduct relating to sexual exploitation and abuse was initiated in a number of peacekeeping operations, including those in Côte d'Ivoire, Liberia and Sierra Leone;

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(d) Missions in Côte d'Ivoire, Liberia, the Democratic Republic of the Congo, Ethiopia, Kosovo (Serbia and Montenegro) and Timor-Leste have established lists of premises and areas frequented by prostitutes which are now out of bounds to all personnel;

(e) During 2004, MONUC also introduced a number of mission-specific measures to eliminate abuses. These measures included:

(i) Establishment of a Personnel Conduct Unit to address sexual exploitation and abuse;

(ii) Investigations into allegations of sexual exploitation and abuse by professional investigators with a background in sex crimes, particularly those involving children;

(iii) Establishment of a strict non-fraternization policy and a curfew for military contingents;

(iv) Designation of off-limits areas and premises for all MONUC personnel;

(v) Increased monitoring of off-limits areas and premises;

(vi) Strengthened cooperation with the local police to decrease the interaction between local women and military personnel around military bases and to ensure the positioning of street vendors away from the premises;

(vii) Requirement for military contingents to wear uniforms at all times when outside the military camp;

(viii) Replacement of static guard posts in densely populated areas with mobile and frequent foot patrols, where possible;

(ix) Proposals for improving welfare and recreational facilities for civilian and uniformed personnel.

20. The Organization has also pursued an active dialogue with the Member States on the issue of sexual exploitation and abuse. In July 2004, the Secretary-General invited His Royal Highness Prince Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of Jordan, to act as his Adviser on sexual exploitation and abuse by United Nations peacekeeping personnel. Prince Zeid visited the Democratic Republic of the Congo in October and November 2004 to determine the nature and extent of the problem in peacekeeping contexts and undertook a series of informal consultations with Member States on the issue. At the request of the Secretary-General, Prince Zeid prepared a comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations (see A/59/710). This report was considered by the Special Committee on Peacekeeping Operations in April 2005 and recommendations approved will be taken up for implementation primarily through the task forces on sexual exploitation and abuse set up by the Department of Peacekeeping Operations and the Executive Committees on Peace and Security and Humanitarian Affairs.

21. While some progress has been made during the period under review, those efforts have also served to highlight shortcomings in terms of policies, procedures and guidelines that are needed to prevent sexual exploitation and abuse and enforce United Nations standards of conduct in this regard. In particular, much more needs to be done to establish clear, confidential and easily accessible complaints

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mechanisms and to improve information-sharing between different components of the system. Staff have also requested a clearer understanding of the terms of the Secretary-General's bulletin, guidance on how allegations are to be handled and investigated, and information about the disciplinary consequences attached to breaching the standards laid out in the bulletin.

IV. Conclusions

22. The Secretariat anticipates that its efforts to prevent sexual exploitation and abuse will continue to result in an increased number of allegations. It remains committed to changing the organizational culture that permits such acts. Furthermore, the Secretary-General reiterates his firm commitment to implementing the recommendations made in a comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations (see A/59/710) and urges Member States to pursue this goal with similar resolve and due haste.

23. The General Assembly is requested to take note of the present report.

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Annex I

Nature of allegations, by United Nations entity and category of personnel

1 January-31 December 2004

Nature of allegation	*United Nations staff*[a]	*Other United Nations civilian personnel*[b]	*Civilian police personnel*[c]	*Military personnel*[d]	*Total*
Department of Peacekeeping Operations					
Sex with minors	2	0	2	43	**47**
Employment for sex	1	0	0	0	**1**
Sex with prostitutes	8	0	3	22	**33**
Sexual assault	1	0	2	2	**5**
Rape	2	1	1	10	**14**
Other	1	0	1	3	**5**
Total	**15**	**1**	**9**	**80**	**105**
UNICEF					
Sex with minors	1	1	-	-	**2**
Employment for sex	0	0	-	-	**0**
Sex with prostitutes	0	0	-	-	**0**
Sexual assault	0	0	-	-	**0**
Rape	0	0	-	-	**0**
Other	0	0	-	-	**0**
Total	**1**	**1**	**0**	**0**	**2**
WFP					
Sex with minors	0	0	-	-	**0**
Employment for sex	0	0	-	-	**0**
Sex with prostitutes	0	0	-	-	**0**
Sexual assault	0	0	-	-	**0**
Rape	0	0	-	-	**0**
Other (sex for food)	1	0	-	-	**1**
Total	**1**	**0**	**0**	**0**	**1**
OIOS					
Sex with minors	0	0	-	-	**0**
Employment for sex	0	0	-	-	**0**
Sex with prostitutes	1	0	-	-	**1**
Sexual assault	0	0	-	-	**0**

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Nature of allegation	*United Nations staff*[a]	*Other United Nations civilian personnel*[b]	*Civilian police personnel*[c]	*Military personnel*[d]	*Total*
Rape	0	0	-	-	**0**
Other	0	0	-	-	**0**
Total	**1**	**0**	**0**	**0**	**1**
UNHCR					
Sex with minors	0	1	-	-	**1**
Employment for sex	0	1	-	-	**1**
Sex with prostitutes	0	0	-	-	**0**
Sexual assault	0	4	-	-	**4**
Rape	0	1	-	-	**1**
Other (request for sexual favours to refugee women against money/assistance in-kind)	0	3	-	-	**3**
Total	**0**	**10**	**0**	**0**	**10**
UNV					
Sex with minors	0	1	-	-	**1**
Employment for sex	0	0	-	-	**0**
Sex with prostitutes	0	0	-	-	**0**
Sexual assault	0	0	-	-	**0**
Rape	0	0	-	-	**0**
Other (inappropriate verbal conduct)	0	1	-	-	**1**
Total	**0**	**2**	**0**	**0**	**2**
Totals					
Sex with minors	3	3	2	43	**51**
Employment for sex	1	1	0	0	**2**
Sex with prostitutes	9	0	3	22	**34**
Sexual assault	1	4	2	2	**9**
Rape	2	2	1	10	**15**
Other	2	4	1	3	**10**
Total	**18**	**14**	**9**	**80**	**121**

[a] Including all international and locally recruited staff under the 100, 200 or 300 series of Staff Rules.

[b] Including individual contractors, consultants, Junior Professional Officers and United Nations Volunteers.

[c] Including formed police units in the Department of Peacekeeping Operations.

[d] Including members of military contingents, United Nations military staff officers, military observers and military liaison officers.

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Annex II

Status of investigations reported in 2004 (all United Nations entities except the Department of Peacekeeping Operations)

Entity	*Total allegations received*	*Status of investigation as at 31 December 2004*		
		Unsubstantiated or closed	*Pending*	*Sent to Headquarters for further investigation and possible disciplinary action*
UNICEF	**2**	1	0	**1**
WFP	**1**	0	1	0
OIOS	**1**	1	0	0
UNHCR	**10**	6	4	0
UNV	**2**	1	1	0

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Annex III

Department of Peacekeeping Operations: status of investigations (1 January-31 December 2004)

				Status of investigations as at 31 December 2004						
				Preliminary investigation				*Board of Inquiry*		
Category of personnel	***Total number of peacekeeping personnel***	***Total allegations received[a] (1)***	*No further actions deemed necessary by Head of Mission (2)*	*Pending (3)*	*Sent to Headquarters for disciplinary action (4)*	*Unsubstantiated (5)*	*Sent to a Board of Inquiry (6)*	*Pending (7)*	*Substantiated (8)*	*Unsubstantiated (9)*
Civilians[b]	**12 299**	**16**	1	7	7	1	-	-	-	-
Civilian police[c]	**6 757**	**9**	1	2	-	4	2	2	0	0
Military[c]	**58 274**	**80**	5	4	-	0	71	13	53	5
Total peacekeeping personnel	**77 330**	**105**	**7**	**13**	**7**	**5**	**73**	**15**	**53**	**5**

[a] Sum of columns (2) to (6).
[b] Total number of United Nations civilian personnel as at 19 January 2005.
[c] Total number of civilian police and military personnel as at 3 March 2005.

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Human resources management

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Special measures for protection from sexual exploitation and sexual abuse*

Report of the Secretary-General

Summary

The present report is submitted in compliance with General Assembly resolution 57/306 of 15 April 2003, in which the Assembly requested the Secretary-General to maintain data on investigations into sexual exploitation and related offences. The report presents data on allegations of sexual exploitation and abuse in the United Nations system in the period from January to December 2005. It also describes progress made in the creation and implementation of measures designed to prevent sexual exploitation and abuse, and measures for processing allegations.

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I. Reports of sexual exploitation and abuse in 2005

1. The General Assembly, in its resolution 57/306 of 15 April 2003, requested the Secretary-General to, inter alia, maintain data on investigations into sexual exploitation and related offences by humanitarian and peacekeeping personnel, and all relevant actions taken thereon. Pursuant to that resolution, the Secretary-General on 9 October 2003 issued his bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13). It was addressed to all staff of the United Nations, including staff of separately administered organs and programmes. As defined in the bulletin, "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. The term "sexual abuse" means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

2. In response to the request in resolution 57/306, and in accordance with the Secretary-General's bulletin, the present report provides information on the number and type of allegations of sexual exploitation and abuse in 2005. It also sets out the status of investigations into those allegations as at 31 December 2005, and describes the actions that have been taken to enforce United Nations standards of conduct related to sexual exploitation and abuse.

3. In response to the Secretariat's query regarding allegations of sexual exploitation or sexual abuse in 2005, responses were received from all 41 United Nations entities from which information had been sought. These included United Nations Secretariat departments and offices, as well as United Nations agencies, funds and programmes.

4. Thirty-four entities received no reports of sexual exploitation or abuse in 2005. Seven entities reported that investigations into new cases were opened last year. The number of allegations reported by all entities totalled 373. Annex I presents a list of the nature of allegations, by United Nations entity and category of personnel.

5. Annex II presents the status of investigations as at 31 December 2005 in United Nations entities other than the Department of Peacekeeping Operations.

- The United Nations Volunteers Programme (UNV) had reported 21 cases. One case was received after the volunteer had already finished his assignment and in 20 cases, disciplinary action was taken in line with UNV Conditions of Service.
- The Office of the United Nations High Commissioner for Refugees (UNHCR) had reported 7 cases. Two cases were sent to the Division of Human Resources Management for disciplinary action; 2 cases were closed owing to insufficient evidence; 1 case was pending investigation by the Inspector General; 1 case was pending further action by the UNV headquarters, after a preliminary investigation determined that the allegations were substantiated; and 1 case was closed when the fixed term appointment of the staff member expired after the receipt of the allegations.
- The World Food Programme (WFP) had reported 2 cases which were sent to the WFP Human Resources Director for administrative or disciplinary action.

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- The Department of Political Affairs had reported 1 case; a preliminary investigation determined that the allegations were not substantiated.
- The United Nations Office for Project Services (UNOPS) had reported 1 case; a preliminary investigation determined that the allegations were not substantiated.
- The United Nations Relief Works Agency for Palestine Refugees in the Near East (UNRWA) had reported 1 case; the case was closed after the staff member concerned agreed to leave the Agency.

6. Annex III presents the status of investigations of allegations concerning the Department of Peacekeeping Operations as at 31 December 2005. The Department had reported 340 new allegations in 2005: 217 against uniformed personnel and 123 against civilian personnel. The majority of these, or 193 allegations, were brought against military personnel, who constitute almost three quarters of all peacekeeping personnel in the field, and 24 allegations were related to civilian police. Eighty allegations involved United Nations staff and 42 allegations were related to other United Nations civilian personnel (which includes individual contractors, consultants, Junior Professional Officers and United Nations Volunteers).

7. Prior to September 2005, the investigation process for allegations against United Nations staff and other civilian personnel in the Department provided for them to be examined first by the head of mission, who decided whether a preliminary investigation was necessary. Based on the preliminary investigation, the allegation is either deemed to be unsubstantiated or sent to Headquarters for action. For staff of the Department of Peacekeeping Operations and other civilian personnel in 2005, 4 allegations had been deemed to require no further action and 68 were investigated. Of the 68 investigations, 33 cases had been sent to Headquarters for disciplinary action, 1 was pending investigation, 14 cases were substantiated and 4 allegations had been classified as unsubstantiated as at 31 December 2005. Sixteen cases involving civilian personnel were sent to Boards of Inquiry for investigation; of this number, 1 was substantiated, 14 were unsubstantiated and 1 remained pending. From September 2005 onwards, cases of sexual exploitation and abuse were referred to the Office of Internal Oversight Services (OIOS) from Department of Peacekeeping Operations field missions. Allegations were also reported directly to OIOS.

8. The same examination of allegations by the head of mission, followed by a preliminary investigation, is conducted for complaints against uniformed peacekeeping personnel, namely, members of national military contingents, military observers and civilian police (referred to as "experts on mission"). For personnel in these categories, the preliminary investigation is followed by a Board of Inquiry investigation. In cases in which individuals are found to have committed sexual exploitation or abuse, the head of mission can recommend repatriation to the Under-Secretary-General for Peacekeeping Operations. If he/she approves the recommendation, the Permanent Mission of the uniformed personnel concerned is notified and the expenses of the repatriation are paid by the relevant Member State. Among the 193 allegations against uniformed personnel, the head of mission decided that no further action was necessary for 50 allegations; 3 allegations were pending a preliminary investigation, 7 allegations were deemed unsubstantiated, 3 were substantiated and 15 were submitted to Headquarters for disciplinary action as at 31 December 2005. Seventy-six allegations were under investigation by OIOS.

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Thirty-nine allegations against uniformed personnel were also sent to the Board of Inquiry; of these, 2 were pending investigation, 18 were found unsubstantiated, and allegations were substantiated in 19 cases as at 31 December 2005. In substantiated cases, the military personnel were repatriated on disciplinary grounds. The Department of Peacekeeping Operations is following up with Member States to obtain information on disciplinary and/or criminal action taken.

II. Observations

9. The total number of 373 allegations of sexual exploitation and abuse registered in 2005 was considerably higher than the 121 allegations reported in 2004. The increase in allegations may reflect, in part, greater awareness and use of reporting mechanisms. It will remain important for the Organization to continue to improve reporting mechanisms and to analyse the data received in order to fully understand the scope and nature of the problem of sexual exploitation and abuse.

10. Thirty-three allegations were reported from all United Nations entities other than the Department of Peacekeeping Operations. Of these allegations, 14 related to the distribution of pornography through e-mail while 7 involved sex with minors. None of the allegations against United Nations staff or United Nations Volunteers from these United Nations entities related to sexual assault or rape.

11. The majority of all allegations, or 340 of the total 373 allegations, are from the Department of Peacekeeping Operations.

- Of the 123 allegations against United Nations staff and other United Nations civilian personnel, 53 allegations were categorized "other", which included 15 allegations of distribution of pornography over e-mail, 8 allegations of inappropriate relationships with the local population and 3 paternity claims. Six of the allegations related to sexual assault and rape.
- Of the 217 allegations against uniformed personnel, 82 allegations were categorized "other", which included 19 allegations of inappropriate relationships with the local population, 12 paternity claims, 3 allegations of distribution of pornography and 2 allegations of food in exchange for sex. Sixty-eight allegations involved sex with prostitutes and 43 allegations related to sex with minors. Twenty-four allegations involved sexual assault and rape.

III. Implementation of special measures for protection from sexual exploitation and sexual abuse

12. During 2005, continued progress was made in implementing baseline measures to discourage the occurrence of sexual exploitation and abuse and to facilitate responding to and reporting on such incidents when they occur. According to the Secretary-General's bulletin on sexual exploitation and abuse (ST/SGB/2003/13), all entities are to uphold certain specific minimum standards, including:

(a) The designation of a focal point for receiving complaints of sexual exploitation and abuse in each United Nations entity, and informing staff of the existence and purpose of the focal point. Entities with field operations and missions

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are also required to inform the local population of the existence and purpose of the focal point;

(b) Distribution of Secretary-General's bulletin ST/SGB/2003/13;

(c) Taking prompt action in accordance with established rules and procedures to deal with cases of staff misconduct;

(d) Promptly informing the Department of Management at Headquarters of investigations into cases of sexual exploitation and abuse, and the actions an office has taken as a result.

13. Since 2004, all entities have taken steps to comply with the standards set out in the Secretary-General's bulletin. The Office of Human Resources Management continues to monitor compliance with the bulletin.

14. On 7 January 2005, in response to ongoing allegations of sexual exploitation and abuse by United Nations staff and related personnel, the Executive Committees on Peace and Security and on Humanitarian Affairs established a joint Task Force on Protection from Sexual Exploitation and Abuse, chaired by the Department of Peacekeeping Operations and the United Nations Office for the Coordination of Humanitarian Affairs, to build on the work already achieved by the Inter-Agency Standing Committee to prevent and respond to sexual exploitation and abuse. The Executive Committees stressed the need for the United Nations to act to the highest standards of accountability and for concerted system-wide action to respond to allegations of sexual exploitation and abuse by United Nations staff and related personnel, which they viewed as a serious threat to the integrity of the United Nations.

15. The Task Force was mandated, within the overall aim of preventing sexual exploitation and abuse, to develop policy recommendations to establish a common level of understanding regarding managerial responsibilities and to create a stronger support environment for dealing with sexual exploitation and abuse, both at Headquarters and in the field. Four working groups were created to address (i) managerial accountability; (ii) organizational aspects of change; (iii) assistance to victims; and (iv) a common communication strategy.

16. The Task Force developed mechanisms for accountability and for creating a culture of responsibility, including providing clear guidance and support to managers for dealing with the problem of sexual exploitation and abuse in the particular environments in which the United Nations operates. The Task Force also prepared draft guidance on the application of the Secretary-General's bulletin. Through a year-long process of broad-based consultations with United Nations departments, agencies, funds and programmes, Member States, non-governmental organizations and other interested actors, the Task Force developed a draft policy statement and comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel, for the consideration of Member States in response to General Assembly requests.[1] The Task Force has coordinated its work with the Department of Peacekeeping

[1] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 19* (A/59/19/Rev.1, part two, para. 34); General Assembly resolution 59/300 of 30 June 2005, para. 2; and General Assembly resolution 60/1 of 15 September 2005, para. 165.

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Operations Task Force on Sexual Exploitation and Abuse, which is dealing with similar issues.

17. New initiatives were also undertaken to train and raise staff awareness. A training programme for focal points for protection from sexual exploitation and abuse was developed and piloted in Ethiopia and Eritrea and will be finalized for distribution in 2006. A training video for use by all United Nations departments, agencies, funds and programmes and partners is also under development and contributions were made to the ongoing comprehensive training programme on investigation protocols initiated by the International Council of Voluntary Agencies.

18. In March 2005, the report of the Adviser to the Secretary-General on a comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations ("Zeid report") (A/59/710) was presented to the General Assembly. The actions which have been taken by the Department of Peacekeeping Operations in response to the recommendations of the Zeid report are outlined in the report of the Secretary-General prepared pursuant to General Assembly resolution 59/296 on preventing and addressing sexual exploitation and abuse in all United Nations activities (A/60/862).

19. Although much was achieved in 2005, further strengthening of the measures to prevent sexual exploitation and abuse are needed. While staff have become increasingly aware of their responsibilities under the Secretary-General's bulletin, few local communities are aware of the standards of conduct which United Nations staff and related personnel must uphold and how to come forward when violations occur. In particular, the in-country networks which were to underpin coordinated prevention efforts in the field, have not been established in several places or are not functioning properly.

20. There are very few services available for victims. This has had an impact on outreach to the community and restoring confidence in the Organization's readiness to address the problem of sexual exploitation and abuse. The networks are to be established under the auspices of the Resident Coordinator/Humanitarian Coordinator in each country where the United Nations has a presence. Stronger engagement of United Nations leadership in the field mechanisms will help improve their effectiveness. A failure to prevent sexual exploitation and abuse increases the risk of it occurring and creates additional barriers to reporting, as people lose faith that their complaints will be taken seriously and handled confidentially and that the alleged perpetrators will be investigated and disciplined.

IV. Conclusions

21. The Secretariat anticipates that increased public awareness about the availability of measures to prevent sexual exploitation and sexual abuse may lead to increased number of allegations. Through strengthening community outreach and reporting mechanisms, it also hopes to gain a better understanding of the extent of the problem and improve its own vigilance and response. The Secretariat remains committed to changing the organizational culture that permits such acts and urges Member States to provide their full support to both assisting the Organization in its efforts and adopting the necessary policies to ensure that the zero-tolerance policy is equally applied to all troop contingents.

22. The General Assembly is requested to take note of the present report.

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Annex I

Nature of allegations, by United Nations entity and category of personnel

1 January-31 December 2005

Nature of allegation	*United Nations staff*[a]	*Other United Nations civilian personnel*[b]	*Civilian police personnel*[c]	*Military personnel*[d]	*Total*
Department of Peacekeeping Operations					
Sex with minors	11	6	4	39	**60**
Employment for sex	15	6	0	0	**21**
Sex with prostitutes	15	10	8	60	**93**
Sexual assault	1	0	0	8	**9**
Rape	5	1	1	15	**22**
Other	34	19	11	71	**135**
Total	**81**	**42**	**24**	**193**	**340**
UNV					
Sex with minors	0	4	—	—	**4**
Employment for sex	0	0	—	—	**0**
Sex with prostitutes	0	3	—	—	**3**
Sexual assault	0	0	—	—	**0**
Rape	0	0	—	—	**0**
Other (distribution of pornography via e-mail)	0	14	—	—	**14**
Total	**0**	**21**	**0**	**0**	**21**
UNHCR					
Sex with minors	1	1	—	—	**2**
Employment for sex	0	0	—	—	**0**
Sex with prostitutes	0	0	—	—	**0**
Sexual assault	0	0	—	—	**0**
Rape	0	0	—	—	**0**
Other (sexual exploitation of beneficiaries)	4	1	—	—	**5**
Total	**5**	**2**	**0**	**0**	**7**

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Nature of allegation	United Nations staff of: Department of Political Affairs	UNOPS	UNRWA	WFP
Sex with minors	0	0	0	1
Employment for sex	0	0	0	0
Sex with prostitutes	1	0	0	1
Sexual assault	0	0	0	0
Rape	0	0	0	0
Other (improper relationship with local personnel)	0	1	0	0
Other (suggestion to grant services in return for sex)	0	0	1	0
Total	**1**	**1**	**1**	**2**

Nature of allegation	United Nations staff[a]	Other United Nations civilian personnel[b]	Civilian police personnel[c]	Military personnel[d]	Totals
Totals					
Sex with minors	13	11	4	39	**67**
Employment for sex	15	6	0	0	**21**
Sex with prostitutes	17	13	8	60	**98**
Sexual assault	1	0	0	8	**9**
Rape	5	1	1	15	**22**
Other	40	34	11	71	**156**
Total	**91**	**65**	**24**	**193**	**373**

[a] Including all international and locally recruited staff under the 100, 200 or 300 series of Staff Rules.
[b] Including individual contractors, consultants, Junior Professional Officers and United Nations Volunteers.
[c] Including formed police units in the Department of Peacekeeping Operations.
[d] Including members of military contingents, United Nations military staff officers, military observers and military liaison officers.

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Annex II

Status of investigations reported in 2005 (all United Nations entities except the Department of Peacekeeping Operations)

Entity	*Total allegations received*	*Status of investigation as at 31 December 2005*		
		Unsubstantiated or closed	*Pending*	*Further investigation and possible disciplinary action*
UNV	**21**	1	0	20
UNHCR	**7**	3	1	3
WFP	**2**	0	0	2
Department of Political Affairs	**1**	1	0	0
UNOPS	**1**	1	0	0
UNRWA	**1**	1	0	0

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Annex III

Department of Peacekeeping Operations: status of investigations

(1 January-31 December 2005)

				Status of investigations as at 31 December 2005							
				Preliminary Investigation				*Board of Inquiry*			
Category of personnel	*Total number of peacekeeping personnel*[a]	*Total allegations received*[b] *(1)*	*No further actions deemed necessary by Head of Mission (2)*	*Pending (3)*	*Sent to Headquarters for disciplinary action (4)*	*Unsubstantiated (5)*	*Substantiated (6)*	*Pending (7)*	*Substantiated (8)*	*Unsubstantiated (9)*	*Under investigation by OIOS*[d] *(10)*
Civilians	**17 133**	**123**	4	1	33	4	14[c]	1	1	14	51
Civilian police	**7 241**	**24**	0	3	0	6	0	2	4	0	9
Military	**62 597**	**193**	50	3	15	7	3	2	19	18	76
Total peacekeeping personnel	**86 971**	**340**	**54**	**7**	**48**	**17**	**27**	**5**	**24**	**32**	**136**

[a] Total numbers as at December 2005.

[b] Sum of columns (2) through (10) may exceed the total in column 1 because some cases may have been subject to more than one action.

[c] These cases were subject to administrative actions, including written reprimands and the garnishing of staff salaries.

[d] OIOS reported that they received 134 cases for investigations in 2005. Owing to separate databases, there are discrepancies in the numbers reported by OIOS and the Department of Peacekeeping Operations for each category.

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Report of the Secretary-General

Summary

The present report is submitted in compliance with General Assembly resolution 57/306 of 15 April 2003, in which the Assembly requested the Secretary-General to maintain data on investigations into sexual exploitation and related offences. The report presents data on allegations of sexual exploitation and abuse in the United Nations system for the period from January to December 2006. It also describes progress made in the enforcement of United Nations standards of conduct related to sexual exploitation and abuse.

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I. Introduction

1. The General Assembly, in its resolution 57/306, requested the Secretary-General to, inter alia, maintain data on investigations into sexual exploitation and related offences by humanitarian and peacekeeping personnel, and all relevant actions taken thereon. Pursuant to that resolution, the Secretary-General on 9 October 2003 issued his bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13). It was addressed to all staff of the United Nations, including staff of separately administered organs and programmes. As defined in the bulletin, "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. The term "sexual abuse" means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

2. In response to the request in resolution 57/306, and in accordance with the Secretary-General's bulletin, the present report provides information on the number and type of allegations of sexual exploitation and abuse in 2006. It also sets out the status of investigations into those allegations as at 31 December 2006, and describes progress made in the enforcement of United Nations standards of conduct related to sexual exploitation and abuse.

II. Reports of sexual exploitation and abuse in 2006

3. In response to the Secretariat's request, information on allegations of sexual exploitation or sexual abuse reported in 2006 was provided by all 41 United Nations entities from which information had been sought. Annex I provides a list of the entities requested to submit information, which included United Nations Secretariat departments and offices, as well as United Nations agencies, funds and programmes. Five entities reported receiving new allegations of sexual exploitation and abuse in 2006, whereas thirty-six entities received no allegations. The total number of new allegations reported by all entities totalled 371.

4. The nature of the allegations and the outcome of investigations are detailed in the annexes to the present report. The omission of a reference to a particular entity from these annexes means that no allegations were reported for the personnel from that entity. Since allegations relating to the Department of Peacekeeping Operations involve civilian, military, police and corrections personnel and each category requires different procedures for follow-up, they are presented separately in the annexes.

5. There were 14 allegations of sexual exploitation and abuse involving personnel of United Nations entities other than the Department of Peacekeeping Operations. Annex II presents the number of allegations, by the nature of allegations and the United Nations entity.

6. Pursuant to resolution 59/287, in which the General Assembly mandated the Office of Internal Oversight Services (OIOS) to conduct investigations into allegations of serious misconduct, allegations of sexual exploitation and abuse are now reported to OIOS for investigation. Investigations in the separately administered funds and programmes are conducted by their respective investigative

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units. Allegations reported to OIOS are recorded and evaluated, and then either prioritized for investigation or closed, as appropriate. Allegations which are prioritized for investigation then undergo a preliminary investigation to determine whether the evidence available warrants further investigation. If it is determined that the evidence available is sufficient to proceed with the case, the case remains open. During this phase, the assigned investigator verifies and ensures that all relevant information has been obtained from the complainant.

7. Annex III presents the status of the investigations into allegations of sexual exploitation and abuse involving personnel of United Nations entities other than the Department of Peacekeeping Operations, as at 31 December 2006. The outcome of the completed investigations is summarized below:

(a) The Office of the United Nations High Commissioner for Refugees (UNHCR) reported five cases. One case was determined to be substantiated and the staff member was summarily dismissed. Three cases were determined to be unsubstantiated. One case remained under investigation as at 31 December 2006;

(b) The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) reported three allegations. Two of the allegations were made against the same staff member who was found to have undertaken actions incompatible with his status as an UNRWA staff member and was dismissed. With respect to the third allegation, the staff member admitted to the conduct and was censured with a letter to his file. The apology of the staff member was also accepted by the complainant;

(c) The United Nations Volunteers (UNV) reported two allegations. One allegation was made against a United Nations volunteer assigned to UNDP in Liberia and the other allegation was made against a United Nations volunteer assigned to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). Both allegations were reported to OIOS and the allegation relating to the United Nations volunteer in MONUC was also investigated by the UNV Headquarters and found to be unsubstantiated. In both cases, the outcome of OIOS investigations is not yet known;

(d) The World Food Programme (WFP) reported four allegations. Two allegations were reported against one staff member who was subsequently dismissed. Investigations into the other two allegations revealed that the two individuals were employees of a WFP contractor and not WFP staff members; however, the identities of the individuals could not be ascertained. WFP subsequently implemented measures to promote compliance by contractors with United Nations standards of conduct related to sexual exploitation and abuse.

8. There were 357 allegations of sexual exploitation and abuse involving personnel of the Department of Peacekeeping Operations, as reported to OIOS in 2006. Annex IV provides the number of allegations, by month and peacekeeping mission. The highest number of allegations were reported in MONUC, with a total of 147 allegations.

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9. Annex V presents the status of the investigations into allegations of sexual exploitation and abuse involving personnel of the Department of Peacekeeping Operations, as at 31 December 2006.[1] Of the 357 allegations reported, 82 investigations of United Nations personnel were completed as at 31 December 2006. The results of the investigations were as follows:

(a) Of the 66 investigations of military personnel conducted, allegations in 53 investigations were determined to be unsubstantiated and allegations in the remaining 13 were determined to be substantiated. All 13 individuals were repatriated to their home countries on disciplinary grounds. The Department of Peacekeeping Operations has communicated the results of these investigations to troop-contributing countries and has received feedback on action taken by two Member States against seven military personnel. Action taken by Member States included three demotions in rank, four custodial sentences and five dismissals from the armed services;[2]

(b) Of the 12 investigations of civilian personnel conducted, allegations in 2 investigations were substantiated. In one investigation, the staff member resigned from service with the United Nations prior to the completion of the investigation; however, the results of the completed investigation indicated that the staff member had committed sexual exploitation or abuse. In another investigation involving one contractor, the contract was terminated;

(c) Of the four investigations conducted against police and corrections personnel, allegations in one investigation involving one police officer were substantiated.

10. Annex VI presents the number of investigations into allegations of sexual exploitation and abuse involving personnel of the Department of Peacekeeping Operations, by category of United Nations personnel and the nature of the allegations. Since some allegations may report incomplete or inconsistent facts from different sources, the precise nature of the allegation can be properly ascertained only after an investigation is completed. For example, there are cases in which allegations of prostitution involving minors have been made, but investigations may subsequently show that the alleged victim was not a minor but over the age of 18 years.

III. Observations

11. The total number of allegations of sexual exploitation and abuse reported remained relatively constant, with 371 allegations reported in 2006, compared with 373 reported in 2005.

12. There was a decrease in the number of allegations relating to personnel from United Nations entities other than the Department of Peacekeeping Operations, with 14 allegations reported in 2006. In 2005, there were 33 allegations made against

[1] With respect to the numbers of allegations and investigations provided by the Department of Peacekeeping Operations it should be noted that these numbers do not reflect the number of alleged perpetrators nor victims, as multiple allegations could correspond to one alleged perpetrator, whereas one investigation could involve one contingent comprising multiple alleged perpetrators.

[2] Several individuals received a combination of sanctions.

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non-Department of Peacekeeping Operations personnel; however, 14 of those allegations related to the distribution of pornography via e-mail. In the present report, allegations relating to the viewing or distribution of pornography that do not involve beneficiaries of assistance are not included, as these actions were determined not to constitute the type of misconduct targeted by the Secretary-General's bulletin on sexual exploitation and abuse. Such acts, however, continue to be treated as misconduct and are subject to disciplinary proceedings.

13. The majority of all allegations, or 357 of the total 371 allegations, relate to personnel from the Department of Peacekeeping Operations. This figure represents a 5 per cent increase from the 340 allegations reported in 2005; however, it should be noted that the number of peacekeeping personnel increased by approximately 14 per cent in 2006. The increased number of allegations can be partly attributed to better reporting mechanisms, as this period coincided with the creation of dedicated conduct and discipline teams, the establishment of resident Office of Internal Oversight Services offices in a number of Department of Peacekeeping Operations missions,[3] strengthened coordination of reporting mechanisms and the focused implementation of the comprehensive strategy of the Department of Peacekeeping Operations to address sexual exploitation and abuse. As the prevention and enforcement efforts undertaken by the Department of Peacekeeping Operations began to take root, reports of sexual exploitation and abuse began to decline towards the end of 2006; only 12 allegations were reported in December 2006, compared with 97 allegations reported in January 2006.

14. During the course of 2006, a number of challenges relating to the recording of allegations of sexual exploitation and abuse by personnel of the Department of Peacekeeping Operations emerged. While certain allegations are reported directly to OIOS, the same allegations may be reported to the missions as well. Moreover, multiple allegations reported to OIOS may relate to a single individual; conversely, a single allegation may be made in respect of more than one individual. The confidentiality requirements that bind OIOS pose challenges for the comparison and harmonization of data received by the Department of Peacekeeping Operations through its missions. Both entities are developing mechanisms and procedures to synchronize data collection.

IV. Strengthening measures for protection from sexual exploitation and sexual abuse

Continued compliance with the Secretary-General's bulletin

15. In 2006, continued progress was made in implementing baseline measures to discourage the occurrence of sexual exploitation and abuse and to facilitate responding to and reporting on such incidents when they occur. According to the Secretary-General's bulletin on sexual exploitation and abuse (ST/SGB/2003/13), all entities are to uphold certain specific minimum standards, including:

[3] Resident OIOS offices were established in MONUC, United Nations Mission in Liberia (UNMIL), United Nations Mission for the Referendum in Western Sahara (MINURSO), United Nations Mission in the Sudan (UNMIS), United Nations Operations in Côte d'Ivoire (UNOCI), and United Nations Operations in Burundi (ONUB). On 31 December 2006, ONUB completed its mandate and the OIOS office was closed.

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(a) The designation of a focal point for receiving complaints of sexual exploitation and abuse in each United Nations entity, and informing staff of the existence and purpose of the focal point. Entities with field operations and missions are also required to inform the local population of the existence and purpose of the focal point;

(b) Distribution of the Secretary-General's bulletin ST/SGB/2003/13;

(c) Taking prompt action in accordance with established rules and procedures to deal with cases of staff misconduct;

(d) Promptly informing the Department of Management at Headquarters of investigations into cases of sexual exploitation and abuse, and the actions an office has taken as a result.

16. All 41 entities providing information for the present report confirmed compliance with the standards set out in the Secretary-General's bulletin.

17. Language requiring consultants and individual contractors to abide by the standards of conduct relating to the prohibition of sexual exploitation and abuse set out in the Secretary-General's bulletin ST/SGB/2003/13 was introduced, effective 1 April 2006, to administrative instruction ST/AI/1999/7 on consultants and individual contractors and the accompanying General Conditions of Contracts for the Services of Consultants or Individual Contractors. Executive officers in all duty stations were also instructed to provide new consultants and individual contractors with a text of the bulletin.

18. Similarly, the United Nations General Conditions of Contract, applicable to corporate contractors, were first amended in June 2005 and subsequently revised in February 2006, in order to include an obligation on the part of the contractor to take all appropriate measures to prevent sexual exploitation or abuse of anyone by the contractor or by any of its employees or any other persons who may be engaged by the contractor to perform any services under the contract.

Task Force on Protection from Sexual Exploitation and Abuse

19. In 2005, the joint Task Force on Protection from Sexual Exploitation and Abuse ("Task Force") was established by the Executive Committees on Humanitarian Affairs and Peace and Security. The Task Force, chaired by the Department of Peacekeeping Operations and the Office for the Coordination of Humanitarian Affairs, continued to carry out its mandate to create a strong supportive environment for dealing with sexual exploitation and abuse and to develop policy recommendations for establishing common understanding regarding managerial responsibilities. Non-governmental organizations were invited to join the membership of the Task Force in June 2006 in order to enhance its efficacy, and the Task Force was renamed the Executive Committees on Humanitarian Affairs and Peace and Security United Nations and Non-Governmental Organizations Task Force on Protection from Sexual Exploitation and Abuse. Furthermore, the Task Force determined that it would concentrate its efforts on activities that would lead to United Nations-wide strategies to address sexual exploitation and abuse.

20. With a view to enabling victims of sexual exploitation and abuse to receive the assistance they need, the Task Force engaged in broad consultations with Member

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States to finalize the draft policy statement and comprehensive strategy on assistance and support to victims of sexual exploitation and abuse by United Nations staff and related personnel. The draft policy statement and strategy were presented in the letter dated 25 May 2006 (A/60/877) from the Secretary-General to the President of the General Assembly.

21. At its resumed session in December 2006, the Special Committee on Peacekeeping Operations considered the proposal and reiterated its belief that a strategy for victim assistance is an important element of a comprehensive response to the problem of sexual exploitation and abuse.[4] On the basis that the draft comprehensive strategy may have a United Nations-wide application, the Special Committee invited the President of the General Assembly to convene an Ad Hoc Open-ended Working Group on Assistance and Support to Victims of Sexual Exploitation and Abuse, with a view to reporting the results of their deliberations to the General Assembly before the end of the sixty-first session. Meanwhile, the Special Committee confirmed that until a comprehensive strategy for assistance to victims of sexual exploitation and abuse has been adopted, peacekeeping missions should continue to provide emergency assistance to victims of sexual exploitation and abuse within current mission budgets.[5]

Department of Peacekeeping Operations Conduct and Discipline Teams

22. Following the establishment of a Conduct and Discipline Team in the Department of Peacekeeping Operations in New York in November 2005, dedicated personnel were deployed to the field in 2005 and 2006. The following peacekeeping missions had Conduct and Discipline Teams as at 31 December 2006: United Nations Assistance Mission in Afghanistan (UNAMA), United Nations Integrated Office in Burundi (BINUB), United Nations Operations in Côte d'Ivoire (UNOCI), MONUC, United Nations Mission in Liberia (UNMIL), United Nations Interim Administration in Kosovo (UNMIK), United Nations Stabilization Mission in Haiti (MINUSTAH), United Nations Military Observer Group in India and Pakistan (UNMOGIP), United Nations Mission in the Sudan (UNMIS) and United Nations Integrated Office in Sierra Leone (UNIOSIL).

23. The creation of Conduct and Discipline Teams has strengthened the capacity to address misconduct in a more consistent manner. The Conduct and Discipline Team at Headquarters in New York develops strategies for addressing conduct and discipline throughout the Department of Peacekeeping Operations and provides oversight on the state of conduct and discipline for all categories of personnel in all missions administered by the Department.

24. The Conduct and Discipline Teams in the missions act as principal advisers to heads of mission on all conduct and discipline issues involving all categories of personnel and implement measures to prevent misconduct, to enforce United Nations standards of conduct and to ensure remedial action when it is required. The

[4] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 19* (A/61/19 (Part I)), para. 2.

[5] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 19* (A/61/19 (Part II)), para. 71.

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teams also receive and monitor allegations of misconduct, including sexual exploitation and abuse, forward the allegations to the appropriate investigating authorities and provide feedback to victims and host populations on the outcome of investigations.

25. The Conduct and Discipline Teams are also responsible for developing and delivering training and awareness-raising to United Nations personnel and host populations on the standards contained in the Secretary-General's bulletin on sexual exploitation and abuse. The teams continue to deliver training to all peacekeeping personnel upon entry into peacekeeping locations, using a training module entitled "Prevention of sexual exploitation and abuse", together with other training tools such as a video on United Nations codes of conduct. Modules for training middle and senior management on their responsibilities to prevent sexual exploitation and abuse were developed in 2006 and are expected to be finalized and distributed before the end of 2007.

26. The Department of Peacekeeping Operations, through its conduct and discipline teams, continues to develop and implement policies and strategies to prevent sexual exploitation and abuse. Standard operating procedures on the establishment of welfare and recreation facilities were also developed in 2006 and have been disseminated to missions.

High-Level Conference on sexual exploitation and abuse

27. To supplement efforts to seek broad support for a United Nations-wide strategy on sexual exploitation and abuse, a High-Level Conference on sexual exploitation and abuse by United Nations and non-governmental personnel was held in New York on 4 December 2006. The conference was hosted jointly by the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF). It was attended by representatives of international organizations, non-governmental organizations and Member States.

28. The conference served as an occasion for senior leaders within the United Nations, non-governmental organizations and international organizations to evaluate current achievements and challenges faced in preventing and responding to sexual exploitation and abuse by their personnel. It also presented an opportunity for senior leaders of these organizations to chart the way forward in preventing future acts of sexual exploitation and abuse by their personnel. The conference culminated with the issuance of a Statement of Commitment on Eliminating Sexual Exploitation and Abuse by United Nations and Non-United Nations Personnel, which contained 10 principles to facilitate rapid implementation of standards relating to the prevention and elimination of sexual exploitation and abuse. The Statement will form the basis of a United Nations-wide strategy to address sexual exploitation and abuse and the host agencies of the conference will take the lead in developing a common, strategic, institutional plan. Of the 41 entities providing information for the present report, 40 confirmed endorsement of the Statement. A total of 27 non-United Nations entities have also endorsed the Statement.

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Other draft policies currently under consideration

29. In addition to the draft policy statement and comprehensive strategy on assistance and support to victims of sexual exploitation and abuse, a number of draft policies required as part of an integrated strategy to prevent sexual exploitation and abuse remain under consideration by the Member States.

30. At its fifty-ninth session, the General Assembly, in endorsing a package of reforms to address sexual exploitation and abuse, recommended revising the draft model memorandum of understanding between the United Nations and troop-contributing countries to incorporate United Nations standards of conduct.[6] The draft model memorandum of understanding was presented in the report of the Secretary-General (A/61/494) and subsequently finalized by the Ad Hoc Working Group of Experts of the Special Committee on Peacekeeping Operations. In June 2007, the Special Committee considered the draft and decided to recommend to the General Assembly to request the Secretary-General to include the proposed amendments in the model memorandum of understanding.

31. At the same session, the General Assembly also recommended that the Secretary-General appoint a panel of experts to (a) provide advice on ensuring the accountability of United Nations personnel for acts committed while serving in United Nations operations; (b) provide advice on whether, and if so how, the standards relating to address sexual exploitation and abuse could bind contingent members prior to the conclusion of a memorandum of understanding between the United Nations and a troop-contributing country, and (c) study and propose ways of standardizing the norms of conduct applicable to all categories of personnel. The two groups of legal experts presented their recommendations in notes by the Secretary-General (see A/60/980 and A/61/645), currently under consideration by the General Assembly.

V. Conclusions

32. During the period under review, the United Nations has continued to make crucial progress in establishing a sustainable framework within which to address sexual exploitation and abuse. The creation of Conduct and Discipline Teams within the Department of Peacekeeping Operations has led to focused and coordinated responses to prevention and enforcement of sexual exploitation and abuse and related standards of conduct. The High-Level Conference on sexual exploitation and abuse and the work of the Executive Committees on Humanitarian Affairs and Peace and Security Task Force on Protection from Sexual Exploitation and Abuse are important steps towards institutionalizing comprehensive, United Nations-wide implementation of prevention of abuse and the enforcement of the standards of conduct and strategic collaboration with non-governmental organization partners. The draft policies currently under consideration by the General Assembly will also serve as essential elements of a comprehensive strategy to prevent sexual exploitation and abuse, once they are finalized and implemented.

33. The number of allegations of sexual exploitation and abuse reported in 2006 remained constant, indicating that the problem of sexual exploitation and abuse will

[6] General Assembly resolution 59/300, citing A/59/19/Rev.1.

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continue to pose significant challenges for the United Nations in the future. The Organization recognizes that it will be necessary to establish more effective reporting mechanisms, improve investigation procedures, and strengthen community outreach.

34. The Secretariat remains committed to changing the organizational culture to deter acts of sexual exploitation and abuse and urges Member States to provide their full support to both assisting the Organization in its efforts and adopting the necessary policies to ensure that the zero-tolerance policy is equally applied to all troop contingents.

35. The General Assembly is requested to take note of the present report.

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Annex I

United Nations entities requested to provide information on allegations of sexual exploitation and abuse

The United Nations entities requested to provide information on allegations of sexual exploitation and abuse are listed below. The entities marked with an asterisk reported that new allegations of sexual exploitation or abuse were received during the period from January to December 2006. All other entities reported that no allegations were received for that period.

- Office of the Secretary-General
- Office of Internal Oversight Services
- Office of Legal Affairs
- Department of Political Affairs
- Department for Disarmament Affairs
- Department of Peacekeeping Operations*
- Office for the Coordination of Humanitarian Affairs
- Department of Economic and Social Affairs
- Department for General Assembly and Conference Management
- Department of Public Information
- Department of Safety and Security
- Department of Management
- Peacebuilding Support Office
- Office of the Special Representative of the Secretary-General for Children and Armed Conflict
- United Nations Joint Staff Pension Fund
- Office of the Special Adviser on Africa
- United Nations Conference on Trade and Development
- Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States
- Office of the United Nations High Commissioner for Human Rights
- United Nations Office at Geneva
- United Nations Office at Nairobi (including United Nations Environmental Programme and United Nations Human Settlements Programme (UN-Habitat))
- United Nations Office at Vienna (including United Nations Office on Drugs and Crime)
- Economic Commission for Africa
- Economic Commission for Europe

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- Economic Commission for Latin America and the Caribbean
- Economic and Social Commission for Asia and the Pacific
- Economic and Social Commission for Western Asia
- Office of the United Nations High Commissioner for Refugees*
- United Nations Children's Fund
- United Nations Development Programme
- United Nations Development Fund for Women
- United Nations Volunteers*
- United Nations Population Fund
- United Nations Office for Project Services
- United Nations Relief and Works Agency for Palestine Refugees in the Near East*
- United Nations University
- Joint United Nations Programme on HIV/AIDS
- International Criminal Tribunal for Rwanda
- International Criminal Tribunal for the former Yugoslavia
- International Trade Centre
- World Food Programme*

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Annex II

Nature of allegations, by United Nations entities other than the Department of Peacekeeping Operations*

1 January-31 December 2006

Nature of allegation	*UNHCR staff*	*UNRWA staff*	*UNV (other personnel)*	*WFP staff*	*WFP (other personnel)*	*Subtotal*
Sex with minors	0	0	0	0	1	**1**
Exploitative sexual relationship	4	0	0	1	0	**5**
Sex with prostitutes	0	0	1	1	1	**3**
Sexual assault	1	1	0	0	0	**2**
Rape	0	0	0	0	0	**0**
Other (sexual advances towards minors)	0	2	0	0	0	**2**
Other (arranging for employment for beneficiary of assistance)	0	0	1	0	0	**1**
Total	**5**	**3**	**2**	**2**	**2**	**14**

* Entities reporting no allegations are not listed.

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Annex III

Status of investigations into allegations reported in 2006, for personnel of United Nations entities other than the Department of Peacekeeping Operations

1 January-31 December 2006

	Status of investigation as at 31 December 2006			
Entity	*Total allegations received*	*Unsubstantiated or closed*	*Substantiated*	*Investigation ongoing*
UNHCR	**5**	3	1	1
UNRWA*	**3**	0	3	0
UNV	**2**	0	0	2
WFP**	**4**	2	1	0

* Two of the three allegations reported by UNRWA related to the same staff member.
** Two of the four allegations reported by WFP related to the same staff member.

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Annex IV

Number of allegations reported to the Office of Internal Oversight Services in 2006, for personnel of the Department of Peacekeeping Operations, by peacekeeping mission

Mission	*January*	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*	*October*	*November*	*December*	*Total*
MINUSTAH	4	1	6	8	4	1	3	2	4	11	1	3	48
MINURSO	—	—	—	—	—	—	—	—	—	—	1	—	1
MONUC	39	66	19	14	6	2	3	3	8	3	9	4	176
ONUB/BINUB	14	1	1	1	1	1	3	—	—	—	2	—	24
UNFICYP	1	1	—	—	—	1	—	—	—	—	—	1	4
UNIOSIL	—	—	—	—	1	—	—	—	—	—	1	—	2
UNMEE	—	—	—	2	—	1	—	—	—	—	—	—	3
UNMIK	1	—	—	—	—	—	—	—	—	—	—	1	2
UNMIL	34	5	5	5	5	8	2	—	—	3	3	1	71
UNMIS	1	1	3	2	—	4	—	3	—	—	3	2	19
UNOCI	3	—	—	—	—	—	1	—	—	1	1	—	6
UNOMIG	—	—	1	—	—	—	—	—	—	—	—	—	1
UNMOGIP	—	—	—	—	—	—	—	—	—	—	—	—	0
UNTSO/UNSCO	—	—	—	—	—	—	—	—	—	—	—	—	0
UNDOF	—	—	—	—	—	—	—	—	—	—	—	—	0
UNIFIL	—	—	—	—	—	—	—	—	—	—	—	—	0
UNAMA	—	—	—	—	—	—	—	—	—	—	—	—	0
UNAMI	—	—	—	—	—	—	—	—	—	—	—	—	0
Total	**97**	**75**	**35**	**32**	**17**	**18**	**12**	**8**	**12**	**18**	**21**	**12**	**357**

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Annex V

Status of investigations into allegations reported in 2006, for personnel of the Department of Peacekeeping Operations

1 January-31 December 2006

Category of personnel	*Total number of completed investigations conducted by the United Nations*[a] *(1)*	*Total number of cases investigated by the United Nations determined to be unsubstantiated (2)*	*Total number of cases investigated by the United Nations determined to be substantiated and forwarded to OHRM for action (3)*	*Total number of cases determined to be substantiated and forwarded to employer for action*[b] *(4)*	*Total number of cases determined to be substantiated and forwarded to Member State for action (5)*
Civilians[c]	12[d]	9	1	1	N/A
United Nations police and corrections	4	3	N/A	N/A	1
Military[e]	66	53	N/A	N/A	13
Total	**82**	**65**	**1**	**1**	**14**

[a] Column 1 is a total of columns 2, 3, 4 and 5 except for civilians, where one individual separated himself from United Nations service prior to the completion of investigations.
[b] Employers refer to entities with which the individual holds an employment contract, including private companies and United Nations Volunteers Bonn.
[c] Includes civilian staff members, United Nations Volunteers and contractors.
[d] One staff member separated himself from United Nations service prior to the completion of investigations.
[e] Includes staff officers, military observers and military contingents.

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Annex VI

Nature of allegations, by personnel of the Department of Peacekeeping Operations

	Civilian personnel		*Uniformed personnel*		
Nature of allegation	*United Nations staff*	*Other United Nations personnel*	*UN police and corrections personnel*	*Military personnel*	*Subtotal*
Sex with minors[a]	0	1	1	3	5
Exploitative sexual relationships[b]	3	0	2	19	24
Sex with prostitutes	0	6	1	36	43
Sexual assault[c]	0	0	0	1	1
Rape[d]	0	0	0	2	2
Other[e]	1	1	0	5	7
Total	**4**	**8**	**4**	**66**	**82**

[a] Includes all acts of sexual exploitation and abuse against minors, including rape and sexual assault and excluding prostitution.

[b] Refers to exchanges of sexual favours for money, food, employment or other goods or services, excluding engaging in prostitution.

[c] In accordance with the Department of Safety and Security "Security Guidelines for Women", "sexual assault" is any non-consensual act which is forced by one or more persons upon another.

[d] In accordance with the Department of Safety and Security "Security Guidelines for Women", rape is understood to be sexual intercourse which is achieved without the person's consent.

[e] Includes pornography involving beneficiaries of assistance.

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Sixty-second session
Agenda items 133 and 140

Human resources management

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Special measures for protection from sexual exploitation and sexual abuse

Report of the Secretary-General

Summary

The present report is submitted in compliance with General Assembly resolution 57/306 of 15 April 2003, in which the Assembly requested the Secretary-General to maintain data on investigations into sexual exploitation and related offences. The report presents data on allegations of sexual exploitation and abuse in the United Nations system for the period from January to December 2007. It also describes progress made in the enforcement of United Nations standards of conduct related to sexual exploitation and abuse.

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I. Introduction

1. The General Assembly, in its resolution 57/306, requested the Secretary-General, inter alia, to maintain data on investigations into sexual exploitation and related offences by humanitarian and peacekeeping personnel, and all relevant actions taken thereon. Pursuant to that resolution, the Secretary-General, on 9 October 2003, issued a bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13), addressed to all staff of the United Nations, including staff of separately administered organs and programmes. As defined in the bulletin, the term "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. The term "sexual abuse" means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

2. In response to the above-mentioned request, and in accordance with the Secretary-General's bulletin, the present report provides information on the number and type of allegations of sexual exploitation and abuse reported in 2007. It also sets out the status of investigations into those allegations as at 31 December 2007, and describes the progress made in the enforcement of United Nations standards of conduct related to sexual exploitation and abuse.

II. Reports of sexual exploitation and abuse in 2007

3. Information on allegations of sexual exploitation or sexual abuse reported in 2007 was provided by all but 4 of the 43 United Nations entities from which information was sought. Annex I provides a list of the entities requested to submit information, which includes departments and offices of the United Nations Secretariat as well as United Nations agencies, funds and programmes. New allegations of sexual exploitation and abuse in 2007 were reported by 9 entities, whereas 35 reported receiving no allegations. The number of new allegations reported by all entities totalled 159.

4. The nature of the allegations and the outcome of investigations are detailed in the annexes to the present report. The omission of a reference to a particular entity from the annexes means that no allegations were reported in regard to the personnel of that entity. Since allegations relating to the Department of Peacekeeping Operations involve civilian, military, police and corrections personnel and each category requires different procedures for follow-up, they are presented separately in the annexes.

5. There were 32 allegations of sexual exploitation and abuse involving personnel of United Nations entities other than the Department of Peacekeeping Operations. Annex II presents the number of allegations, by nature of allegation and United Nations entity.

6. Pursuant to resolution 59/287, by which the General Assembly mandated the Office of Internal Oversight Services to conduct investigations into allegations of serious misconduct by staff members and other persons engaged in activities under the authority of the Organization, allegations of sexual exploitation and abuse are conveyed to the Office for investigation. Investigations of such allegations in the

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separately administered funds and programmes of the United Nations are conducted by their respective investigative units. Allegations reported to the Office of Internal Oversight Services are recorded and evaluated, and then either prioritized for investigation or closed, as appropriate. Allegations which are prioritized for investigation then undergo a preliminary investigation to determine whether the evidence available warrants further investigation. If it is determined that the evidence available is sufficient to proceed with the case, the case remains open. During this phase, the assigned investigator verifies and ensures that all relevant information has been obtained from the complainant.

7. Annex III presents the status of investigations into allegations of sexual exploitation and abuse involving personnel of United Nations entities other than the Department of Peacekeeping Operations, as at 31 December 2007. The outcome of the completed investigations can be summarized as follows:

(a) One allegation was reported by the United Nations Mission in Nepal, led by the Department of Political Affairs. The case was referred to the Office of Internal Oversight Services for investigation;

(b) Two allegations were reported by the United Nations Integrated Office in Burundi (BINUB). Both allegations were referred to the Office of Internal Oversight Services for investigation;

(c) At the Economic Commission for Latin America and the Caribbean (ECLAC), there was one alleged case which fell under the category of other forms of sexual exploitation and abuse. The case was dealt with at the duty station and the parties were satisfied with the measures taken by the Administration. A report on how the case was handled was sent to the Office of Human Resources Management and the case has been closed;

(d) At the time of preparation of the present report, the Office for the Coordination of Humanitarian Affairs had received an allegation pertaining to one case of possible sexual exploitation and abuse. An assessment is currently being conducted and the results will be submitted to the head of the Office;

(e) The Office of Internal Oversight Services examined two allegations of sexual exploitation and abuse which involved the same individual. The allegations were raised in 2006 and the investigative reports were finalized by the Office in 2007. The cases were forwarded to the Office of Human Resources Management for disciplinary action following the investigation;

(f) The Office of the United Nations High Commissioner for Refugees (UNHCR) reported 19 allegations, of which 9 (8 staff members and 1 related personnel) involved the viewing of pornography on office computer systems. Of the 19 cases, 10 have been investigated and forwarded to the Division of Human Resources Management for disciplinary action, and 1 is still under investigation;

(g) The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) reported five allegations, all of which are currently under investigation in accordance with UNRWA procedures;

(h) The United Nations University (UNU) reported five allegations. One case was determined to be substantiated and the staff member was summarily dismissed. Three cases were determined to be unsubstantiated. One case remained under investigation as at 31 December 2007.

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8. A total of 127 allegations of sexual exploitation and abuse involving personnel of the Department of Peacekeeping Operations were reported to the Office of Internal Oversight Services in 2007. This number reflects a substantial decrease from the 357 cases reported in 2006. Annex IV provides the number of allegations, by month and by peacekeeping mission. The highest number of allegations reported originated at the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), where 59 allegations were made. This is down from the 176 cases at MONUC reported to the Office of Internal Oversight Services in 2006.

9. Annex V presents the status of the investigations into allegations of sexual exploitation and abuse involving peacekeeping personnel reported in 2007, as at 31 December 2007. Investigations involving 136 United Nations peacekeeping personnel were completed as at 31 December 2007.[1] The results of the investigations were as follows:

(a) Investigations involving 118 military personnel were conducted. The allegations against 5 personnel were determined to be unsubstantiated, while those against the remaining 113 were determined to be substantiated. The results of those investigations have been communicated to troop-contributing countries by the Department of Peacekeeping Operations and the Department of Field Support. In 2007, the two Departments received feedback on action taken by Member States in respect of the substantiated allegations communicated to them in 2007 and prior years. One Member State reported that criminal proceedings were ongoing following the repatriation of 111 military personnel. In addition, the two Departments received feedback from three Member States on action taken against 21 military personnel, comprising three dismissals from service, six reprimands, seven imprisonments, one reduction in rank and imprisonment, and four dismissals from service and imprisonment. All of the military personnel have been banned from future United Nations peacekeeping operations;

(b) Investigations were conducted in regard to nine civilian personnel. The allegations against three were determined to be unsubstantiated, while those against the remaining six were determined to be substantiated;

(c) Investigations were conducted for nine police and corrections personnel. The allegations against seven were determined to be unsubstantiated, while those against the remaining two were determined to be substantiated. The respective police contributing country has been informed of the results of those investigations.

10. Annex VI presents the nature and number of investigations into allegations of sexual exploitation and abuse involving personnel of the Department of Peacekeeping Operations and the Department of Field Support, by category of personnel.

[1] For the purpose of the present report, the term "investigations" is used to refer to the number of individuals identified in investigation reports. There is therefore no match between the number of allegations received and the number of individuals for whom an investigation has been completed since one investigation report may cover several individuals.

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III. Observations

11. The total number of allegations of sexual exploitation and abuse has substantially declined, with only 159 cases reported in 2007 compared with the 371 reported in 2006.

12. There was an increase in the number of allegations relating to personnel from United Nations entities other than the Department of Peacekeeping Operations, with 14 allegations reported in 2006, as opposed to 31 allegations made against personnel of United Nations entities other than the Department of Peacekeeping Operations in 2007. As indicated in paragraph 7 (e) above, 9 of those allegations related to the viewing of pornography in the office. Allegations relating to the viewing or distribution of pornography which do not involve beneficiaries of assistance have not been included in the present report as the actions were determined not to constitute the type of misconduct targeted by the Secretary-General's bulletin on sexual exploitation and abuse. Such acts, however, continue to be treated as misconduct and are subject to disciplinary proceedings.

13. Most allegations, or 127 of the total 159, involved peacekeeping personnel. This figure represents a 64 per cent decrease from the 357 allegations reported in 2006. The decline in reports of allegations of sexual exploitation and abuse, which began in December 2006 and continued throughout 2007, can be partly attributed to preventative measures, such as increased training and awareness-raising activities, taken by the Department of Peacekeeping Operations and the Department of Field Support. Troop and police-contributing countries have also stepped up their predeployment training to include more content on the prevention of sexual exploitation and abuse.[2] It should be noted, however, that reports from other organizations suggest chronic underreporting of allegations of sexual exploitation and abuse, in particular of minors, against United Nations personnel, as well as personnel from the international aid community. In addition, the period during which systematic reporting and specific policies were implemented remains relatively short (from 2005 to 2007) and it is therefore difficult to make a conclusive determination and analysis regarding the decrease in the number of allegations in the reporting period.

14. During the course of 2007, a number of challenges continued to be faced in relation to the recording of allegations of sexual exploitation and abuse by peacekeeping personnel; however, the Department of Peacekeeping Operations and the Department of Field Support, together with the Office of Internal Oversight Services, continued to work on the harmonization of data and terminology.

IV. Strengthening measures for protection from sexual exploitation and sexual abuse

Continued compliance with the Secretary-General's bulletin

15. All 43 entities providing information for the present report confirmed compliance with the standards set out in the Secretary-General's bulletin.

[2] For more detailed information on the activities of the Department of Peacekeeping Operations/ Department of Field Support in respect of conduct and discipline and the comprehensive strategy to address sexual exploitation and abuse, see A/62/758.

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16. The language which requires consultants and individual contractors to abide by the standards of conduct set out in Secretary-General's bulletin ST/SGB/2003/13 was introduced, effective 1 April 2006, to administrative instruction ST/AI/1999/7 on consultants and individual contractors and the accompanying General Conditions of Contracts for the Services of Consultants or Individual Contractors (see ST/AI/1999/7/Amend.1). Executive officers at all duty stations were also instructed to provide new consultants and individual contractors with a copy of the bulletin.

17. Similarly, the United Nations general conditions of contract, applicable to corporate contractors, were first amended in June 2005 and subsequently revised in February 2006 to include an obligation on the part of the contractor to take all appropriate measures to prevent the sexual exploitation or abuse of anyone by the contractor or by any of its employees or any other persons who might be engaged by the contractor to perform any services under the contract.

Task Force on Protection from Sexual Exploitation and Abuse

18. The Task Force on Protection from Sexual Exploitation and Abuse, established jointly by the Executive Committee on humanitarian affairs and the Executive Committee on Peace and Security in 2005, has produced several significant outputs, including convening of a high-level conference on eliminating sexual exploitation and abuse by United Nations and non-governmental organization personnel, a strategy on assistance to victims and an awareness-raising video. Five working groups were formed in September 2007 to advance the work of the Task Force in the following areas: support to field-based networks; enforcement; managerial compliance; victim assistance; and implementation guidance for Secretary-General's bulletin ST/SGB/2003/13.

19. The first such working group is focusing on developing and strengthening field-based networks on sexual exploitation and abuse, while providing the networks with the necessary guidance and support. This will include ensuring familiarity with United Nations reporting and complaint mechanisms (to be developed in part by the second working group), and adapting policies, structures, tools and mechanisms to needs in the field. The second working group aims to focus on developing or enhancing response mechanisms for the field, such as complaint mechanisms, reporting, record-keeping and investigation procedures. The third working group is concentrating on establishing a compliance mechanism at the country level, with a focus on commitments from senior management to implement measures to prevent sexual exploitation and abuse. The fourth working group plans to develop terms of reference and organize training for victim support facilitators, the key element of the strategy for the provision of assistance. This group will also develop and implement a roll-out plan for the strategy, and produce guidance on implementation, identify potential field-level management and funding mechanisms and undertake monitoring and evaluation of the two-year victim assistance pilot programme established by the General Assembly. The fifth working group will be developing a guidance document on the implementation of Secretary-General's bulletin ST/SGB/2003/13.

Department of Field Support conduct and discipline unit and teams

20. Following the establishment of a conduct and discipline team in the Department of Peacekeeping Operations at United Nations Headquarters in November 2005, dedicated personnel were deployed to the field in 2005, 2006 and 2007. Conduct and discipline teams had been deployed at the following

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peacekeeping and special political missions as at 31 December 2007: United Nations Assistance Mission in Afghanistan (UNAMA), United Nations Integrated Office in Burundi (BINUB), United Nations Mission in the Central African Republic and Chad (MINURCAT), United Nations Operations in Côte d'Ivoire (UNOCI), United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), United Nations Mission in Ethiopia and Eritrea (UNMEE), United Nations Observer Mission in Georgia (UNOMIG), United Nations Mission in Liberia (UNMIL), United Nations Interim Administration Mission in Kosovo (UNMIK), United Nations Stabilization Mission in Haiti (MINUSTAH), United Nations Military Observer Group in India and Pakistan (UNMOGIP), United Nations Assistance Mission for Iraq (UNAMI), United Nations Interim Force in Lebanon (UNIFIL), United Nations Mission in Nepal (UNMIN), United Nations Mission in the Sudan (UNMIS), United Nations Integrated Office in Sierra Leone (UNIOSIL), African Union-United Nations Hybrid Operation in Darfur (UNAMID), United Nations Office in Timor-Leste (UNMIT) and United Nations Mission for the Referendum in Western Sahara (MINURSO).

21. The Department of Peacekeeping Operations and the Department of Field Support, through the conduct and discipline teams, continue to develop and implement policies and strategies to prevent sexual exploitation and abuse, including awareness-raising activities. As mentioned above, the two Departments have established a uniform code of conduct on sexual exploitation and abuse which has been written into contracts for experts, volunteers, consultants and contractors. The code of conduct is signed by United Nations personnel, including police and military observers, upon arrival in the mission area. In addition, language on sexual exploitation and abuse has been incorporated into the mandates of 11 peacekeeping missions. Also, 11 missions have identified and prohibited peacekeepers from being in off-limit areas, where sexual transactions are known to take place. The website of the Conduct and Discipline Unit,[3] launched in March 2007, contains information on the high-level conference, relevant documents on sexual exploitation and abuse, and space to share best practice and other resources. A film, entitled "To Serve with Pride: Zero Tolerance for Sexual Exploitation and Abuse", was jointly produced by the Department of Field Support and the Department of Peacekeeping Operations, the United Nations Children's Fund, the United Nations Development Programme and the Office for the Coordination of Humanitarian Affairs and launched in December 2006. The film is now available in English, Spanish and French, and copies have been disseminated and used in training at peacekeeping missions and United Nations duty stations.

22. The activities of the conduct and discipline teams (see A/61/957 and A/62/758) continued in 2007 along the lines of the three-pronged comprehensive strategy to address sexual exploitation and abuse. Three standard training modules for the prevention of sexual exploitation and abuse, designed for all levels and categories of personnel, were piloted in workshops in 2006 and early 2007. Module 2, for mid-level managers and commanders, and module 3, for senior leaders, have been approved by senior management at United Nations Headquarters and will be distributed to missions for use or adaptation. In terms of awareness-raising, mission-focused communications campaigns to combat prostitution and transactional sex are under way. Workshops to develop mission-specific strategies were held at UNMIT, MINUSTAH, MONUC, UNMIL, UNOCI and UNMIS between September and December 2007 and the campaigns were to begin in April 2008. The campaigns are

[3] www.un.org/Depts/dpko/CDT/index.html

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part of a broader prevention effort to align the behaviour of peacekeeping personnel with United Nations standards of integrity and conduct and to eradicate sexual exploitation and abuse. Funding for the campaigns is provided by donor contributions.

Statement of commitment on sexual exploitation and abuse

23. Since the convening of the high-level conference in December 2006, another five non-United Nations entities have endorsed the statement of commitment on sexual exploitation and abuse.

Policies adopted during the sixty-second session of the General Assembly

24. The amendments on sexual exploitation and abuse to the model memorandum of understanding between the United Nations and troop-contributing countries (A/61/19 part III, annex) were endorsed by the General Assembly in resolution 61/267 B of 24 July 2007. The Department of Field Support uses the amended model memorandum of understanding in its negotiations with potential troop-contributing countries for all new military contingents to peace operations. As of June 2008, 7 new memorandums of understanding have been signed and 12 are under discussion. It is envisaged that the revisions to the model memorandum of understanding will be incorporated into the existing memorandums.

25. The General Assembly, by resolution 62/214 of 21 December 2007, adopted the United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel, recommended by the Ad Hoc Open-ended Working Group on Assistance and Support to Victims of Sexual Exploitation and Abuse (see A/62/595). Under the strategy, victims would receive assistance to address needs directly arising from the exploitation or abuse suffered. Assistance may include medical treatment, counselling, social support, legal services or material care. In addition, the strategy recommends that the United Nations work with Member States to facilitate, within their competence, the pursuit of claims related to paternity and child support. The working group on victim assistance (part of the Task Force on Protection from Sexual Exploitation and Abuse) has commenced work on an implementation strategy, which will include a guidance note for field missions.

26. Following the consideration by the Special Committee on Peacekeeping in December 2006 and the Sixth Committee in April and October 2007 of the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980), the General Assembly, in resolution 62/63 of 6 December 2007, urged States to establish jurisdiction over criminal misconduct by their nationals while serving as United Nations officials or experts on mission. By the same resolution, the General Assembly encouraged Member States to cooperate with each other and with the United Nations in the exchange of information and facilitation of investigations and, as appropriate, the prosecution of the relevant persons. The Sixth Committee gave further consideration to the provisions of the resolution in April 2008.

Other draft policies currently under consideration

27. The report of the Secretary-General on the comprehensive review of the welfare and recreation needs of all categories of peacekeeping personnel (A/62/663), undertaken at the request of the General Assembly, was considered by

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the Special Committee on Peacekeeping in March and April 2008. The review identifies both welfare and recreation needs and the measures that the Secretariat proposed to take to address those needs. The Special Committee took note of the report and recognized the importance of welfare and recreation for all categories of peacekeeping personnel, including non-contingent personnel. The Special Committee on Peacekeeping has requested that a further comprehensive report, on welfare and recreation issues in all their aspects, be prepared for consideration by the appropriate committees during the sixty-third session of the General Assembly.

V. Conclusions

28. During the period under review, the United Nations has continued to make crucial progress in establishing a sustainable framework within which to address sexual exploitation and abuse. The creation of conduct and discipline teams within the Department of Peacekeeping Operations and the Department of Field Support has led to focused and coordinated responses to prevention of sexual exploitation and abuse and enforcement of the related standards of conduct. The high-level conference on sexual exploitation and abuse and the work of the Task Force on Protection from Sexual Exploitation and Abuse are important steps towards institutionalizing comprehensive, Organization-wide implementation of measures to prevent abuse, the enforcement of standards of conduct and strategic collaboration with non-governmental partners. Recently approved policies, such as the revised memorandum of understanding, the strategy on assistance to victims, and the General Assembly resolution on criminal accountability, are significant milestones in the advancement of the three-pronged comprehensive strategy to address sexual exploitation and abuse, in conjunction with the United Nations policy of zero tolerance.

29. The number of allegations of sexual exploitation and abuse reported in 2007 shows an overall decline with significant reductions being reported particularly by the Department of Peacekeeping Operations and the Department of Field Support. The increase in the number of cases arising in entities other than peacekeeping is of concern and will be monitored closely. However, at the same time, the increase in reporting of allegations may also be attributed to the increased awareness of the issue by staff and management, as well as within the communities in which the United Nations operates. The Organization recognizes that it will be necessary to continue to improve its reporting mechanisms, improve investigative procedures and strengthen community outreach.

30. The Secretary-General remains committed to changing the organizational culture to deter acts of sexual exploitation and abuse and urges Member States to continue to provide their full support to both assisting the Organization in its efforts and adopting the necessary policies to ensure that the zero-tolerance policy is applied equally to all troop contingents.

31. The General Assembly is requested to take note of the present report.

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Annex I

United Nations entities requested to provide information on allegations of sexual exploitation and abuse[a]

- Office of the Secretary-General+
- Office of Internal Oversight Services*
- Office of Legal Affairs+
- Department of Political Affairs*
- Department for Disarmament Affairs
- Department of Peacekeeping Operations*
- Office for the Coordination of Humanitarian Affairs*
- Department of Economic and Social Affairs
- Department for General Assembly and Conference Management
- Department of Public Information
- Department of Safety and Security
- Department of Management
- Peacebuilding Support Office
- Office of the Special Representative of the Secretary-General for Children and Armed Conflict
- United Nations Joint Staff Pension Fund
- Office of the Special Adviser on Africa
- United Nations Conference on Trade and Development
- Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States
- Office of the United Nations High Commissioner for Human Rights
- United Nations Office at Geneva
- United Nations Office at Nairobi
- United Nations Environment Programme
- United Nations Human Settlements Programme (UN-Habitat)
- United Nations Office at Vienna (including United Nations Office on Drugs and Crime)
- Economic Commission for Africa

[a] Entities marked with an asterisk reported that new allegations of sexual exploitation or abuse were received during the period from January to December 2007. The four entities for which statistics were not received prior to the preparation of the present report are indicated by +. All other entities reported that no allegations were received for that period.

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- Economic Commission for Europe
- Economic Commission for Latin America and the Caribbean*
- Economic and Social Commission for Asia and the Pacific
- Economic and Social Commission for Western Asia
- Office of the United Nations High Commissioner for Refugees
- United Nations Children's Fund
- United Nations Development Programme*
- United Nations Development Fund for Women
- United Nations Volunteers
- United Nations Population Fund+
- United Nations Office for Project Services
- United Nations Relief and Works Agency for Palestine Refugees in the Near East*
- United Nations University
- Joint United Nations Programme on HIV/AIDS
- International Criminal Tribunal for Rwanda
- International Tribunal for the Former Yugoslavia
- International Trade Centre UNCTAD/WTO
- World Food Programme+

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Annex II

Nature of allegations, by United Nations entities other than the Department of Peacekeeping Operations[a]

1 January-31 December 2007

Nature of allegation	*DPA/ UNMIN (staff)*	*BINUB (staff)*	*ECLAC (staff)*	*OCHA (other personnel)*	*OIOS (staff)*	*UNHCR (staff)*	*UNHCR (other personnel)*	*UNRWA (staff)*	*UNU (other personnel)*
Rape[b]									
Sex with minors[c]						8			
Sexual assault[d]								1	
Human trafficking									
Exchange of money, employment, goods or services for sex				1	1			1	
Solicitation of prostitutes	1	1							
Viewing pornography						8	1		
Other forms of sexual exploitation and abuse		1	1		1			3	1
Other violations of ST/SGB/2003/13 (i.e. false reporting of sexual exploitation and abuse)									
Total	**1**	**2**	**1**	**1**	**2**	**16**	**1**	**5**	**1**

Abbreviations: DPA/UNMIN, Department of Political Affairs/United Nations Mission in Nepal; ECLAC, Economic Commission for Latin America and the Caribbean; OCHA, Office for the Coordination of Humanitarian Affairs; OIOS, Office of Internal Oversight Services; UNHCR, Office of the United Nations High Commissioner for Refugees; UNRWA, United Nations Relief and Works Agency for Palestine Refugees in the Near East; UNU, United Nations University.

[a] Entities reporting no allegations are not listed.

[b] In accordance with the security guidelines for women established by the Department of Safety and Security, "rape" is understood to be sexual intercourse achieved without the person's consent.

[c] In accordance with section 3.2(b) of ST/SGB/2003/13, a minor is a person under the age of 18 years.

[d] In accordance with the security guidelines for women, sexual assault is any non-consensual sexual act which is forced by one or more persons upon another.

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Annex III

Status of investigations into allegations reported in 2007 involving personnel of United Nations entities other than the Department of Peacekeeping Operations

1 January-31 December 2007

	Status of investigation as at 31 December 2007			
Entity	*Number of allegations received*	*Unsubstantiated or closed*	*Substantiated*	*Investigation ongoing*
Department of Political Affairs				
United Nations Mission in Nepal	**1**	0	0	1
United Nations Integrated Office in Burundi	**2**	2		
Economic Commission for Latin America and the Caribbean	**1**	1	0	0
Office for the Coordination of Humanitarian Affairs	**1**	0	0	1
Office of Internal Oversight Services	**2**	0	2	0
Office of the United Nations High Commissioner for Refugees	**19**	7	11	1
United Nations Relief and Works Agency for Palestine Refugees in the Near East	**5**	4	1	
United Nations University	**1**			1

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Annex IV

Number of allegations reported to the Office of Internal Oversight Services in 2007 involving personnel of the Department of Peacekeeping Operations and the Department of Field Support, by peacekeeping mission

Mission	*January*	*February*	*March*	*April*	*May*	*June*	*July*	*August*	*September*	*October*	*November*	*December*	*Total*
MINUSTAH	—	4	1			2	1	2			1	8	19
MINURCAT													0
MINURSO	—	—	—	—	—	1	—	—	—	—		1	2
MONUC	3	4	16	4	5	5	2	4	6	4	4	2	59
UNAMID													0
UNFICYP			—	—	—		—	—	—	—	—		0
UNMEE	—	—	—		—		—	—	—	—	—	—	0
UNMIK		—	—	—	—	—	—	—	—	—	—	1	1
UNIFIL													0
UNMIL	1	1	1	3		2		—	1		3		12
UNMIS	2	2	2		2	1	2		2			1	14
UNOCI		3	2		3	1	1	3			2	—	15
UNOMIG	—	—		—	—	—	—	—	—	—	—	—	0
UNLB	1												1
UNMOGIP	—	—	—	—	—	—	—	—	—	—	—	—	0
UNTSO	—	—	—	—	—	—	—	—	—	—	—	—	0
UNDOF	—	—	—	—	—	—	—	—	—	—	—	—	0
UNMIT	—	—	—	—	—	—	1	2	—	—	—	1	4
Total	**7**	**14**	**22**	**7**	**10**	**12**	**7**	**11**	**9**	**4**	**10**	**14**	**127**

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Annex V

Status of investigations conducted by the United Nations into allegations reported in 2007 involving personnel of the Department of Peacekeeping Operations

1 January-31 December 2007

Category of personnel	*Number of completed investigations* (1)	*Number of cases determined to be unsubstantiated* (2)	*Number of cases determined to be substantiated and forwarded to the Office of Human Resources Management for action* (3)	*Number of cases determined to be substantiated and forwarded to Member State for action* (4)
Civilians[a]	9	3	6	N/A
United Nations police and corrections	9	7	—	2
Military[b]	118	5	—	113
Total	**136**	**15**	**6**	**115**

[a] Includes civilian staff members, United Nations Volunteers and contractors.
[b] Includes staff officers, military observers and military contingents.

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Annex VI

Nature of allegations in completed investigations, by category of personnel of the Department of Peacekeeping Operations and the Department of Field Support[a]

	Civilian personnel		*Uniformed personnel*		
Nature of allegation	*United Nations staff*	*Other United Nations personnel*	*United Nations police and corrections personnel*	*Military personnel*	*Subtotal*
Sex with minors[b]	0	0	1	1	2
Exploitative sexual relationships[c]	2	6	5	0	13
Sex with prostitutes[d]	0		1	116	117
Sexual assault[e]	0	0	0	0	0
Rape[f]	0	1	2	1	4
Other[g]	0	0	0	0	0
Total	**2**	**7**	**9**	**118**	**136**

[a] The term "investigations" refers to the number of individuals identified in investigation reports.

[b] Includes all acts of sexual exploitation and abuse against minors, including rape and sexual assault but excluding prostitution.

[c] Refers to exchanges of sexual favours for money, food, employment or other goods or services, excluding engaging in prostitution.

[d] Includes investigations of commanders for failure of command, as well as investigations of prostitution with minors.

[e] In accordance with the security guidelines for women developed by the Department of Safety and Security, "sexual assault" is any non-consensual act which is forced by one or more persons upon another.

[f] In accordance with the above-mentioned security guidelines for women, rape is understood to be sexual intercourse achieved without the person's consent.

[g] Includes pornography involving beneficiaries of assistance.

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United Nations A/63/260

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Sixty-third session
Item 75 of the provisional agenda*
Criminal accountability of United Nations officials and experts on mission

Criminal accountability of United Nations officials and experts on mission

Report of the Secretary-General

Summary

The present report has been prepared pursuant to paragraph 10 of General Assembly resolution 62/63 entitled "Criminal accountability of United Nations officials and experts on mission". Sections II and III contain information received from Governments about the extent their national laws establish jurisdiction, particularly over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission, as well as information on cooperation among States and with the United Nations in the exchange of information and the facilitation of investigations and prosecution of such individuals. Section IV provides information, prepared by the Secretariat, regarding bringing credible allegations that reveal that a crime may have been committed by United Nations officials to the attention of States against whose nationals such allegations are made. Sections V and VI detail recent activities by the Secretariat on ensuring that prospective experts on mission are informed of the expectation that they should meet high standards in their conduct and behaviour, as well as regarding taking other practical measures to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training.

* A/63/150.

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I. Introduction

1. In its resolution 62/63, entitled "Criminal accountability of United Nations officials and experts on mission", the General Assembly requested the Secretary-General to report on the implementation of the resolution on the basis of information received from Governments, in particular with respect to paragraphs 3 and 9. The request was understood as not being limited to paragraphs 3 and 9, but also to include the implementation of those operative paragraphs which called for the taking of specific actions, either by Governments of Member States or by the Secretariat. Accordingly, the present report provides a synopsis of efforts undertaken to implement paragraphs 3 to 6, and 9 of resolution 62/63, on the basis of information received from Governments as well as that emanating from the Secretariat. Sections II to IV of the report deal with activities and information received relating to the criminal accountability of United Nations officials and experts on mission, as required by paragraphs 3, 4 and 9. The remaining sections cover activities undertaken by the Secretariat to implement paragraphs 5 and 6.

2. With regard to paragraphs 3 and 4, by a note verbale dated 31 December 2007, the Secretary-General drew the attention of all States to resolution 62/63 and requested them to submit, by 1 July 2008, information on the extent to which their national laws establish jurisdiction particularly over crimes of a serious nature committed by their nationals while serving as United Nations officials or experts on mission, as well as information on cooperation among States and with the United Nations in the exchange of information and the facilitation of investigations and prosecutions of such individuals. As at 19 August 2008, replies were received from 28 States (as summarized in sects. II and III, below).

3. Furthermore, section IV provides information, prepared by the Secretariat, regarding the bringing of credible allegations that reveal that a crime may have been committed by United Nations officials to the attention of States against whose nationals such allegations are made, pursuant to paragraph 9. Sections V and VI detail recent activities by the Secretariat in ensuring that prospective experts on mission are informed of the expectation that they should meet high standards in their conduct and behaviour (resolution 62/63, para. 5), as well as regarding the taking of other practical measures to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training (ibid., para. 6).

II. Establishment of jurisdiction over crimes of a serious nature

4. **Argentina** referred to article 1 of the Argentine Penal Code, Law No. 11729, which establishes the fundamental principle that Argentine criminal law applies to offences committed in the national territory. This principle is complemented by the "effects" doctrine, or protective principle, whereby the State's criminal law applies to offences which, though not committed within its territory, nonetheless produce effects therein. Paragraph 2 of article 1 permits the Argentine State to apply its criminal law to offences committed outside its territory by persons performing official State functions. However, the provision would not apply to international civil servants, even if they have Argentine nationality, since they are not agents or employees of the Government.

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5. **Australia** reported that, in 2003, the Crimes (Overseas) Act 1964 (the "Act") was amended to extend the criminal laws of Australia's Jervis Bay Territory extraterritorially for the purpose of criminalizing the behaviour of nationals serving as United Nations officials or experts on mission abroad. The Act provides jurisdiction over Australians who are immune from criminal prosecution in a foreign country by virtue of an agreement between Australia and the foreign country or between the United Nations (or United Nations organ) and the foreign country. To date, no prosecution under the Act has occurred.

6. Where Australian Defence Force personnel serve as United Nations officials or experts on mission (such as military observers), they are subject to a system of military discipline established by the Defence Force Discipline Act 1982, which has extraterritorial effect, thereby ensuring accountability at all times for Australian Defence Force personnel deployed outside Australia, including those engaged in United Nations roles. Australian military personnel are criminally accountable for a comprehensive range of offences. This is further enhanced by the inclusion of ancillary offences of attempt, incitement, conspiracy and accessory after the fact.

7. In **Austria**, the Austrian Criminal Code provides the legal basis for the jurisdiction of Austrian Courts regarding crimes committed by Austrian nationals while serving as United Nations officials or experts on mission, where the conduct as defined in the Code constitutes a crime under the laws of the host State. The possibility of extraterritorial jurisdiction as, defined in sections 64 and 65 of the Austrian Criminal Code, is also recognized. All crimes under Austrian law committed by Austrian civil servants[1] in foreign countries are punishable, irrespective of whether or not they are punishable under the law of the State where they were committed.[2] Crimes committed abroad by Austrian nationals irrespective of their status as Austrian civil servants are punishable under Austrian law only if they are punishable under the law of the State where they were committed.[3] Austrian criminal law is also applicable to: crimes committed abroad if Austria is obliged to prosecute them irrespective of the criminal law of the State where the crime was committed, to crimes committed abroad by an Austrian national against another Austrian national (if both have their domicile in Austria), to criminal acts of terrorism committed by an Austrian national abroad, or to the financing of terrorism if the perpetrator was an Austrian national.[4]

8. In **Belgium** the Code of Criminal Procedure provides that the judicial authorities are authorized to punish crimes of a serious nature committed by Belgian nationals while serving as United Nations officials or experts on mission outside the territory of the Kingdom. However, such jurisdiction varies according to the type of criminal conduct concerned or the category of person responsible for it. In general, the judicial authorities can prosecute any Belgian (or any person whose principal residence is in Belgium) if that individual is accused of an act defined as a crime or offence by Belgian law, provided that such act is punishable under the legislation of the country in which it was committed. Nonetheless, if the crime was committed against a foreigner, it can be prosecuted only at the request of the Public

[1] As a rule, Austrian nationals serving as United Nations officials or experts on mission are considered Austrian civil servants.

[2] Sect. 64 (1)(2).

[3] Sect. 65.

[4] Sect. 64 (6)-(10), respectively.

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Prosecutor's Office and only after a complaint has been brought by the foreigner against whom the offence was committed or by his or her family, or after official notice is given to the Belgian authority by the authority of the country in which the criminal conduct took place. Certain crimes may be prosecuted without meeting such conditions. Belgian courts are also competent to hear cases of crimes committed abroad which fall under a rule of international treaty or international customary law or a rule of law derived from the European Union, where by reason of such rule Belgium is required, in any way whatsoever, to submit the case to its authorities responsible for criminal prosecutions. While such prosecutions are possible only if the accused is found in Belgium, in the case of certain crimes, the Belgian judicial authorities may institute proceedings whether or not the perpetrator is in Belgian territory. All persons subject to military law who have committed any offence in the territory of a foreign State may also be prosecuted in Belgium whether or not they are found in Belgian territory. The same applies to persons, Belgian or foreign, who are attached in any capacity to an army unit serving in foreign territory, or persons who are authorized to accompany troops of an army corps.

9. **Bosnia and Herzegovina** reported that, under article 12(c) of its Criminal Code, its criminal jurisdiction extends to any crime committed beyond its territory which it is obliged to prosecute under international law. Similarly, its criminal jurisdiction extends to crimes committed by its citizens outside its territory, including when serving as United Nations officials or experts on mission.

10. In **Brazil**, article 7.II.b. of the Penal Code[5] establishes domestic jurisdiction over all crimes allegedly committed by Brazilian nationals, regardless of the place where the crime was committed and of the gravity of the alleged crime. It provides for the application of the internal criminal legislation to all nationals. Brazil also asserts jurisdiction over crimes which the country is obliged to combat under international conventions, even when the crime occurred in the territory of another State. Such provisions are applicable to all Brazilians, including those serving as United Nations officials or experts on mission.

11. **Canada**[6] reported that while there has been some judicial extension of territorial jurisdiction to include cases where only part of an offence has taken place in Canada, or where there is some other real and substantial connection, the general rule, in line with its common law tradition, is to limit the application of Canada's criminal law to events occurring within Canada's territorial jurisdiction.

12. Exceptions to this principle are found in s. 7 of the Criminal Code and the Crimes against Humanity and War Crimes Act. Several such exceptions fulfil international legal obligations to prosecute the acts of Canadians committed outside Canada or to prosecute others accused of extraterritorial offences who are found in Canada. The other exceptions relate to the protection of Canada's essential interests, particularly with respect to offences in areas such as immigration law, the integrity of the Canadian passport and similar matters, as well as maintaining control over Canadian officials and military personnel working abroad. Accordingly, Canada would extend jurisdiction over crimes committed by Canadian nationals while

[5] Statute 2848/1940, as amended by Statute 7209/1984.

[6] A detailed exposition of the applicable Canadian law, as submitted by the Government of Canada, is on file with the Codification Division.

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serving as United Nations officials or experts on mission only when they fall within one of those exceptions.

13. **Cyprus** reported that section 5 of its Criminal Code renders all Cypriot citizens criminally accountable for offences committed outside the territory of Cyprus, provided that those offences are punishable under penal laws of the Republic of Cyprus. Specifically, the Cyprus Criminal Code and any law that prescribes a criminal offence are applicable to all offences which have been committed in any foreign country by a Cypriot citizen if: (a) the offence is punishable in Cyprus by imprisonment that exceeds two years; and (b) the act or the omission constituting the offence is also criminalized under the law of the country in which it was committed. Furthermore, the applicability of the Cyprus Criminal Code and any other relevant penal law is established with respect to any person, irrespective of where the crime may be committed, in respect of a number of specific offences.[7]

14. In the **Czech Republic**, section 18 of the Criminal Code[8] provides that the punishability of an act committed by a national of the Czech Republic or by a stateless person holding permanent residence status in the Czech Republic abroad shall be determined on the basis of the law of the Czech Republic. Where the Czech authorities take over a criminal investigation from another State, they determine the punishability of the act under Czech law (except in cases of traffic violations). Accordingly, it is irrelevant whether the act is punishable under the law of the State where it was committed.

15. **Estonia** reported that the Estonian Penal Code recognizes the right to exercise jurisdiction where a crime is committed outside its territory.

16. **Finland** reported that the Finnish Penal Code is largely applicable to offences committed by civilians outside Finland. The Penal Code is applicable when the perpetrator is a Finnish citizen, a person who was permanently resident in Finland at the time of the offence or is permanently resident in Finland at the beginning of the trial. The Penal Code is also applicable if the offence is directed at a citizen of Finland. In principle, while the conduct as defined in the law of the State establishing jurisdiction should also constitute a crime under the laws of the host State, many offences are considered international offences. Such international offences include sexual abuse of a child, genocide, torture and trafficking in human beings and a number of other offences established by international conventions binding on Finland.

17. In **Germany** there are various provisions in the German Criminal Code, expanding the application of German criminal law to various situations with a bearing upon foreign countries, so that criminal responsibility for German United Nations staff on mission is ensured. In section 5 of the Code, various offences are enumerated to which German criminal law applies, regardless of their commission abroad and independent of the laws of the country where the crime is committed. In addition, section 6, numbers 2 to 8 provide for the principle of universal jurisdiction by extending the application of German criminal law to cases dealing with international legally protected interests. The German international criminal code

[7] A detailed exposition of the applicable Cypriot law, as submitted by the Government of Cyprus, is on file with the Codification Division.

[8] Act No. 140/1960.

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allows for prosecution of the most serious crimes against international law, such as genocide, crimes against humanity and war crimes, irrespective of being committed abroad or having a domestic nexus. Section 7 of the Code extends the applicability of German criminal law to offences committed by Germans abroad, should the offence be penalized in the country where it is committed, or should the site of the crime not be subject to any penal power.

18. **Greece** reported that article 6(1) of the Greek Penal Code establishes active personality as a basis for jurisdiction and stipulates that the Greek penal laws are applicable to any act that is regarded by Greek law as a felony or misdemeanor and was committed in a foreign country by a Greek national, to the extent that such act is punishable under the laws of that country or was committed in a territory without state organization.

19. Article 7(1) of the Greek Penal Code establishes passive personality as a further basis for jurisdiction by applying Greek penal laws to any act which is regarded by them as a felony or misdemeanor, and was committed abroad by a foreigner against a Greek citizen and provided that it is punishable under the laws of the country where it was committed or it was committed in a territory without state organization. Article 8 further establishes the principle of universal jurisdiction for a number of categories of crimes committed abroad,[9] to the extent that it stipulates that Greek penal laws are applicable to nationals and foreigners alike, irrespective of the laws of the country where the act was committed.

20. Under article 3 of the Greek Military Penal Code, punishable acts committed by the armed forces which do not constitute military crimes are subject to common penal laws. Accordingly, the rules on extraterritorial application of Greek penal laws apply also to ordinary crimes committed abroad by members of the armed forces. Military crimes are punishable irrespective of the place they are committed.[10]

21. **Irish** law provides for extraterritorial criminal jurisdiction only in relation to a limited number of crimes and persons. Serious offences committed by United Nations officials or experts on mission against United Nations and associated personnel would in general be subject to Irish law. However, serious offences committed by United Nations officials or experts on mission against non-United Nations personnel in another State would not be prosecuted in Ireland. Further legislation would be required in order to expand the material and personal scope of Irish extraterritorial criminal jurisdiction.

22. In **Jordan** article 10 of the Penal Code (No. 16 of 1960), as amended, provides for exercise of jurisdiction: over any Jordanian who, as perpetrator, instigator or accomplice, commits, outside the Kingdom, a felony or misdemeanour punishable by Jordanian law; over crimes committed outside the Kingdom by any Jordanian official during or on the occasion of the exercise of his functions; over crimes committed outside the Kingdom by officials of the foreign service or by Jordanian consuls who do not enjoy immunity conferred on them by public international law; over any alien resident in the Kingdom who, as perpetrator, instigator or accomplice, commits, outside the Kingdom, a felony or misdemeanour punishable by Jordanian law, if his extradition has not been requested or accepted. The Penal

[9] A complete list of categories, as submitted by the Government of Greece, is on file with the Codification Division.

[10] Art. 4 of the Military Penal Code.

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Code envisages, in article 13, the prosecution of any Jordanian even if he has been prosecuted and sentenced abroad. Furthermore, in Jordan, all public security personnel of all ranks who serve in peacekeeping missions (observers, military detachments, advisers) are subject to the Public Security Act and directives issued by the Directorate of Public Security.

23. **Kenya** reported that the Sexual Offences Act and the Anti-Corruption and Economic Crimes Act criminalize any act of sexual offence and corruption, respectively, committed within its territory. On the basis of the principle of territoriality, any crime committed within Kenya by any United Nations official or expert on mission would be tried locally, provided the domestic laws exist. For those crimes committed by United Nations officials and experts on mission within Kenya for which no domestic law exists, the accused would be extradited to his or her country. Kenya also applies the principle of nationality to prosecute its nationals who commit crimes outside Kenya while serving either as United Nations officials or experts on mission.

24. The Criminal Law of the **Republic of Korea** applies to those nationals who commit crimes outside its territory. The Military Criminal Law of the Republic of Korea applies to military personnel of the Republic of Korea who commit crimes outside its territory.

25. Pursuant to article 65(1) of the **Liechtenstein** Criminal Code, the Liechtenstein courts have jurisdiction over all criminal acts committed by citizens abroad if the conduct constitutes a crime under the laws of the host State. For a number of particularly serious offences, enumerated in article 64, dual criminality is not required. Accordingly, the Liechtenstein courts assert jurisdiction over crimes committed abroad by Liechtenstein nationals serving as United Nations officials or experts on mission.

26. In **New Zealand** the Armed Forces Discipline Act 1971 provides jurisdiction over all acts carried out by members of the New Zealand Defence Force whether in New Zealand or elsewhere, and applies equally to members of the New Zealand Defence Force who are members of a United Nations force. The United Nations (Police) Act 1964 provides for jurisdiction over members of the New Zealand Police forming part of a United Nations force. The Crimes and Misconduct (Overseas Operations) Act 2004 has the same effect, and applies to any person who is not a member of the armed forces and not already covered by the United Nations (Police) Act 1964 and is serving as part of an "overseas operations force" outside New Zealand.

27. New Zealand has no legislation that specifically provides for criminal jurisdiction to be taken over New Zealand nationals serving as United Nations officials or experts on mission. These individuals are, however, still subject to New Zealand law to the extent that it provides for extraterritorial jurisdiction for certain offences. In many cases extraterritorial jurisdiction is asserted in order to implement particular international obligations.

28. **Norway** reported that section 12(1)(3) of the Norwegian General Civil Penal Code of 1902 establishes jurisdiction over a wide range of serious crimes committed by Norwegian nationals abroad. Furthermore, Norwegian criminal law is applicable if the act is punishable pursuant to Norwegian law as well to the law of the country in which the act is committed. It is not required that Norwegian law and foreign law

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be completely identical. The rules on jurisdiction under that provision apply to all Norwegian nationals, including Norwegians serving as United Nations officials or experts on mission, as well as diplomats and other persons enjoying criminal immunity abroad. These rules are largely reaffirmed by a new Norwegian Penal Code (the Penal Code of 2005) which is being drafted. New provisions on jurisdiction have been adopted, but have not yet entered into force. Pursuant to section 5 of the Penal Code of 2005, Norwegian criminal legislation shall be applicable to certain acts committed by Norwegian nationals abroad when the acts are also punishable under the law of the country in which they are committed; are regarded as a war crime, genocide or a crime against humanity, are regarded as a breach of the international law of war, are regarded as a child marriage or a forced marriage, are regarded as genital mutilation, or are directed against the Norwegian State or a Norwegian State authority, or were committed outside the area of sovereignty of any State and are punishable by imprisonment. Section 6 of the Penal Code of 2005 extends the general rules of jurisdiction to apply to acts that Norway has a right or an obligation to prosecute under agreements with foreign States or under international law generally.[11]

29. **Poland** reported that its nationals, including United Nations personnel or experts on mission who commit an offence in the course of fulfilling their mission abroad are subject to criminal liability under the rules laid down in chapter XII of the Polish Criminal Code on responsibility for offences committed abroad.

30. **Qatar** reported that the Penal Code of the State of Qatar, as stated in Law 11 of 2004, enacting the Penal Code, allows for the prosecution of perpetrators or accomplices for certain offences committed abroad (art. 17). Furthermore, any citizen of Qatar who has, while outside Qatar, committed an act that is considered a felony or misdemeanour under the Penal Code, shall, on returning to Qatar, be punished in accordance with the provisions of the Code if the act is punishable under the law of the country in which the act was committed (art. 18). Limitations on this provision are to be found in article 19 of the Penal Code.

31. Citizens of **Serbia** who, while serving as United Nations officials or experts on mission, commit a criminal offence punishable by the laws of the Republic of Serbia are accountable before a Serbian court of law. The laws of the Republic of Serbia, however, do not provide specific penalties for United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature.

32. **South Africa** reported that, like other common law countries, it does not exercise extraterritorial jurisdiction on grounds of nationality. However, South Africa has taken measures to establish extraterritorial jurisdiction in certain circumstances. For example the Defence Act makes provision for criminal jurisdiction over military and civilian elements of its defence force deployed beyond South Africa. Similarly, legislation in the process of being drafted will assert jurisdiction over members of the South African Police Service who perform duties outside the Republic. Furthermore, an amendment to the Criminal Procedure Act, of 1977 was introduced in Parliament in 2008 with a view to enabling prosecution against South African nationals who committed serious offences while serving abroad. Likewise, the Criminal Law (Sexual Offences and Related Matters)

[11] A more detailed discussion of the position of Norway, as submitted by the Government of Norway, is on file with the Codification Division.

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Amendment Act 32, of 2007, establishes extraterritorial jurisdiction over citizens and those ordinarily resident in the Republic who are alleged to have committed a sexual offence or other offence under the Act outside its borders.

33. **Switzerland** reported that articles 3 to 7 of the Swiss Criminal Code provide that prosecutions are not limited to persons who commit crimes and offences in Switzerland.[12] Crimes committed by Swiss nationals abroad are also covered when those crimes are punishable in the territory in which they have been committed or when the place where the act was committed does not fall under any criminal jurisdiction (Criminal Code, art. 7, para. 1). Swiss criminal law also establishes a limited universal jurisdiction that applies in the case of a series of specific crimes: in those instances, Swiss criminal courts are authorized to prosecute a foreign perpetrator who committed a crime abroad if that person is in Switzerland and has not been extradited (Criminal Code, arts. 5 and 6). The Criminal Code provisions are supplemented, in the case of certain categories of persons, by the provisions of the Military Criminal Code, particularly articles 3, 8 and 10. Accordingly, the Swiss judicial authorities are fully competent to prosecute its nationals while serving as United Nations officials or experts on mission.

34. **Tunisia** reported that its Criminal Code, section 305, provides that a Tunisian citizen may be prosecuted and placed on trial by Tunisian courts for a crime or misdemeanour committed outside the territory of the Republic that is punishable under Tunisian law, unless that crime is not punishable in the country in which it was committed, or the accused can show that he was definitively sentenced abroad and that the sentence has been served or has lapsed or that he has benefited from an amnesty. Accordingly, Tunisian nationals may be prosecuted for crimes which they committed abroad as United Nations officials or as experts on mission.

35. The **United States of America** reported that its nationals who commit crimes while working for the United Nations or when acting as experts on mission may be prosecuted under a broad array of statutes, even when those crimes are committed outside the United States. The United States also has jurisdiction generally to prosecute any federal crime where even a minor part of the crime was committed in the United States, and the bulk of the conduct was committed abroad. Such jurisdiction is particularly broad where a conspiracy of two or more people is involved, because an act by one conspirator in the United States can bring the entire conspiracy within United States criminal jurisdiction. Furthermore, under the Travel Act, any person who travels or uses a facility in foreign commerce (meaning between the United States and a foreign country) for the purpose of distributing the proceeds of unlawful activity or committing a crime of violence in furtherance of unlawful activity, or otherwise carrying on an unlawful activity, can be prosecuted in the United States. The United States also has jurisdiction over certain corruption-related offences even when most of the conduct takes place abroad.

36. **Yemen** reported that article 3 of its Penal Code adopts the territoriality principle with respect to crimes. The Penal Code also applies to crimes that are committed outside the State territory and concern the Yemeni courts, in accordance with the Law of Criminal Procedure.

[12] A detailed exposition of the applicable Swiss law, as submitted by the Government of Switzerland, is on file with the Codification Division.

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III. Cooperation between States and with the United Nations in the exchange of information and the facilitation of investigations and prosecutions

37. **Argentina** observed that its judicial authorities would cooperate with the United Nations in the investigation of any offence committed by one of its officials or experts. The due process rights applicable to such proceedings would be those in force under Argentina's procedural law, in accordance with the rights and guarantees enshrined in the National Constitution and in international instruments having constitutional status, as enumerated in article 75, paragraph 22, of the Constitution.

38. **Australia** reported that legal cooperation with other countries to facilitate investigation of United Nations officials and experts on mission is covered by the Mutual Assistance in Criminal Matters Act 1987, which allows Australia to request and provide mutual assistance to any country on a discretionary basis (such process is facilitated by 26 bilateral treaties and multilateral conventions to which Australia is a party that contain mutual assistance provisions), but not to international bodies such as the United Nations. Accordingly, any formal request from the United Nations to Australia for mutual assistance would need to be made through another country. No mutual assistance requests have yet been received from other States regarding the investigation of United Nations Officials or experts on mission. It is also possible for Australia to provide assistance informally, for example, the Australian Federal Police reports one instance of providing information to the United Nations regarding a complaint made against an Australian national deployed overseas as an expert on mission. Australia observed that it currently has bilateral extradition treaties with 35 countries.

39. **Belgium** indicated its willingness, subject to the relevant provisions of its domestic law, to exchange information and facilitate any investigations and prosecutions implicating United Nations officials and experts on mission who are alleged to have committed crimes of a serious nature.

40. **Brazil** reported that it had entered into a number of bilateral agreements on judicial cooperation and mutual assistance in criminal matters, and that it was willing to cooperate closely with the United Nations. It also noted that the principle of due process of law is enshrined in its Federal Constitution of 1988.

41. **Canada** reported that the Extradition Act allows and regularly authorizes the extradition of its citizens and residents to countries and international criminal tribunals with which it has concluded extradition treaties or in accordance with commitments made in multilateral treaties. Canada also provides assistance to other States and international tribunals in the investigation of crimes committed abroad or on its territory by persons subject to diplomatic or consular immunity. Various forms of cooperation could be extended pursuant to treaties, letters rogatory, and non-treaty requests.

42. The **Czech Republic** is a party to numerous multilateral and bilateral treaties concerning legal assistance in criminal matters. Furthermore, under section 376 of the Code of Criminal Procedure (Act No. 141/1961), in the absence of an international treaty on cooperation in criminal matters, the essential condition for entering into such cooperation is reciprocity. Since the United Nations and its organs and agencies have legal personality, Czech law enforcement authorities

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would be competent to accept requests, ask for information and use the evidence provided by the United Nations, but would not be competent to provide to the United Nations any information about ongoing investigations or court proceedings. The United Nations would merely be entitled to receive a copy of the judgement and reasoning. In investigating crimes, Czech authorities would communicate primarily with the judicial and investigating authorities of the State where the crime was committed. In addition, Czech rules of criminal procedure would not permit the United Nations Disciplinary Code or similar internal rules and regulations of the Organization to be applied in determining whether the act is punishable.

43. **Estonia** observed that the regulation of cooperation in criminal procedure, undertaken under the terms of its Code of Criminal Procedure (sects. 433-508), accords with the requirements of paragraph 4 of resolution 62/63.

44. **Finland** confirmed that, as a State member of the European Union, it is party to several multilateral agreements concerning the extradition of offenders in addition to the European Community legislation on the recognition of judgements and applicable law. Moreover, Finland has signed a number of bilateral agreements on the extradition of offenders with non-European Union States. Finland would welcome international efforts to create a common multilateral code of conduct for cases involving competing jurisdictions, which would be based on granting jurisdiction to the state of nationality, to the extent it is able to ensure the effectiveness of extradition procedures. It reiterated the fact that while it is possible to conduct investigations and trials in different States, evidence acquired by foreign authorities is not typically admissible in domestic courts.

45. **Greece** has concluded several bilateral treaties on extradition and mutual legal assistance in criminal matters. In the absence of a treaty, requests for extradition or legal assistance are examined in accordance with relevant provisions of domestic law.

46. In **Jordan** there is ongoing cooperation between the United Nations and Jordanian public security units operating on missions to facilitate the investigation of personnel by the Directorate of Public Security.

47. **Kenya** has signed mutual legal assistance bilateral agreements with various countries so as to facilitate cooperation in criminal investigations and the possibility of extradition.

48. As of June 2008, the **Republic of Korea** has concluded 23 treaties on extradition and 18 treaties on mutual legal assistance in criminal matters. Those treaties provide the legal framework for mutual cooperation in the exchange of information and the conduct of investigation or other necessary cooperative measures. In addition, in accordance with the Extradition Law and the Law on International Mutual Legal Assistance in Criminal Matters, extradition and other mutual legal assistance may be undertaken on a reciprocal basis.

49. The **Liechtenstein** Law on Mutual Legal Assistance in Criminal Matters provides a basis for Liechtenstein authorities to fully cooperate with all jurisdictions, even in the absence of a bilateral treaty.

50. **New Zealand** cooperates with other States in exchanging information and facilitating criminal investigations and prosecutions under the framework provided by the Mutual Assistance in Criminal Matters Act 1992. The Act does not cover

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mutual assistance between New Zealand and international organizations but it does not limit the ability of New Zealand authorities to assist and facilitate requests from the United Nations to the extent that assistance can be given under general New Zealand law. The New Zealand Government has in the past provided information to assist United Nations investigations, and will continue to do so as appropriate.

51. **Norway** reported that there are no economic or other obstacles to close cooperation with the relevant authorities in the country where the crimes in question are committed with regard to exchange of information and investigation.

52. In **Poland**, international cooperation in prosecuting and punishing perpetrators of offences committed during the performance of peacekeeping missions takes place in compliance with general rules, pursuant to the provisions of the Code of Criminal Procedure (Part XIII, chap. 62) on judicial assistance.

53. In **Qatar**, extradition is regulated by articles 409 and 410 of the Code of Criminal Procedure.

54. **South Africa** proposed that a protocol of cooperation and liaison between Member States and the United Nations be developed to allow State investigators to work in concert with the Office of Internal Oversight Services.

55. In **Switzerland** judicial assistance and cooperation with other States is governed by numerous bilateral and multilateral agreements, while cooperation with the United Nations is covered by the relevant Headquarters Agreement.

56. **Tunisia** reported that sections 331 to 335 of the Tunisian Code of Criminal Procedure regulate cooperation with foreign States in order to facilitate investigation and prosecution and the exchange of information. Tunisia has also concluded bilateral agreements with other States on judicial cooperation regarding criminal matters.

57. In the **United States of America** the courts, as a matter of discretion, may provide assistance to foreign States, including compelled testimony and document production, as well as other information in response to letters rogatory. The United States has over 50 bilateral mutual legal assistance treaties that cover a wide array of serious crimes, and is also a party to numerous multilateral conventions that provide a legal basis for judicial assistance. The United States also has over 110 bilateral extradition treaties pursuant to which the United States can extradite offenders, including United States citizens, or request extradition. The list of extraditable offences is further expanded by various multilateral treaties where the requesting State is also a party to the relevant convention and has a bilateral extradition treaty with the United States.

IV. Bringing credible allegations that reveal that a crime may have been committed by United Nations officials to the attention of States against whose nationals such allegations are made

58. In order to give effect to Article 105 of the Charter of the United Nations, which grants the Organization privileges and immunities and provides, inter alia, that "... officials of the Organization shall ... enjoy such privileges and immunities

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as are necessary for the independent exercise of their functions in connection with the Organization", the General Assembly adopted the Convention on the Privileges and Immunities of the United Nations (hereinafter "the General Convention") on 13 February 1946, to which 154 Member States are parties. Under that treaty, officials are "immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity" (sect. 18 (a)), and experts on mission enjoy "immunity from personal arrest or detention ..." and "in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind" (sect. 22 (a) and (b)). Senior officials at the rank of Assistant Secretary-General and above enjoy the same privileges and immunities as those accorded to diplomatic envoys (sect. 19), including immunity from criminal jurisdiction as provided in respect of diplomatic envoys under the Vienna Convention on Diplomatic Relations, of 1961.

59. Certain types of agreements entered into between the Organization and Member States also grant privileges and immunities to the United Nations consistent with the Charter, such as headquarters agreements with host States, status-of-forces agreements and status-of-mission agreements. Some Member States hosting offices of the United Nations have adopted national laws and regulations that provide detailed arrangements for the application of the privileges and immunities of officials of the Organization in the national context. All these agreements are therefore sources of legal rules for determining the scope of privileges and immunities in the specific context of the host country.

Role of the Secretary-General

60. Pursuant to section 20 of the General Convention (in respect of officials) and section 23 (in respect of experts), the Secretary-General has the authority and the duty to waive immunity where, in his opinion, "immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations". In the interest of maintaining the international character and the independence of personnel who serve in the United Nations, whether officials or experts on mission, and also to ensure that the provisions of the General Convention are applied in a consistent manner and in the interests of the Organization, the decision whether to waive immunity in any particular case is for the Secretary-General alone to make.

61. This was reaffirmed by the International Court of Justice in its advisory opinion on the Difference relating to immunity from legal process of a Special Rapporteur of the Commission on Human Rights of 29 April 1999, which recognized that "the Secretary-General, as the chief administrative officer of the Organization, has the primary responsibility to safeguard the interests of the Organization; to that end, it is up to him to assess whether its agents acted within the scope of their functions and, where he so concludes, to protect these agents, including experts on mission, by asserting their immunity" (para. 60). Similarly, consistent with sections 20 and 23 of the General Convention, the Court reaffirmed that it is for the Secretary-General to determine whether the official or expert on mission acted within the scope of his or her functions.

62. Once the Secretary-General determines that the official or expert on mission acted outside the scope of his or her functions, unless the official in question enjoys privileges and immunities accorded to diplomatic envoys in accordance with

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section 19 of the General Convention or pursuant to the relevant headquarters agreements, status-of-forces agreements or status-of-mission agreements, the official or expert on mission would not enjoy any immunity and a waiver would not be necessary.

63. The relevant terms and conditions of service contain provisions that clearly recall the purpose and scope of the privileges and immunities accorded to them and the accountability of such personnel in a manner consistent with the Charter of the United Nations and the General Convention.

Individuals having the status of officials and experts on mission

64. For the purposes of the privileges and immunities granted under the General Convention, the term "officials of the Organization" has been defined by the General Assembly, in its resolution 76 (I) of 7 December 1946 as "all members of the staff of the United Nations, with the exception of those who are recruited locally and are assigned the hourly rate". Therefore, all staff members of the United Nations, regardless of nationality, residence, place of recruitment or rank, are considered officials with the sole exception of those who are both recruited locally and assigned to hourly rates. Furthermore, United Nations Volunteers may enjoy privileges and immunities as "officials" of the United Nations when specifically provided for in agreements such as status-of-forces agreements and United Nations Development Programme standard basic assistance agreements.

65. Individuals having the status of "experts on mission" may include persons engaged by the Organization on a consultant/contractor contract or designated by United Nations organs to carry out missions or functions for the United Nations such as rapporteurs of the Human Rights Council or members of the International Law Commission. Furthermore, in the context of peacekeeping or peace support operations, some categories of personnel have the status of experts on mission. These include military observers, military liaison officers, military advisers, arms monitors, members of formed police units, seconded individual United Nations police and seconded corrections officers. The categories of personnel deemed experts on mission are usually provided in the relevant status-of-forces or status-of-mission agreements, although such categories are not always exhaustive.

Ensuring criminal accountability

66. It is the policy of the Secretariat that officials and experts on mission should be held accountable whenever they commit criminal acts not only because of the prejudice or harm caused to the victims but also because they undermine the work and image of the United Nations. To that effect, various measures have been put in place. For example, in the context of sexual exploitation and abuse, the Secretary-General promulgated in his bulletin ST/SGB/2003/13 of 9 October 2003 that "[i]f, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution" (sect. 5).

Paragraph 9 of resolution 62/63

67. Given the legal issues involved in the referral to States of credible allegations that reveal a crime may have been committed, including issues related to the privileges and immunities of the United Nations under the General Convention, all

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such cases are reviewed by the Office of Legal Affairs before a final determination is made on any particular referral. In reviewing such cases, the Office of Legal Affairs consults with the relevant programme managers as appropriate.

68. For purposes of the present report, the Office of Legal Affairs requested information relevant to the reporting requirements of paragraph 9 from all relevant Departments of the United Nations Secretariat as well as from all the programmes and funds of the United Nations. The following information covers the period from 6 December 2007, the date of adoption of the resolution, to 30 June 2008. It covers cases actually referred to States, and for reasons of confidentiality does not include cases under investigation, which could possibly result in a referral in the future, where the credibility of the allegations has not yet been established. The Organization will continue its policy of reviewing cases where there are credible allegations that reveal a crime may have been committed by its officials and experts on mission, and should it decide that referral to law enforcement authorities of the State of nationality is warranted in any such cases, appropriate action will be taken in accordance with the General Convention and General Assembly resolution 62/63.

Referrals in relation to officials

69. During the reporting period, credible allegations against two officials were referred by the United Nations to the State of nationality. One case related to an alleged procurement-related crime and another to an allegation of rape. Both officials were locally recruited and, therefore, the State of nationality and the territorial State was the same. As at the date of the preparation of the present report, the United Nations has not received any information from the relevant States on the action taken. No requests for assistance have been received by the Secretariat from the State in question.

Referrals in relation to experts on mission

70. During the reporting period, credible allegations against one expert on mission were referred by the United Nations to the State of nationality. This case related to an allegation that the expert on mission had raped a minor. The expert in question had already been repatriated to his State of nationality. No requests for assistance have been received by the Secretariat from the State in question.

V. Ensuring that prospective experts on mission are informed of the expectation that they should meet high standards in their conduct and behaviour and will be held accountable for possible criminal conduct

71. In February 2008, the Chef de Cabinet of the Secretary-General addressed a memorandum to the heads of all departments, funds and programmes, bringing to their attention the terms of paragraph 5 of resolution 62/63, and urging them to take it into account when making the necessary requests for personnel to serve as experts on mission.

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VI. Taking other practical measures to strengthen existing training on United Nations standards of conduct, including through predeployment and in-mission induction training

72. Pursuant to the Secretary-General's commitment to the zero-tolerance policy against sexual exploitation and abuse by United Nations peacekeeping personnel, the Department of Peacekeeping Operations and the Department of Field Support have developed a three-pronged strategy to address sexual exploitation and abuse, consisting of: mechanisms established to support the prevention of misconduct; enforcement of United Nations standards of conduct; and remedial action.[13]

73. The Department of Peacekeeping Operations/Department of Field Support have sought to ensure adherence to the United Nations code of conduct and related rules, Secretary-General's bulletins and administrative instructions. Among the prevention mechanisms established, since the beginning of 2006, the Department of Peacekeeping Operations/Department of Field Support have concentrated on training and awareness-raising activities.

74. In an effort to eradicate misconduct, including sexual exploitation and abuse, the training of United Nations peacekeeping personnel is given priority. Training is considered particularly important given the frequent rotation of peacekeeping personnel, especially peacekeepers. The Conduct and Discipline Unit at Headquarters was established in 2005. The Conduct and Discipline Units were also established in 2005 in several missions and expanded to date to cover 24 Department of Peacekeeping Operations-led missions. Conduct and Discipline Units at Headquarters and in mission act both independently and collaboratively to facilitate training on misconduct for all categories of peacekeeping personnel. Likewise, UNDP trains personnel on United Nations standards of conduct, both at Headquarters and at the country-office level.

Capacity-building at Headquarters in the Department of Peacekeeping Operations/Department of Field Support

75. The Conduct and Discipline Unit at Headquarters, in coordination with the Integrated Training Service, produced three standardized modules on prevention of sexual exploitation and abuse designed for all levels and categories of peacekeeping personnel. A generic training module entitled, "Module 1: Prevention of sexual exploitation and abuse" is mandatory at induction for all peacekeeping personnel. In the light of particular responsibilities of mid-level peacekeeping personnel with regard to codes of conduct, a module was developed entitled "Combatting Sexual Exploitation and Abuse — Role of Mid-level Managers and Commanders". Recognizing the significant role that senior officials play in ensuring a zero-tolerance approach to misconduct, an additional module was developed entitled, "Combatting Sexual Exploitation and Abuse — Role of Senior Mission Leadership".

76. A documentary film, "To Serve with Pride: Zero Tolerance for Sexual Exploitation and Abuse", was jointly produced by the Department of Peacekeeping Operations/Department of Field Support, the United Nations Development Programme, the United Nations Children's Fund, and the Office for the

[13] See also A/62/758 and A/60/682.

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Coordination of Humanitarian Affairs. Launched in December 2006, it is utilized in training sessions in peacekeeping operations and other United Nations duty stations.

77. The Conduct and Discipline Unit at Headquarters has organized a series of training sessions with Conduct and Discipline Unit officers in the field and practitioners from other United Nations departments and specialized agencies. The training provides an opportunity to orient new officers and refresh seasoned peacekeeping personnel on their roles as advisers and case officers with regard to current rules, guidance and procedures relevant to conduct and discipline. Annual workshops for the chiefs of the Conduct and Discipline Units are also held to share challenges and best practices and improve practices in field missions and Headquarters. Other Headquarters training has focused on specific initiatives, such as the roll-out of a misconduct tracking system, a secure, web-based system designed to record, track and report on allegations of misconduct by peacekeeping personnel.

78. In 2006, the Community of Practice on Conduct and Discipline was established, which is a knowledge-sharing initiative to link the Conduct and Discipline Units in peacekeeping missions as well as practitioners working in related fields. In 2007, the Conduct and Discipline Unit also established Internet and Intranet websites which provide relevant documents and information on conduct and discipline.

79. Additionally, the Conduct and Discipline Unit at Headquarters has coordinated and overseen initiatives in the field to raise awareness of the code of conduct. For example, in 2007, the Conduct and Discipline Unit at Headquarters held six field-based workshops to develop mission-specific strategies to support a communications campaign to combat prostitution and transactional sex.

80. The Conduct and Discipline Unit at Headquarters further trains potential and selected senior leaders in the Senior Mission Leadership course and Senior Leadership Induction programme, respectively, designed to better prepare heads of missions and other leaders. Additionally, the Unit provides frequent briefings on conduct and discipline matters to other departments.

81. The training sessions cover conduct and discipline issues, such as: the Conduct and Discipline Unit mandate; the code of conduct and core values; examples and consequences of misconduct and sexual exploitation and abuse; individual and management responsibilities; obligations for reporting; disciplinary and administrative procedures; and rights and responsibilities of staff members.

82. As requested by the General Assembly in its resolution 62/247, the Office of Internal Oversight Services Investigation Division has commenced development of a comprehensive investigation learning programme, designed to build the capacity of programme managers and other staff with investigative responsibilities outside the Office of Internal Oversight Services. Such training seeks to ensure the prompt and effective disposition of cases consistent with prevailing jurisprudence, investigative standards, and administrative requirements in the United Nations.

83. The Integrated Training Service has conducted several surveys and determined that training on sexual exploitation and abuse is consistently delivered at predeployment and in-mission induction training, and that more peacekeeping personnel attend the course on sexual exploitation and abuse than any other mandatory training course.

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84. Since 2007, the UNDP Legal Support Office has been training staff on the United Nations standards of conduct and disciplinary procedures; and is in the process of developing an online legal training tool that will be accessible by all UNDP personnel.

Capacity-building in peacekeeping missions

85. In December 2007, the Department of Peacekeeping Operations mandated the training of a broad spectrum of cross-cutting issues to be provided to new staff as soon as possible after deployment to Department-led missions, including the prevention of sexual exploitation and abuse, and other conduct and discipline issues. A previous instruction distributed to missions in August 2007 mandated the predeployment induction for all new civilian staff members recruited for missions. The strategy to integrate training and awareness-raising will build upon the training strategy that the Conduct and Discipline Units and other organizational units have already established in the field.

86. A significant percentage of all United Nations peacekeeping personnel in missions has been trained on sexual exploitation and abuse since it became mandatory in 2005. The Integrated Training Service in the United Nations Logistics Base, Brindisi, is responsible for compulsory civilian predeployment training. In-house Integrated Training Service trainers conduct induction courses approximately twice per month on a variety of topics, including on the code of conduct and sexual exploitation and abuse. All Conduct and Discipline Units are providing training to their respective missions on the United Nations standards of conduct, and other related topics such as sexual exploitation and abuse.

87. The Conduct and Discipline Units in mission, either alone or in close collaboration with the Integrated Mission Training Cell, are responsible for the substantive development of customized training materials to reflect the needs of the mission and cultural aspects of the host population. Some missions have sought to provide additional mission-specific material to complement their trainings. Many Conduct and Discipline Units develop training materials that are tailored to the specific type of training (induction or in-mission refresher training) and category of peacekeeping personnel, such as police officers and military liaison officers.

88. The Conduct and Discipline Units are also responsible for developing and implementing a mission-focused training strategy, conducting trainings, and raising awareness on issues related to misconduct. The Conduct and Discipline Units in the field regularly carry out scheduled induction and in-mission courses as well as train trainers in regional offices who can then conduct briefings on misconduct to others. Many missions have developed mission-tailored evaluations to measure the impact of the training provided. The Conduct and Discipline Units have also incorporated various local issues in their training to sensitize peacekeeping personnel about matters particular to the host country. Likewise, the UNDP Ethics Office has trained field staff on ethics in various regions.

89. Recognizing the importance of senior management in training and raising awareness of misconduct, the Conduct and Discipline Units in missions play a significant role in informing senior officials and heads of mission of their responsibilities as role models, presenting the most recent trends and analysis of misconduct, and advising necessary action pursuant to established codes of conduct.

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Heads of mission routinely participate in briefings to specific audiences and town hall meetings.

90. In addition, mission-based awareness-raising initiatives are a significant part of the strategies of the Conduct and Discipline Units in mission to prevent sexual exploitation and abuse. The units seek to raise awareness by reaching out to host populations, including local government officials, relevant civil society organizations, international organizations or non-governmental organizations.

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Report on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Financing of the African Union-United Nations Hybrid Operation in Darfur

Report of the Office of Internal Oversight Services on the audit of the use of extraordinary measures for the African Union-United Nations Hybrid Operation in Darfur

Note by the Secretary-General

Summary

Pursuant to General Assembly resolution 62/232 A, the Office of Internal Oversight Services (OIOS) conducted an audit on the use of extraordinary measures exceptionally authorized by the Secretary-General for the African Union-United Nations Hybrid Operation in Darfur (UNAMID).

The present note provides comments and clarifications on the information contained in the audit report elaborated by OIOS for the consideration of the General Assembly (A/63/668). It is important to note that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was that failure to provide extensive facilities on the ground would have caused the mission to fail. The choice of a sole-source contract solution brought within it risks, but these were judged less onerous than the risk of failing to provide facilities.

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General comments

1. At the outset the Secretary-General would like to emphasize two important issues. First, extreme caution has been exercised in the authorization and use of flexibility measures in the application of administrative rules. Secondly, all activities implemented under the extraordinary measures in the African Union-United Nations Hybrid Operation in Darfur (UNAMID) were in compliance with United Nations regulations, rules and procedures and contributed to the better functioning of this operation.

2. It is also important to note that the major risk faced by the Secretariat in implementing the Security Council mandate for UNAMID was that failure to provide extensive facilities on the ground would cause the mission to fail. The choice of a sole-source contract solution brought with it risks, but these were judged less onerous than the risk of failing to provide facilities without which the Security Council mandate would remain unimplemented. The Organization chose to mitigate various risks related to the disruption in supply chain by building redundancies and planning for the "worst case scenarios", which were the underlying premise of the contract.

3. The estimated financial implications of deficiencies included in the annex of the Office of Internal Oversight Services (OIOS) report have not been documented and, in most cases, have been and are contested, as shown in the subsequent paragraphs of the present note.

Comments on the summary

4. In regards to the high level of financial and reputational risks that the decision to enter into a sole-source contract created, the Secretary-General would like to clarify that these risks must be weighed against the more obvious risks of not having fulfilled the Security Council's mandate in the timely deployment of a peacekeeping mission. Had the United Nations not been able to use the contractual services, the consequences could have been worse. The selected contractor had been operating in Darfur since 2004 following a competitive solicitation exercise carried out by a Member State, and it was considered to be the best solution among the various options available to the Organization. The Secretary-General also considers that the controls in place were adequate within established regulations and rules to ensure full compliance with the terms agreed upon in the contract.

5. Concerning the point raised that the Headquarters Committee on Contracts was pressured to expedite its recommendation, even though the process of negotiating the cost of the contract was still ongoing, the Secretary-General would like to clarify that an explanation was given to the Committee, as reflected in the minutes of the Committee, that prices could be further lowered by continuing the negotiations process for an additional week. These negotiations in fact resulted in material savings to the Organization amounting to US$ 41 million.

6. The OIOS report also claims that no effort was made by the Department of Field Support and the Procurement Division to negotiate a corresponding reduction in the overhead/administrative charges. In this respect, it should be noted that, as indicated to OIOS at the time of the audit, the Procurement Division planned to negotiate a reduction in the overhead and administrative charges. These negotiations

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were completed in September and October 2008 and resulted in further material cost reductions in excess of $16 million.

7. In regards to the statement of OIOS that the initial draft letter of assist issued by the Department of Field Support was for a one-year period with option for a three-year extension, exceeding the authorized amount and extension period, as initially presented to the Headquarters Committee on Contracts, the Secretary-General wishes to clarify that this observation is based on drafts that were being discussed among the parties. In the end, the letter of assist was only issued for a one-year period, with an option for a one-year extension as authorized by the Committee.

8. The OIOS report also states that savings of more than $6 million per year could be realized if monthly rates were negotiated on the basis of UNAMID's working hours instead of a 12-hour working day and a 26-day month, as proposed in the draft letter of assist. In this respect, the Secretary-General would like to clarify the following: In start-up missions, it is not unusual for United Nations employees to typically undertake 12-hour working days and to work on weekends. Restricting or slowing down the amount of work of the consultants was not in the best interest of the Organization. Besides, the Secretary-General would like to point out that there are vast differences when undertaking a cost comparison of the United Nations work day and that of the proposal, as explained in detail in paragraphs 42 to 45 below.

I. Introduction (paras. 1-4)

9. The Secretary-General has no comments in regards to the introduction.

II. Comments on justification for the use of extraordinary measures (paras. 5-10)

10. Paragraph 8 of the OIOS report indicates that the Under-Secretary-General for Internal Oversight Services "expressed concerns", in a correspondence dated 23 November 2007 to the Secretary-General, "about allowing flexibility in the application of procedures". It should be noted that the use of the extraordinary measures was the subject of extensive discussions by members of the Fifth Committee during the review of the budget for UNAMID in November and December 2007. During those discussions, approximately 200 questions were raised and answered either verbally or in writing. About 50 of those questions related to the use of the extraordinary measures and to the sole-source contract. On 22 December 2007, the General Assembly approved a resolution for the financing of UNAMID, including a request for OIOS to audit the use of the extraordinary measures (resolution 62/232 A). It was therefore deemed appropriate to address the matter in a comprehensive manner. Furthermore, the Secretary-General would like to clarify that owing to the risks associated with the award of a contract on a sole-source basis under extraordinary measures, OIOS representatives were invited by the Procurement Division in two separate occasions (23 May and 15 June 2007) to provide OIOS advice on the risk that could be present and internal controls that should be considered in the procurement and administration of the contract. The OIOS representatives did not indicate in the course of those meetings that the sole-

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source contract as signed could prove to be "damaging [to] the reputation of the United Nations", as OIOS states in paragraph 29 of the report.

III. Controls established to mitigate risks of loss, misuse and mismanagement of resources (paras. 11-12)

11. The Secretary General has no comments in regards to paragraphs 11 and 12.

IV. Comments on the effectiveness of the extraordinary measures (paras. 13-77)

A. Procurement (para. 13)

12. The Secretary-General has no comments in regards to paragraph 13.

1. Comments on inadequate planning of logistical requirements (paras. 14-20)

13. The Secretary-General would like to note that, despite all the challenges during the contract implementation, the contractor has provided the infrastructure for four super-camps, affording the mission the capability to accommodate more than 4,000 persons, both military and civilian. Without these camps, any new deployment in UNAMID would have been impossible.

14. In regards to the decision to enter into a sole-source contract, the Secretary-General considers that OIOS has not fully taken into account the precursor of events that led to the establishment of the sole-source contract and as a result has drawn inappropriate conclusions over the efficacy of the planning process. The genesis of the recommendation to pursue this modality of contract was the need to support the deployment of the heavy support package comprising 4,100 personnel in order to strengthen the African Union Mission in Sudan (AMIS). Although, the heavy support package had been anticipated for some time, it was only finally approved by a letter from the President of the Security Council on 17 April 2007. At that stage, it was anticipated that heavy support package units would start to deploy in about two months (by June 2007) and the Department of Field Support was under significant pressure to rapidly have in place appropriate support arrangements on the ground. Therefore, given the limited time available and the normal time required for a tender, award and mobilization of a contract of this magnitude, alternative methods to meet the operational requirements were judged to be necessary.

15. In regards to the notion that the Department of Field Support did not perform a cost-benefit analysis to justify the use of a multifunction logistics contract, the Secretary-General would like to note that in the absence of sufficiently qualified and available resources or the time to undertake logistic demands of the required magnitude, there was no viable option other than to seek resources under a multifunction service contract. Hence, it was considered that a cost-benefit analysis could not be conducted because there was no other available capacity for such a comparison to be carried out.

16. The Secretary-General would also like to note that the period in which the planning for the deployment and support of the heavy support package took place

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was plagued by uncertainties and delays. The Government of the Sudan withheld approval of the provision of the heavy support package by the troop-contributing countries until July 2007, while some of the capabilities within the package were not provided by Member States. Hence, it was extremely difficult for the Department of Field Support to finalize a statement of requirements for heavy support package support. A draft statement of requirements was prepared by the Department by late April 2007. This was refined through discussions between the Department of Management, the Department of Field Support and the OIOS in order to identify and mitigate risks and through a field visit by the Departments of Field Support and Management to Darfur and was submitted in final form to the Procurement Division in mid-July 2007.

17. Given the prevailing uncertainties which surrounded this deployment, and the complexity of the requirement, the Secretary-General considers that the timescale is understandable and its preparation efforts are reasonable. The Secretary-General wishes to clarify that there was not sufficient information at hand in December 2006 to properly plan for and evaluate the cost-effectiveness of entering into a sole-source, multifunction logistics contract, nor does he consider that sufficient information existed in December 2006 to develop and issue a statement of work with sufficient detail that would enable the Procurement Division to commence a credible solicitation.

18. The contractor had been operating in Darfur since 2004. The company had constructed and was maintaining 34 camps for AMIS of the type required by UNAMID and therefore had personnel and assets on the ground and a well-functioning supply chain in Darfur suited to the logistic requirement of UNAMID. It was assessed that the contractor was the only company capable of mobilizing the necessary construction teams within 30 to 60 days, noting the expectations of the Security Council. Hence, the decision was taken to recommend a sole-source contract for support to the heavy support package. In reaching this decision it was assessed that the risk to the reputation of the Organization of failing to deploy the heavy support package units in a timely manner outweighed the risk of the sole-source approach as has, indeed, proved to be the case.

19. The deployment of the heavy support package was the second phase of a three-phase approach to strengthening peacekeeping in Darfur. Phase One, the light support package, comprised some equipment but was primarily made up of personnel to strengthen the management of the operation in Darfur. The heavy support package was designed to deliver critical enabling capacity to AMIS. The decision of the Security Council to establish UNAMID in late July 2007, before any heavy support package capability had deployed to Darfur, presented a further series of challenges to the Department of Peacekeeping Operations and the Department of Field Support, who were now required to undertake concurrently the following major tasks:

(a) Continue the generation and deployment of the heavy support package;

(b) Assume operational command authority over the light and heavy support packages by 31 December 2007;

(c) Assume authority from AMIS by 31 December 2007;

(d) Take over support of the already deployed 6,743 AMIS troops who were to become United Nations troops from 31 December 2007;

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(e) Expand the peacekeeping mission to its full strength of 19,555 military, 3,772 police officers, 19 formed police units, each of 140 personnel, and an appropriate civilian component as rapidly as possible.

20. Based on the explanations provided in paragraphs 13-19 above, the Secretary-General's view is not that the Department of Field Support failed to adequately plan for the provision of the multifunction logistics services. As earlier stated, the Controller in his letter referred to above, requested that a concept be developed to respond to an emergency situation of this nature to prevent reoccurrence of exceptions to competitive bidding. The Controller's request to the Department of Field Support was to consider whether it could develop a "standing or standard resource requirement" which could be used as the basis for competitive bidding should the Organization be placed under similar time and information constraints for rapid deployments in the future.

2. Comments on delays in the preparation of a statement of work (paras. 21-23)

21. The Secretary-General has no comments with regards to paragraphs 21 through 23 other than those provided in the paragraphs above.

3. Comments on approval of the contract award to Pacific Architects and Engineers (para. 24)

22. The Secretary-General has no comments in regards to paragraph 24.

4. Comments on insufficient time for evaluation and review of the Pacific Architects and Engineers procurement case by the Headquarters Committee on Contracts (paras. 25-29)

23. The Secretary-General would like to reiterate that the reason for requesting an urgent consideration of the multifunction logistics case by the Headquarters Committee on Contracts was the fact that the then existing contract between the contractor and a Member State was due to expire the day after the presentation (31 August 2007). Therefore, had the contractor agreement with the United Nations not been confirmed, the contractor was at risk of losing its legal status in the Sudan and consequently would have had to demobilize. This course of action would have significantly increased the costs to the United Nations and lead time in mobilizing other construction capabilities in Darfur. It should be noted that the Headquarters Committee on Contracts was fully informed about the contract in detail and it was also explained to them that prices would be further reduced, following final negotiations. Indeed, as stated above, the additional week of negotiations resulted in material savings to the Organization of an additional $41 million. The Headquarters Committee on Contracts was duly informed of the final results of the negotiations.

24. Moreover, a review of the Headquarters Committee on Contracts case minutes showed the extensive examination of the issues raised by the Committee. The Committee flagged the exceptional nature of the case in providing the decision maker with two recommendations on how to proceed. As such, the Committee discharged its functions in providing its views on a difficult case which clearly raised significant operational issues for the Organization in terms of meeting the Security Council mandate.

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25. In relation to the possibility that the vendor's selection without bidding, as permitted under the extraordinary measures, could attract negative publicity damaging the reputation of the United Nations, the Secretary-General would like to emphasize that, considering the risks associated with awarding a contract of this magnitude and complexity on a sole-source basis, the Department of Management requested the advice and guidance of OIOS. OIOS representatives were invited on two separate occasions (23 May and 15 June 2007), to seek the advice of OIOS on the risks that could be present and internal controls that should be considered in the procurement process and administration of the contract. The OIOS representatives did not indicate, during these meetings, that the contract could prove to be damaging to "the reputation of the United Nations", as it was later asserted in the report. It should also be recognized that a failure to implement the Security Council mandate owing to the non-provision of facilities would have resulted in even worse reputational damage as well as substantive damage to the Organization and its objectives.

5. Comments on inadequate bid evaluation (paras. 30-33)

26. The Secretary-General would like to note that extensive negotiations were carried out by a team comprised of members from the Department of Field Support, the Office of Legal Affairs and the Department of Management, whereby the original bid proposal of $790 million was eventually reduced by over half a billion dollars. While indeed some of the vendor assumptions appeared to be relatively high, the substantial price reduction was a result of an analysis of more than 13,000 line items which constituted the vendor proposal.

27. In regards to the absence of benchmarking, the Secretary-General would like to clarify that there were many examples of price comparisons demonstrated within the contract files. As stated above, there were more than 13,000 line items within the proposal and, while a comparison for all line items would have been more than challenging, the Procurement Division did use many means at its disposal to carry out benchmarking, such as:

(a) Existing systems contracts — despite the fact that the delivery terms for systems contracts are either delivered duty unpaid (DDU) Brindisi or free carrier Brindisi, the vendor proposal was on-site delivery. Furthermore, in many instances, the systems contracts did not have the capacity to satisfy the demand for the heavy support package contract;

(b) Data from a Member State and the African Union was used to provide a benchmark despite the fact that the Member State's specifications differed from United Nations standards;

(c) Other mission contracts;

(d) The labour laws of the Sudan.

28. The Secretary-General wishes to clarify that the Organization always reserves the right to utilize systems contracts within the terms of a heavy support package contract, but as stated above, the delivery capacity of systems contracts has to be taken into consideration, which in this case did not exist. Furthermore, there are always risks associated when ordering from a third party. These risks have to be balanced against the possibilities of not achieving the ultimate goals of the project owing to non-delivery of goods from a third-party supplier.

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6. Comments on weakness in the management of task orders (paras. 34-41)

29. In the OIOS report, reference is made to administrative fees totalling $4.3 million for which the United Nations did not obtain value for the costs incurred. The Secretary-General would like to state that the administrative fees of $4.3 million have been recovered.

30. The OIOS report also refers to the administrative fees for the task orders raised for El Obeid for the period between 1 April and 14 July 2008. The cost for services in El Obeid at $313,416 have all been recovered either directly or through the process of negotiations.

31. In reference to the statement in the OIOS report relating to the procurement of equipment at prices higher than those in the existing systems contracts, resulting in additional costs of $7 million to the United Nations, the Secretary-General would like to clarify that the only disproportionate cost that has been identified is the amount of $3 million which refers to purchases of generators. It must be noted that during the time period in question, the existing supplier for the system contract suffered from force majeure circumstances related to severe natural conditions and, therefore, was unable to fulfil its contractual obligations. Hence the need to procure generators, as a mission-critical item, from elsewhere, on an exigency basis in line with the "worst case scenario" mentioned above.

32. It must also be added that in reference to the 500-kVA generators, it is correct to assume that if purchased through the systems contract, this cost would have been less, but this would have been a delivery duty unpaid Brindisi and the vendor proposal was for an on-site delivery. Additionally, the lead time for the systems contracts was protracted and any delay faced with regards to generators ordered from the systems contract would have had a detrimental effect on the overall deployment timelines mandated by the Security Council. Furthermore, there was a need to mitigate the risk element attached to ordering items from a third party and integrating into another contractor's operation. Hence, the solution chosen took into account, among others, the unforeseen events faced by the supplier, the prices and the most time-efficient delivery methods.

7. Comments on overhead and administrative charges not commensurate with the adjusted contract value (paras. 42-43)

33. The Secretary-General has no comments in regards to paragraphs 42 and 43.

8. Comments on charges for catering and management services not performed

34. The Secretary-General would like to note that at the time of signing the task orders for catering, UNAMID had in its possession various catering equipment. This catering equipment was to be used in the provision of catering services from 1 April 2008, but was in various states of disrepair. During the mobilization period, which started at the date on which task orders were issued, the vendor was required to assess and repair the equipment for use under the contract which commenced on 1 April 2008. The charging of fees for catering equipment maintenance was therefore justified. However, in accordance with the relevant change and task orders, an adjustment was made to the charges for management services and the maintenance of catering equipment, reducing the net amount payable by the United Nations for these services by $100,758. Much of this reduction was related to the

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lack of mobilization, management and equipment operation and maintenance services delivered during January 2008.

35. Paragraph 46 of the OIOS report found that the contractor had not provided the services of cleaning, laundry, pest control, ground maintenance and garbage/refuse disposal services. However, task orders included charges of $475,926 for management services for six months from February 2008. The Secretary-General would like to clarify that in accordance with the terms of the contract, if the mission chose to use one of the range of services offered, the full management fee would be payable. As UNAMID chose to use the catering services, the full cost was incurred. However, as part of the overall package negotiated with the contractor on the management fees in September and October 2008, the Secretary-General would like to inform that this amount was included in the cost reductions of $16 million referred to in paragraph 6 above.

9. Comments on delays in establishing the contract management function (paras. 48-50)

36. In reference to the delays in having a fully operational contract management function established, the Secretary-General would like to state that the UNAMID budget was not approved by the General Assembly until 22 December 2007. While timely recruitment processes were undertaken by the mission, the recruitment effort was hampered in a number of ways: short-listed staff declining to be interviewed, selected staff declining appointment and appointed staff facing extreme delays in travelling to the mission. It was also expected that the letter of assist with a Member State for provision of contract management services would have been concluded in a timely manner and that the mission would have benefited from this support.

37. In light of the difficulty the Organization faced to attract, recruit and retain qualified staff, it is understandable that as of April 2008, the mission had not established a sufficiently staffed and technically qualified in-house capacity to manage the multifunction logistics contract. These outsourcing arrangements have now been finalized.

38. The Secretary-General would like also to clarify two major setbacks that influenced this delay: As noted by OIOS in paragraph 52 of the report, before the letter of assist was considered, the Procurement Division undertook two procurement exercises. Both exercises were ultimately unsuccessful — the first one owing to a lack of any technically compliant proposals, the second owing to a conflict of interest with the sole technically compliant proposal.

39. It should also be noted that it was not appropriate to label the letter of assist process as "non-competitive bidding" as if it were a competitive process. All letters of assist are by their very nature non-competitive arrangements between the parties to the arrangements. Yet it is prudent to note that the Procurement Division did conduct a cost comparison of the financial proposal of the Government with which the letter of assist was established against the commercial prices obtained from the failed commercial exercises.

40. Furthermore, the letter of assist had yet to be executed because of protracted negotiations with the involved Member State on complex issues. Among the difficult negotiations, for example, was the objection of the Member State initially to indemnify the Organization for acts, omissions or negligence on its part. The

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Member State relented on this issue, but only after its Parliament approved entering into the letter of assist on a provisional basis. The United Nations acceptable levels of insurance coverage by the Member State were also problematic. Almost all of the issues ultimately required the advice and approval of the Controller, the Office of Legal Affairs and the Department of Management. This inevitably extended the time of the negotiations.

10. Comment on the issuance of a letter of assist exceeding the authorized amount and contract renewal period (paras. 51-54)

41. The Secretary-General would like to clarify that the letter of assist was issued for one year with an option to extend up to one year as approved by the Headquarters Committee on Contracts. The period mentioned in the OIOS report was both a consideration and a preference for both the mission and the Member State involved, and it was the basis for the draft letter of assist that was prepared. This however, was short-lived and the letter of assist for one year with a one-year extension option was pursued. It must be mentioned that OIOS based its observations on the draft.

11. Comments on the excessive cost of contract management services (paras. 55-57)

42. In paragraphs 55-57, the OIOS report questions the letter of assist with respect to the costs used which were based on an hourly rate for a 12-hour working day on a 26-day month for each consultant. This is contrasted with the United Nations where the working hours are eight hours per day, on a 22-day month basis. The report continues to provide estimates of potential savings that would have been achieved had the contract been based on United Nations working hours. In this respect, the Secretary-General would like to state that as the primary objective of the Organization was to enable UNAMID to implement its mandate as soon as possible, restricting or slowing down the amount of work of the consultants would have represented savings that would not have been in the best interest of the Organization. The Secretary-General strongly believes that reducing the quantum of the consultants' work to the suggested levels is not in accordance with normally accepted commercial practice, nor would it have been within the operational interest of the Organization.

43. More specifically, the Secretary-General would like to note that there are vast differences when undertaking a cost comparison of the United Nations work day/month and that of the letter of assist personnel. The Director/Chief of Mission Support usually defines the number of working hours and work days in a month. In a start-up mission, it is not unusual for United Nations employees to typically undertake 12-hour days and be required to work on weekends. The United Nations, however, only recognizes 21.75 days (and 7.5 hours per day) of productivity for compensation to its staff. The letter of assist proposal is reflective of the fact that its staff will work 6 days out of every 7 days up to 12 hours per day. The characterization of what constitutes a "normal" work day in the context of generating savings is misaligned with the objective of the mission to build capacity in the **shortest period of time**.

44. Furthermore, it must be considered, that the consultant's work month is based on the provision of "consultant days" and not "consultants". The party retained under the letter of assist is obliged to provide 26 days of consultancy productivity in

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every month (for each position) irrespective of sick leave, annual leave, travel days or official holidays of its individual consultants. In contrast, the United Nations continues to pay its staff during these "down" periods, and is not required to provide alternate coverage during these absences. Accordingly, the comparison made is an "apples to oranges" one and the savings alleged are not substantive.

45. In addition, it should be noted that cost-comparisons were undertaken between the selected proposal and the proposals the United Nations had received for Consultant Contract Management services from the competitive bidding exercise. It was found that the prices included in both proposals were comparable. Based on the cost-comparison, the Secretariat managed to reduce the costs associated with certain types of personnel resulting in savings of €234,705. Perhaps more significantly, on average, the core personnel costs of the party whose services were retained were over 18 per cent less than those of the only comparable commercial bid received in two bidding exercises that were carried out during the process of contracting these services.

46. Finally, the Secretary-General would like to state that as of December 2008, the finalized letter of assist had been signed.

12. Comments on the extension of existing systems contracts (para. 58)

47. The Secretary-General has no comments in regards to paragraph 58.

13. Comments on the lack of in-house expertise to arrange multifunction service contracts (para. 59)

48. The Secretary-General would like to note that the United Nations generally conducts procurement through competitive bidding for individual requirements as they arise. The Organization does not have expertise for such detailed cost analysis involving military assets, as it usually evaluates prices based on market responses given as offers in response to specific requirements set forth in tender documents. For UNAMID, it was deemed necessary to utilize the expertise of the Maintenance and Supply Agency of the North Atlantic Treaty Organization to conduct such detailed cost analysis to protect the financial interest of the Organization.

49. Nevertheless, the Department of Management will seek additional resources from the General Assembly to build its own capacity to manage procurement of multifunction logistics service.

14. Comments on procurement measures not used (para. 60)

50. The Secretary-General has no comments in regards to paragraph 60.

B. Human resources management (para. 61)

51. The Secretary-General shares the view of OIOS regarding the need for the United Nations to reassess its strategy in attracting both external and internal candidates to take up peacekeeping positions in the field and reiterates that every effort is being made to this effect. The Secretariat has already taken a number of initiatives to better manage the recruitment and staffing process. The Secretary-General's proposals for human resources management reform set out in his report entitled "Investing in people" (A/61/255 and Add.1 and Corr.1) sought to address

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inadequacies in the conditions of service of staff serving in the field. At the conclusion of the main part of its sixty-third session, the General Assembly took a number of decisions on the Secretary-General's human resources reform proposals relating to the streamlining of contractual arrangements and harmonization of conditions of service of staff in the field which will impact on staff in peacekeeping operations and special political missions. As reflected in resolution 63/250, the General Assembly approved the new contractual arrangements, comprising three types of appointments (temporary, fixed-term and continuing) under one set of staff rules, effective 1 July 2009. While full harmonization with the United Nations system agencies, funds and programmes has not yet been achieved, the conditions of service of mission staff have been aligned with the common system benefits of the Secretariat. The General Assembly's decisions represent recognition of staff in the field as part of the regular Secretariat, with the same common system conditions of service and contractual arrangements. In future sessions, the General Assembly may revisit those proposals of the Secretary-General which were not approved. The Secretary-General maintains that the adoption of these proposals is essential to the Organization's strategy in attracting both external and internal candidates.

52. One of the tools for addressing the timely filling of vacancies is the human resources action plan that has been introduced to all peacekeeping missions effective 1 July 2008. The human resources action plan is a shared commitment by the Under-Secretary-General for Peacekeeping Operations and the Special Representative of the Secretary-General and Head of Mission to recruit and retain high-quality civilian staff for the field. Realistic targets to reduce timelines in the selection process, decrease the high vacancy and turnover rates and ensure proper recording of recruitment timelines have been established. The Department of Field Support has committed itself to providing missions with the necessary support to achieve these targets. To facilitate the implementation of the action plans, missions have been granted the authority and responsibility to implement the automated selection process (a system which prior to the implementation of the human resources action plan was limited to Headquarters) at the mission level through the automated vacancy management module, which will enable them to record their actions in the selection process in a timely manner. Missions have also been delegated authority and responsibility for staffing tables and post management to facilitate proper workforce and succession planning. A vacancy management module has been introduced in the Nucleus system to record local staff recruitment and facilitate the timely selection by field missions and to monitor timelines for the selection of locally recruited staff members. The implementation of the human resources action plan is expected to decrease vacancy and turnover rates, thereby contributing to retention and development of field staff through career development and succession planning and to prepare staff members for future development through training. This will be based on identifying and developing a pool of talented staff to ensure leadership continuity for all key positions in the missions.

53. Succession planning is linked with forecasting the critical staffing needs for all peace operations as well as assigning staff so that they are in the right position at the right time and can actively engage in the fulfilment of the missions' mandates. In consultation with the Department of Peacekeeping Operations Integrated Training Service and the Office of Human Resources Management Staff Development Service, the Department of Field Support will be identifying all staff development activities and professional training available, inclusive of certifications that they

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would require to strengthen the ties between succession planning, performance management and career mobility.

54. The Department of Field Support continues its outreach initiatives in order to attract qualified candidates for peace operations through a variety of conferences and job fairs, as well as posted advertisements on targeted websites. Furthermore, the Department regularly circulates lists of critical vacancies to approximately 40 organizations worldwide, which help in identifying candidates for hard-to-fill positions or positions requiring specific skills. Positive outcomes have already been achieved as a result of this activity. In the first quarter of 2008, the Recruitment, Outreach and Career Development Section institutionalized its outreach functions by creating a structured full-time outreach team within its Recruitment and Outreach Unit.

1. Comments on the limited effect of extraordinary measures on the timeliness of staff deployment (paras. 62-65)

55. The Secretary-General would like to state that some of the statistics used to arrive at these conclusions are at variance with those of the Secretariat. The OIOS report stated that as of 31 March 2008, 13 of the 33 key administrative positions at the P-5 level or higher and 23 of the 39 key substantive positions had not been filled. The weekly update from the UNAMID recruitment tiger team dated 27 March 2008 indicated that the mission support component had 33 available posts and 20 staff members (61 per cent) were on board. The substantive offices had 39 available posts and 15 (38 per cent) were encumbered. Therefore, out of 72 key positions, a total of 35 (49 per cent) had been filled as of 31 March 2008. As of 12 November 2008, 50 (69 per cent) critical posts at the P-5 level or higher are encumbered, 26 from the support component and 24 from the substantive offices.

56. It should be noted that the mission support component currently has 100 per cent incumbency for the D-1 level and above, including the temporary duty assignment for the position of Principal Administrative Officer in Khartoum. The substantive component's incumbency rate for the D-1 and above level is 67 per cent. The recruitment tiger team is working closely with the recently assigned Chief of Staff to expedite the recruitment in the substantive component with a focus on filling vacant P-5-level positions.

57. In reference to the use of the extraordinary measure related to the temporary duty assignment in UNAMID, the Secretary-General would like to clarify that the Department of Field Support consulted with UNAMID and concluded that it was in the mission's best interest to continue the extraordinary measure of placing staff members on temporary duty assignment beyond 90 days. As a control measure, the Department required UNAMID to specify the durations of the temporary duty assignment, not to exceed 12 months. Therefore, the Department and the mission continued to exercise the extraordinary measure of allowing civilian personnel to deploy on temporary duty assignment beyond 90 days after 31 March 2008.

58. Concerning the issue of hiring replacements for the releasing missions, it should be noted that given that the duration of the temporary duty assignment was not specified at the time of deployment, such a measure would have been impracticable. It is understood that temporary duty assignment may be extended beyond 90 days; however, it is not automatic that such extensions must always be for one year. In this connection, experience has shown that attempts to fill vacancies

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for a six-month period are extremely difficult, as very few candidates are willing to deploy to a field mission knowing that their appointment would expire at the end of six months.

2. Comments on limited experience of staff on temporary duty (paras. 66-68)

59. Paragraph 66 of the OIOS report stated that "the Department of Field Support did not set criteria on experience and expertise required for staff selected for temporary duty". The Secretary-General states that criteria had been established on experience and expertise required for staff selected on temporary duty assignment, in the Department's correspondence, dated 28 August 2008, addressed to all missions, to ensure that temporary duty assignments were being utilized in a uniform and consistent manner. This correspondence clearly articulated the purpose, clarified procedures to be followed and the control and reporting mechanisms ensuring that temporary duty assignments were utilized to meet their stated purpose. The purpose of the temporary duty assignment is to provide the receiving mission with highly experienced and qualified staff with unique expertise to meet urgent support requirements not only at the start-up stage, but also during expansion, liquidation or other limited periods. Staff deployed on temporary duty assignment must be able to "hit the ground running" and be immediately and positively productive in the receiving mission with no advanced notice or training.

3. Comments on the delayed reference checks of personnel absorbed from the African Union Mission in Sudan (para. 69)

60. The Secretary-General would like to reiterate that although reference checks were expeditiously initiated, UNAMID experienced difficulty in getting timely responses from employers and educational establishments. Therefore, in order to provide much-needed staff support, UNAMID decided to proceed with the completion of recruitment, while continuing to conduct reference checks. The mission forwarded a list of former AMIS staff for whom no reference check had been conducted to the Reference Check Unit of the United Nations Logistics Base in Brindisi with a view to prioritizing these reference checks.

4. Comments on accommodation-provided mission subsistence allowance and new mission subsistence allowance rate for Darfur (paras. 70-71)

61. The Secretary-General has no comments on paragraphs 70 and 71.

5. Comments on additional travel days for occasional recuperation breaks (para. 72)

62. At the conclusion of the main part of its sixty-third session, the General Assembly also approved the replacement of the occasional recuperation break with a rest and recuperation scheme that would include travel time appropriate to the location but not involve any payment of travel expenses, effective 1 January 2009. All field missions have been informed accordingly, and the administrative instruction on occasional recuperation break (ST/AI/2000/21) is being revised to reflect the changes to the rest and recuperation scheme.

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6. Comments on inadequate staffing of the tiger team (paras. 73-74)

63. As regards the statements in the OIOS report that the Department of Field Support introduced the use of ad hoc "tiger teams" to augment the capacity of missions in recruiting international staff and that the number of tiger team staff responsible for recruiting international staff had been constantly reduced in UNAMID, in circumstances in which there was a continued need to augment the Operation's recruitment efforts until the vacancy rate decreased to an acceptable level, the Secretary-General would like to inform that in an effort to further support the tiger team in meeting the recruitment targets in line with the approved budget, the Department of Field Support temporarily deployed seven additional human resources personnel to UNAMID in June 2008. Currently, the recruitment tiger team has the strength of 19 members, of which 10 are in the International Recruitment Cell and 9 in the National Cell. One additional Human Resources Officer at the P-3 level is in the process of being deployed to Darfur to provide long-term assistance to the recruitment tiger team.

C. Extraordinary measures for other areas (paras. 75-77)

64. The Secretary-General has no comments on paragraphs 75 to 77.

Comments on the recommendations

65. *Recommendation 1 (para. 78)*: In its recommendation 1, OIOS stated: **The Secretary-General should exercise caution when authorizing flexibility measures in the application of administrative rules by ensuring that sufficient governance mechanisms are in place to properly identify and mitigate financial and reputation risks to the United Nations.**

66. The Secretary-General would like to emphasize that caution is always exercised when authorizing flexibility measures in the application of administrative rules. **Thus, it is unclear what action OIOS is recommending to be implemented by the Secretary-General.**

67. *Recommendation 2 (para. 80)*: In its recommendation 2, OIOS stated: **The Department of Management should ensure that, when flexibility measures in the application of administrative rules are exceptionally introduced to expedite the deployment of new missions: (a) a formal risk assessment is performed to analyse the circumstances that warrant the use of extraordinary measures and to identify the specific administrative measures actually needed to address such circumstances; (b) clear guidelines are communicated to all concerned offices and monitoring mechanisms are established so that risks associated with the use of extraordinary measures are properly identified and monitored; and (c) measurable expected benefits are clearly defined and communicated to all concerned offices to facilitate the evaluation of whether targets set for the application of extraordinary measures are met.**

68. The Secretary-General accepts recommendation 2 (a) but notes that a formal risk-assessment mechanism will only be possible once the enterprise risk management system is fully implemented. However, as the Organization seeks to

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implement an enterprise risk management system, we will be conducting more thorough risk assessments of projects and proposals of this magnitude.

69. The Secretary-General, however, does not accept recommendations 2 (b) and (c) and notes that a thorough review of the proposed extraordinary measures was performed prior to a recommendation for their approval. The risk analysis as developed by OIOS is seen as a continuous exercise/process, for which the Procurement Division and other stakeholders are engaged, on a regular basis, for any significant acquisition projects driven by high costs or complexity or an abbreviated timeline. In addition, the source selection plan developed for any acquisition project and described in the Procurement Manual is a vehicle to address business risk and mitigation measures which may adversely affect the project and the organizational mandate. Furthermore, of the 18 exceptional measures approved by the Secretary-General, only 7 applied to procurement and of those, only 2 were used: the Procurement Division only extended one system contract to meet the mission requirements at "start up". The decision to enter into a sole-source contract has been documented in paragraphs 13 and 14 above.

70. *Recommendation 3 (para. 82)*: In its recommendation 3, OIOS stated: **The Department of Field Support, in coordination with the Department of Management, should address accountability for the failure to adequately plan for the provision of the UNAMID multifunction logistics services and the decision to enter into a sole-source contract with Pacific Architects and Engineers.**

71. The Secretary-General does not accept this recommendation. Planning for the provision of the services was undertaken by the Department of Field Support, which properly planned and evaluated the decision to enter into a complex multifunction service contract. The decision to enter into a sole-source contract was processed according to established procedures and was extensively consulted within the Secretariat. The judgement that the granting of a sole-source contract was in the best interest of the Organization falls within the authority of the Secretariat and it is not the role of an internal audit service to substitute its business judgement for that of an auditee.

72. *Recommendation 4 (para. 84)*: In its recommendation 4, OIOS stated: **The Department of Field Support should properly plan and evaluate any decision to enter into complex multifunction service contracts by conducting a comprehensive cost-benefit analysis to ensure that the United Nations obtains the best value for money when entering into such contracts.**

73. The Secretary-General does not accept this recommendation. Please refer to comments stated in paragraphs 16 and 17 above. In circumstances where the availability of alternative options is non-existent and lead times are short, the performance of a comprehensive cost-benefit analysis is neither practicable nor valuable.

74. *Recommendation 5 (para. 86)*: In its recommendation 5, OIOS stated: **The Department of Management should address accountability for the weaknesses in the procurement of the multifunction logistics services and the administration of the Pacific Architects and Engineers contract, which have resulted in substantial actual and potential losses.**

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75. The Secretary-General **does not accept the recommendation** and wishes to reiterate that the Procurement Division has: (a) reduced significantly the overall cost of the contract through negotiations (refer to responses to recommendation 7 below); (b) conducted benchmarking to the extent possible for key elements of the contract; (c) reviewed 13,000 line items of the contract proposal to ensure reasonableness of prices; and (d) requested guidance and advice from OIOS on two different occasions regarding the risks involved in this contractual agreement and none was provided. Procurement of the contract has enabled the mission to meet needs arising from the Security Council mandate to deploy in the mission area.

76. *Recommendation 6 (para. 88)*: In its recommendation 6, OIOS stated: **The Department of Management should make every effort to recover the excessive charges presented by Pacific Architects and Engineers for payment and avoid losses in the future.**

77. The Department of Management has already fully addressed the issue of any excess charges and notes that the Procurement Division has: (a) reduced the overall proposal by over half a billion dollars; (b) recovered excess charges from the contractor in the form of $16 million reduction in administrative fees; (c) removed the contractor's management reserve on all subcontracted services; and (d) reduced the contractor's profit.

78. *Recommendation 7 (para. 90)*: In its recommendation 7, OIOS stated: **The Department of Management should develop in-house expertise on arranging multifunction logistics services to ensure that the procurement of such services in the future is handled effectively.**

79. The Secretary-General accepts the recommendation to increase its capacity for procurement of multifunctional logistics services and will seek additional resources from the General Assembly. Notwithstanding, it must be emphasized that the extraordinary measures are in full compliance with the Financial Regulations and Rules of the United Nations and OIOS did not identify nor report any specific breach of the Financial Regulations or the Rules.

80. *Recommendation 8 (para. 92)*: In its recommendation 8, OIOS stated: **The Department of Field Support should ensure that UNAMID's in-house contract management capacity is built within a reasonable time frame in order to develop the expertise of the United Nations on the management of complex, multifunction logistics contracts.**

81. The Secretary-General accepts the recommendation, stating that as of 31 October 2008, the Operation's in-house contract management capacity had increased to 16 staff. Please refer to comments in paragraph 36 of the present note.

82. *Recommendation 9 (para. 94)*: In its recommendation 9, OIOS stated: **The Department of Management should amend the draft letter of assist with the Government of Spain for the provision of contract management services in UNAMID to conform to the normal UNAMID working hours and achieve substantial savings.**

83. The Secretary-General does not accept the recommendation. Please refer to paragraphs 42-45 of the present note.

84. *Recommendation 10 (para. 96)*: In its recommendation 10, OIOS stated: **The Department of Field Support should define the criteria for required experience**

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to guide the selection of qualified personnel for temporary duty assignment and timelines within which to deploy them.

85. The Secretary-General has implemented the recommendation. The Department of Field Support has circulated a facsimile dated 28 August 2008 to all missions on the purpose, procedures and control mechanisms for temporary duty assignment. It should be noted that in paragraph 14 of resolution 63/250, the General Assembly requested the Secretary-General to discontinue the practice of assigning staff from Headquarters to missions on a travel status for a period of more than three months.

86. *Recommendation 11 (para. 98)*: In its recommendation 11, OIOS stated: **The Department of Field Support should ensure that reference checks are performed and completed on a priority basis for all AMIS staff absorbed by UNAMID.**

87. The Secretary-General accepts the recommendation. Please refer to the comments in paragraph 60 of the present note.

88. *Recommendation 12 (para. 100)*: In its recommendation 12, OIOS stated: **The Department of Field Support should ensure that the tiger team established to facilitate the recruitment of staff for UNAMID is strengthened so that efforts to fill vacancies in the mission are sustained until such time as the staffing has reached an acceptable level.**

89. The Secretary-General accepts the recommendation (refer to para. 63 of the present note). Furthermore, the Secretary-General considers that the significant increase in the number of tiger team members will expedite the urgent requirement to fill vacant positions and will strengthen the Operation's recruitment efforts.

Comments on the annex

90. As regards to the annex to the OIOS report, which summarizes the estimated financial implications of deficiencies in the sole-source contract in the amount of $12,337,508, the Secretary-General would like to state the following:

(a) In relation to the figures relative to the item "Excessive equipment costs" for $7 million, only $3 million can be identified in the report and they refer to purchases of generators. It must be noted that during the time period in question, the existing systems contract supplier suffered from force majeure circumstances related to severe natural conditions and, therefore, was unable to fulfil its contractual obligations. Hence the need to procure generators, as a mission-critical item, from elsewhere on an exigency basis in line with the "worst case scenario" referred to in the previous paragraphs;

(b) In relation to the "Administrative fees charged to UNAMID when there was no actual construction work" for $4.3 million; the "Charges for catering ($248,166) and management ($475,926) services not performed", totalling $724,092; and the costs for "Task orders services for El Obeid that were not needed" at $313,416, all of them, with the exception of charges for catering of $248,166, which was reduced by $100,758, have been recovered either directly or through the process of negotiation;

(c) See the table below for a summary of the financial implications.

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Table
Summary of estimated financial implications of deficiencies noted

Description	*Amount per OIOS report (United States dollars)*	*Per Secretariat*	*Paragraph No.*
Pacific Architects and Engineers			
Excessive equipment costs	7 000 000	[a]	31
Administrative fees charged to UNAMID when there was no actual construction work	4 300 000	—	29
Charges for catering ($248,166) and management ($475,926) services not performed	724 092	147 408	34, 35
Task orders for services for El Obeid that were not needed	313 416	—	30
Subtotal	**12 337 508**		
Ingeniería de Sistemas para la Defensa de España			
Inflated contract management fees	6 200 000	[b]	8
Subtotal	**6 200 000**		
Total	**18 537 508**		

[a] The Procurement Division has been able to identify costs in excess of $3 million which have been justified as per paragraph 31.
[b] This figure has been contested owing to a different interpretation regarding the nature of the contract by OIOS and the Department of Field Support.

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Senator George V. Voinovich
Additional Questions for the Record
Nomination Hearing of Jane Holl Lute
March 26, 2009

1. Ms. Lute, the Department has struggled to develop a strategic plan capable of producing results. Could you describe your approach to strategic planning? Do you believe the Department's FY2008-2013 Strategic Plan should be modified? If so, how?

As an officer in the United States Army, I learned the value of planning early in my career. In my view, strategic planning is one of the essential tasks that the leadership of any organization must undertake. Several factors contribute to successful strategic planning: To begin, one must have realistic assumptions, articulate a clear vision of the aims to be achieved, and be equally clear regarding the principles that will guide decision-making. This vision must be made concrete via a thorough analysis of options, including an honest discussion of risks, benefits, and the impact of time and other intangibles on possible courses of action. In addition, my experience has taught me that the best strategic planning processes ensure that all relevant stakeholders have a voice in the planning process, and that this inclusiveness does not have to come at the expense of decision and action. Clear roles and responsibilities are an important feature of successfully executed plans, as is the realistic provision of resources over time. Finally, strategic planning will inform other plans, and in turn, will be affected by important changes in on-the-ground circumstances and reality that bear on projections, therefore, it is important to conduct rolling assessments of implementation progress and opportunities for senior-level review.

It is important for the Department to have a strong strategic planning process. The Department's FY08-13 Strategic Plan is a good start, but there is still much room for improvement. The Quadrennial Homeland Security Review gives the Department its next opportunity to set strategic goals and outcomes for its missions. If confirmed, I will work with the Secretary and the Department's strategic planning office to ensure the success of the Quadrennial Homeland Security Review and develop the next DHS strategic plan.

2. How will you ensure the Department focuses on developing solutions to its long-term challenges given the changing nature of homeland security and the need to "put out the fires" on a daily basis?

As part of Secretary Chertoff's Second Stage Review, the Department established a strategic planning office in 2005. The creation of this office gives the Department the ability to look at long-term challenges. If confirmed, I will draw upon my experience to support the work of the strategic planning office, including the Quadrennial Homeland Security Review, and strengthen efforts by the strategic planning office, in partnership with the Office of Intelligence & Analysis, the Office of Infrastructure Protection, the Office of Risk Management and Analysis, and work to improve the strategic planning offices of DHS's operating Components to better address long-term challenges.

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3. Senators Akaka, Levin, Carper, McCaskill and I sponsored legislation to create a Chief Management Officer for the Department. What are your thoughts regarding a term for the Chief Management Officer to help ensure sustained leadership and focus on management issues?

If confirmed, I look forward to more carefully studying the benefits of making the Under Secretary for Management position a term-based one. However, I already know that a strong, effective, and committed Under Secretary for Management is one of the most critical positions for driving integration across DHS. We must ensure this position is filled by someone who has a clear vision of what needs to be accomplished and is committed to actively engaging employees. The Under Secretary for Management should be committed to maintaining continuity across DHS management functions and will take a long-term, holistic, Department-wide approach to managing the Department's human capital, finances, information technology, and acquisitions to support effective and efficient operations and mission accomplishment.

4. The federal government's most valuable asset is its people. Unfortunately, low employee morale continues to plague the Department. What steps will you take to improve human capital management across the Department?

My exposure to the men and women of the Department of Homeland Security has shown me a talented workforce deeply committed to keeping America and Americans safe and secure. I understand DHS has been making incremental improvement in its Annual Employee Survey scores over the last three years. However, clearly, there is an urgent need, and much room, for improvement. The survey provides a means of assessing the morale of DHS employees, and I know that there is already a cross-component team that meets regularly to assess progress and share best practices. The inclusion of a new requirement that leaders hold focused discussions to understand better the issues that contribute to low scoring and brainstorm to come up with actions to improve the underlying issues, will help to further improve the action planning process. By adding the front-line action planning to the Department and Component action planning process, I believe it is possible for the Department to meet or exceed the government-wide average.

During her confirmation hearing, Secretary Napolitano communicated her intention to improve employee morale at the Department. If confirmed, and as I mentioned in my testimony, I will work with the Secretary to strengthen morale and undertake prompt actions that address morale issues. In particular, I will work with the Secretary and Department staff and leadership to establish Department-wide programs that highlight policies, practices, services, and resources. I will look to provide leadership in support of implementing the human capital strategic plan developed by the Department's Human Capital Office. I will encourage the continued work of building a world-class organization through hiring and retaining a talented and diverse workforce.

5. Ms. Lute, as you know, the Visa Waiver Program (VWP), has allowed nationals of certain ally countries to travel to the United States without a visa since 1986. As a result

of legislation I worked on with the Chairman, other members of this Committee, Congressmen Emanuel and Wexler, and many others, in 2008, eight more of our allies were admitted to the VWP after agreeing to share terrorism, criminal and passport information with the U.S. You have acknowledged the security improvements these agreements have led to, so I'd like your thoughts on whether countries would continue to share such information if they were removed from the Program?

The recent expansion of the Visa Waiver Program (VWP) to include eight new countries illustrates the importance of this program to the United States and to key friends and allies. The eight countries designated as VWP members are among our closest allies. Their designation has served to enhance and institutionalize important pre-existing partnerships by creating formal, regular, and verifiable mechanisms of bilateral cooperation. Termination of a country from the Program could generate a short-term affect on bilateral cooperation, however, there are strong incentives for countries to comply with the full provisions of the VWP, and if confirmed, I will work to ensure that DHS builds on these already strong relationships to ensure that the full security benefit of the Program is realized.

6. You have said that any decision to modify the VWP would require an analysis of U.S. security and law enforcement interests. What role do you believe our public diplomacy interests should play in that analysis, especially since the President plans to utilize dialogue, diplomacy and soft power abroad?

The Visa Waiver Program supports U.S. security and law enforcement interests, deepens bilateral cooperation, strengthens the U.S. economy, and contributes to a safer international travel environment for our citizens and those of our VWP allies. The security and law enforcement implications of permitting foreign nationals from selected countries to travel to the United States visa-free remain paramount, but DHS, in consultation with the Department of State (DOS), takes into account both public diplomacy efforts and the overall bilateral relationship with a member or aspirant country when making VWP decisions. DHS and DOS work closely together to communicate and explain VWP initiatives and requirements to ensure that our foreign partners are well informed. The modification of a country's VWP-status would have obvious effects on our public diplomacy with that nation and its citizens. If confirmed, I will work with the Secretary to determine how best to address these and other questions concerning the VWP.

7. As you know, the 9-11 Commission recommended that everyone, including Americans, carry passports or other documents enabling their identities to be securely verified when they enter the U.S. As a result, DHS has developed the Western Hemisphere Travel Initiative (WHTI), which will require all travelers to present a passport or other DHS-approved document to enter U.S. land and sea ports beginning this June. You have said we must ensure the availability of documents for travelers to comply with WHTI, so I'd like your thoughts on allowing passport cards, which are adjudicated to the exact same standards as passport books but currently only allow U.S. citizens to enter U.S. land and

sea ports from Canada, Mexico, the Caribbean and Bermuda, to also be utilized by citizens arriving at U.S. airports from those countries?

I support DHS's willingness to engage in further discussions about accepting the passport card for air travel to the United States from Canada, Mexico, the Caribbean, and Bermuda. However, I understand that the Department of State (DOS) has primary responsibility on this issue as the Agency that produces the passport cards. Until now, DOS has been opposed to accepting passport cards for use when flying into the United States. DOS designed the passport card for use at land and sea borders only with the purpose to facilitate the travel of those living in the border region. It is not a globally interoperable document and was not designed to meet the International Civil Aviation Organization (ICAO) standards and recommendations for globally interoperable passports. DOS is also concerned that extending the use of the passport card to the air environment could create confusion with the traveling public should they attempt to use the passport card for travel to a country other than Mexico, Canada or the Caribbean.

8. The Department has had management failures that cut across departmental components such as financial management, human capital, acquisition and development of large-scale programs such as SBI-net and Deepwater. What role do you see yourself taking as the Deputy Secretary in the oversight of departmental management functions, such as the acquisition review and human capital processes across the Department?

If confirmed as the Deputy Secretary, it is my understanding that I will chair the DHS Acquisition Review Board (ARB) which governs major investment programs across the Department. Through this role, I work with functional leaders, including the Under Secretary for Management, the Chief Procurement Officer, Chief Financial Officer, Assistant Secretary for Policy, and Director, Operational Test and Evaluation, to examine a program's progress and risk to determine if the program should move forward to the next phase. The Department re-engineered and strengthened its acquisition governance framework in 2008, and has already conducted more than fifteen ARBs of Level 1 and 2 programs. I recognize the importance of sound acquisition management in support of the mission and, if confirmed, would continue the practice of conducting ARBs, thereby providing approval and direction for the investment programs. If confirmed, I would also chair the Program Review Board – a key step in the Department's annual program and budget review process – and would use this process to identify cross-component issues, seize opportunities for collaboration, and implement solutions to these issues.

9. For the large acquisition programs within the Department, some worth billions of dollars, there has been an inconsistent approach to testing and evaluation prior to deployment. The Department is currently incorporating a more structured approach to testing and evaluation with the acquisition review process. Do you support a robust and independent test and evaluation capacity within the acquisition review process?

I support a robust and independent test and evaluation process for DHS's major acquisitions as essential to reduce acquisition risk and ensure that major acquisitions

provide products that are both operationally effective and operationally suitable. DHS has established a Director, Operational Test and Evaluation with a supporting organization, and is staffing it with experienced T&E professionals. My understanding is that all major acquisition programs are required to develop and execute a Test and Evaluation Master Plan, and that testing results are an integral input into major program Acquisition Review Boards (ARB). In addition, the Director of Operational Test and Evaluation serves as a member of the ARB, advising on testing issues. These processes are required by the Department's Acquisition Management Directive, and will be further strengthened by a specific DHS test and evaluation policy directive, soon to be promulgated.

10. I took to heart comments from the recent WMD Commission report on Congress's unwillingness to reform itself in accordance with the 9/11 Commission's recommendation to provide better and more streamlined oversight of the Department of Homeland Security. I remember when the Sense of the Senate that was accepted during this Committee's markup of the 9-11 bill, calling on the Senate to reorganize itself, was removed from the bill before floor consideration. I continue to believe that Congress could do a better job if we were willing to set aside the turf battles and reorganize our own committee structure to provide more efficient oversight over homeland security. Do you have any intentions to push for this reform recognizing the challenges your predecessors encountered?

I appreciate the strong support within this committee and within DHS for consolidating Congressional oversight. However, I am equally aware that such consolidation still faces tremendous hurdles. DHS must remain vigorously responsive to the jurisdictional structure that Congress sets to fulfill its Constitutional oversight role, even though I am told that the current organization of Congressional oversight of DHS places a tremendous workload on the Department.

If confirmed as Deputy Secretary, I will ensure that all of DHS shares Secretary Napolitano and my common goal for a proactive and productive relationship with Congress. If confirmed, I look forward to working closely with this Committee in order to build a stronger, better, more effective Department of Homeland Security.

11. During the 110th Congress, the Subcommittee on Oversight of Government Management held a hearing to discuss challenges facing the Federal Protective Service (FPS). During testimony, it became clear that FPS suffered from neglect under its parent agency, Immigration and Customs Enforcement, and had been systematically dismantled under DHS. Hearing testimony highlighted the security challenges posed by the current staffing plan. In Ohio alone, buildings requiring protection and security assessments outnumber personnel nearly 12 to 1. Ms. Lute, in your opinion, should the landlord, GSA, also be responsible for building security, or is FPS appropriately located? What kind of human capital strategy would you suggest for better identifying FPS needs?

I am aware of and understand the issues surrounding the structure, operations, and staffing of the Federal Protective Service. Although some of these issues arise from

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differences in views on how protective services should be operated, there are also key issues associated with where FPS is located within the Department's structure and how it works with other Components of DHS. I understand that the Department is actively considering a realignment of FPS and will undertake a review of each mission activity and how it is accomplished as part of this review.

12. Transformation of the Department remains on the Government Accountability Office's (GAO) High-Risk List. The Department has been working with the Office of Management and Budget (OMB) and GAO to develop a corrective action plan to address the management challenges facing the Department. Please provide a copy of the Department's most recent "Integrated Strategy for High-Risk Management." Do you agree with the process, goals, and metrics contained in the strategy? Will you be directly involved in implementing the strategy? If so, how?

As requested, attached is a copy of the current "Integrated Strategy for High-Risk Management." The strategy was developed in coordination with OMB and GAO and includes efforts to ensure quality, oversight, and accountability of DHS plans to integrate the Department. If confirmed, as I review action plans to address the High-Risk list, I will work to ensure they are flexible enough to meet an evolving threat environment yet successfully overcome challenges that can potentially lead to waste, fraud, abuse, and mismanagement.

In terms of the process, goals, and metrics contained in the strategy, I generally agree with the manner in which the Integrated Strategy for High Risk Management document assigns Department-level lead executives responsible for overseeing corrective action plan initiatives, ensures cross-organizational integration, requires periodic reporting, and measures performance. Many of the initiatives identify supporting organizations which participate in cross-functional activities and integrate efforts across DHS.

If confirmed, I look forward to working closely with the Under Secretary for Management to ensure proper oversight of the integrated strategy and overcome the challenges identified by GAO in addition to managing other management and operational challenges within the Department.

13. Ms. Lute, as we discussed during your hearing, I've been following the Department's efforts to establish a common set of performance metrics, with assistance from GAO. I'm disappointed that the Department has fallen behind the timetable provided to me for this effort. When will the Department finalize its performance metrics?

It is one of Secretary Napolitano's priorities to ensure that the Department builds a single, cohesive organization. If confirmed, I will work to ensure that the senior leadership of the Department is actively engaged in maintaining continuity across DHS management functions recognizing that it will take a long-term, holistic, Department-wide approach to managing the human capital, finances, information technology, and acquisitions to support effective and efficient operations and mission accomplishment.

With respect to the timetable that was provided to you, if confirmed, I will look into this matter and provide you with a status update.

14. The Transportation Security Administration (TSA) continues to make good use of its human capital flexibilities, including paying the employer share of health care costs for its part-time screeners and establishing a pilot program for screeners to receive an associate degree from their local community college. As someone who undergoes a pat-down search because of my pacemaker, I have the opportunity to interact with the screener workforce. Many of these screeners have positive things to say about the PASS personnel system. Some in Congress have suggested repeal of this authority. Do you believe TSA's authorities should continue in light of their unique mission?

I understand from briefings I've received that TSA does, indeed, benefit from the human capital flexibilities afforded to it by Congress under the Aviation and Transportation Security Act. I am also aware that there is an ongoing discussion about balancing this flexibility with the desire by some workers to organize. While I do believe that it is important that the Department align its personnel and its many missions as effectively and efficiently as possible, I also think it is incumbent upon the Department's leadership to ensure that employees are protected. If confirmed, I will work with Secretary Napolitano, TSA's senior leadership, and Congress to determine the appropriate balance the importance of employee protection with the mission of TSA.

DHS Integrated Strategy for High Risk Management

Planning Document

OMB Contact:	Steve Mertens Branch Chief, Homeland Security Office of Management and Budget
DHS Owner:	Elaine Duke Under Secretary for Management (USM) (202-447-3400)
DHS Lead Executive and Point of Contact:	Scott Krause Chief of Staff, Office of the Under Secretary for Management (OUSM), (202-447-3400)
GAO Contact:	Norman Rabkin Managing Director, Homeland Security and Justice Issues
Reference GAO Report:	GAO-07-310, High-Risk Series: An Update, January 2007, http://www.gao.gov/new.items/d07310.pdf

Scope
This Corrective Action Plan (CAP) acknowledges the implementation of the Department of Homeland Security, outlines its transformation framework, and introduces the methods by which the Department will continue to seek improved performance across functional operations and administration, including information sharing mechanisms to improve homeland security, flood insurance, protection of national critical infrastructure, federal real property, and strategic human capital.

Overall Approach
The Department stands today as a single entity comprised of seven major mission components and strengthened by a Headquarters that provides core mission support services. DHS, as a unified, cabinet-level Department, is accountable to the President, the Congress, and the American public as it delivers its mission to secure the homeland.

Once implemented in 2003, the Department began by designing a framework based upon the need to transform various disparate Department challenges. This framework is the foundation for the Department's transformation and outlines the manner by which strategic goals are developed, resources are utilized, and performance is monitored (as depicted in Table 1 of Appendix A) and is enabling DHS to manage and overcome all GAO high risk challenges.

For identified risk challenges, DHS Offices and Components will work closely with the Internal Controls Program Management Office (ICPMO) to conduct risk-based root cause analysis and

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develop corrective action plans. Collaborations for assistance in improving performance and monitoring of the corrective action plans will occur directly with the Office of the Under Secretary for Management (OUSM) to maintain forward progress. If an Office or Component requires additional assistance in achieving corrective actions, or actions do not appear to be decreasing the risk challenges, the OUSM will lead the design of specific support strategies. Utilizing best practices, the OUSM will tailor approaches with respect for the priority, existing expertise, and current activity performance of the high risk area. The OUSM maintains responsibility for determining and reporting achievements in high risk and performance improvement efforts.

Process

DHS will--

1. Assess and review risk challenges to determine corrective actions and goals that address each identified high risk area and performance improvement initiatives;
2. Integrate the activities of the initiatives, managing their interdependencies, and ensuring synergy of these complementary efforts via its management framework;
3. Develop measures that will be used as measures to monitor performance;
4. Consult with OMB and GAO on goals, milestones, and measures; and
5. Monitor progress through frequent intra-Department communication (including quarterly update reports to the Department-level POC, quarterly integrated team meetings with quarterly updates to senior management, and quarterly updates through the internal control system), coordination with GAO and periodic briefings to OMB.

Responsible Organizations

On behalf of the Department, each high risk area has an assigned Department-level lead executive responsible for overseeing the initiatives cited in this CAP and for ensuring cross-organizational integration, required periodic reporting, measurements, and measures. Many of the initiatives also identify supporting organizations which will participate in the necessary cross-functional activities encompassed in the initiatives. These seven initiatives describe transformational activities that will become part of the way the Department does business. Thus, implementation will be Department-wide, involving the integration of efforts of Mission Components, Directorates, and Offices.

Goal

DHS' goal under this CAP is to improve the effectiveness of DHS, including monitoring and analyzing Department transformation, information sharing mechanisms to improve homeland security, flood insurance efforts, protection of national critical infrastructure, federal real property, and strategic human capital.

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Measures
An initial set of measures has been identified to track results that indicate the impact of the initiatives encompassed in this CAP. Those measures are set forth within each initiative (the Appendices to this CAP). DHS will update the initial set of measures periodically, as appropriate, commensurate with progress made within each initiative. The initial set of measures strive to incorporate process and output measures and integrate the cross-functional and interrelated nature of the identified focus areas and initiatives.

Initiatives
Details regarding each of the high risk areas within this CAP are attached as appendices, including a description of the initiative, the focus area(s) to which it contributes, the lead executive, the supporting organization(s), expected outcomes, accomplishments, milestones, impediments and challenges, and initial measures.

Methodology for Evaluation
Each high risk area identifies the Department senior-level lead executive who is responsible for achieving the identified goals through successful completion of the milestones and accomplishment of the measures. Each such point of contact will track progress of the initiative and will provide status reports and information to OUSM at least quarterly, and more frequently upon request. Supporting organizations have also been identified where applicable, and the managers of those organizations will work closely with the lead executive in completing the milestones. Each assigned lead executive will expeditiously report any issues or changes to OUSM. The initiative leads and supporting organizations form a High-Risk Team. OUSM will sponsor Team meetings periodically to discuss progress and ensure appropriate integration and monitoring. OUSM will be responsible for informing the Under Secretary for Management of progress, as well as issues, on a regular basis, not less frequently than each quarter.

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HIGH RISK AREA APPENDICES
Supporting Performance Improvement Initiatives

A. IMPLEMENTING AND TRANSFORMING THE DEPARTMENT OF HOMELAND SECURITY

A.1. Utilize a management framework that unifies 22 disparate organizations that share common goals, priorities, and resources.

A.2. Create joint requirements planning through the Strategic Requirements Planning Process and the Department's Risk Assessment Process for Informed Decision Making (RAPID) program, within the Risk Steering Committee, to strategically prioritize Department-wide resources and capabilities in consideration of strategic threats, vulnerabilities, and consequences; and monitor mission performance in terms of collective inter and intra-agency efforts.

A.3. Institute an Investment Review Board to ensure that proper investment, acquisition oversight, and effective resource management is consistently applied throughout the Department in order to meet the mission and obtain potential synergies.

A.4. Implement a Corrective Action Plan methodology that provides Department-wide integration and cross functional guidance through best practices and entity level internal controls.

A.5. Consolidate and integrate DHS mission-essential enterprise finance, acquisition and asset management systems. The integrated core financial management system must meet FSIO and DHS-specific requirements and comply with the requirements within the CFO Act, Office of Management and Budget (OMB) Circular A-123, A-127 as well as other federal standards.

B. NATIONAL FLOOD INSURANCE PROGRAM

B.1. Implement National Flood Insurance Program (NFIP) Oversight aimed at increasing flood insurance availability and service to the American public through private industry partnerships, maintaining historical information and federally required data in a secure system of records, providing the public with a transparent and expeditious appeal process, and ensuring that policy issuances, claim processing, and payments are efficient.

B.2. Create the Severe Repetitive Loss (SRL) Pilot Program to reduce claims for damage on repetitive loss properties, provide outreach and guidance to applicants that qualify for SRL funds, and plan SRL execution in communities that qualify as potential partners for grants.

B.3. Develop and implement the Flood Map Modernization effort which will establish standards that ensure quality, consistency, and reliability of floodplain boundaries, develop state partnerships to increase participation in the NFIP, and further develop the NFIP workforce.

C. MANAGING FEDERAL REAL PROPERTY

The mission of the Real Property Division of the Office of the Chief Administrative Officer focuses on the optimization of property utilization, reducing facility inventories to a minimum while managing the infrastructure necessary to support the Department's transformation efforts.

D. STRATEGIC HUMAN CAPITAL MANAGEMENT

Through enterprise-wide coordination, the Workforce Planning and Accountability Division of the Office of the Chief Human Capital Officer oversees the Department's efforts to achieve maximum human resource performance in the areas of compensation, employee development, human capital systems and motivation techniques.

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E. INFORMATION SHARING MECHANISMS TO IMPROVE HOMELAND SECURITY

The Department maintains its focus on Information Sharing and is currently managing efforts to standardize policies and processes for inter- and intra-Department terrorism information sharing, enhance operational coordination and collaboration, and improve capabilities in the fields of data collection, trend identification, and the dissemination of intelligence.

F. PROTECTING THE FEDERAL GOVERNMENT'S INFORMATION SYSTEMS AND CRITICAL INFRASTRUCTURE

Protecting the Federal Government's information systems and critical infrastructure involves both a federal-systems focus and a focus on the critical infrastructure which supports federal government information systems. The National Protection and Programs Directorate is leading efforts to implement the National Infrastructure Protection Plan (NIPP) and the information technology, chemical, commercial facilities, critical manufacturing, communications, dams, emergency services, and nuclear Sector Specific Plans. These Sector Specific Plans provide a coordinated approach for establishing national priorities, goals and requirements for Critical Infrastructure and key resource (CIKR) protection so that Federal funding and resources are applied in the most effective manner to reduce vulnerabilities, deter threats, and minimize the consequences of nationally significant events and other incidents.

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Appendix A

IMPLEMENTING AND TRANSFORMING THE DEPARTMENT OF HOMELAND SECURITY

Focus Areas: Management Framework, Joint Requirements Planning and Risk Assessment Process for Informed Decision Making (RAPID), Investment Review Board, Corrective Action Plans

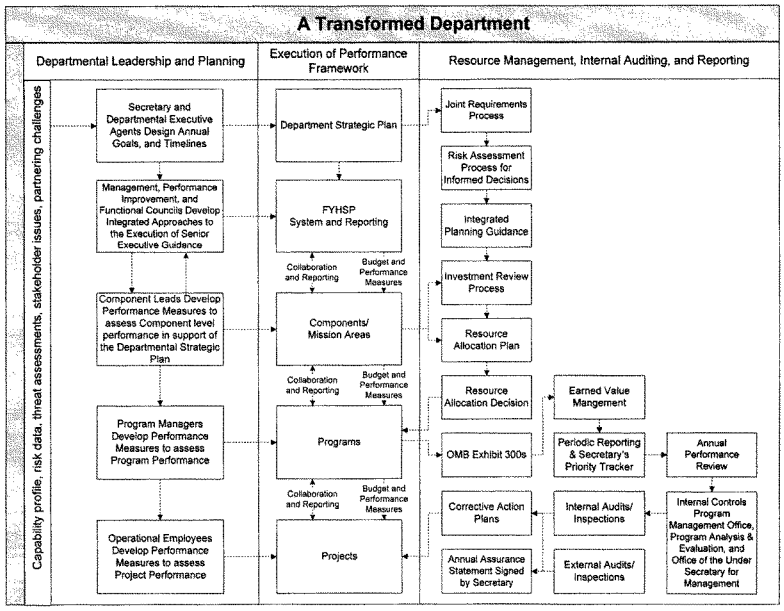
Lead Executive: Scott Krause, Chief of Staff, Office of the Under Secretary for Management, (202-282-8982)

Supporting Organization(s): All Mission Components, Directorates, and Offices

AREA A1: Management Framework

Description

Once implemented in 2003, the Department began by designing a framework based upon the need to transform various disparate Department challenges. This framework is the foundation for the Department's transformation and outlines the manner by which strategic goals are developed, resources are used, and performance is monitored as depicted in the table below.



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Acknowledging administrative and operational weaknesses that remain, DHS' management framework enables DHS to design processes that focus on management challenges and improve operational performance. Subsequently, monitoring performance, enhancing accountability, and overcoming entity level management challenges will enable DHS to not only graduate from the GAO High-Risk Series in terms of Department Transformation, but also provides a foundation by which it will overcome challenges managing information sharing, flood insurance, protection of national critical infrastructure, federal real property, and strategic human capital initiatives.

Departmental leadership is committed to "*strengthening and unifying operations and management*" and has incorporated this as a facilitating mission goal in the Department's 2008-2013 Strategic Plan. This goal serves to see the improved performance of operations and programs delivering strategic outcomes and achieving mission goals.

> ***"Improve Performance*** *– We will improve operational performance in support of DHS components delivering mission goals. We will lead efforts within the Department that provide structure to enhance Department-wide governance, decision making and oversight. We will optimize processes and systems to facilitate integration and coordination. We will foster leadership to perform duties and effect progress while adhering to DHS core values and guiding principles. We will leverage culture to implement best practices that benefit from component commonalities and differences."*
>
> -DHS SP 2008-13

Within the context for meeting DHS' mission and under the framework of GPRA, DHS transforms the Department in defining its performance measurements, establishing key indicators for success, and assuring mission compliance by aligning programs to strategic goals. Each of these activities is currently managed by the Department across various offices that collectively work together. These offices participate in working groups and governing councils responsible to executive leaders that report directly to the Executive Office of the Secretary. Presently, participants include dedicated resources from the Office of Strategic Plans, Program Analysis & Evaluation, Departmental Components, Internal Control Program Management Office, and the Office of the Under Secretary for Management. Support provided by each of these offices in terms of monitoring and effecting the success of the management framework is described below:

Office of Strategic Plans
In regards to transforming the Department, the Office of Strategic Plans works closely with the Secretary to define Department strategic goals and priorities, align strategic objectives to goals, and develop strategic requirements to guide and align DHS programs and activities.

Program Analysis and Evaluation (PA&E) -Office of the Chief Financial Officer
PA&E supports mission accomplishment by monitoring the performance of programs and projects; ensuring that key indicators for performance are measurable; analyzing and assessing program performance in support of Department priorities, objectives, and goals; and provides support and oversees Government Performance Results Act (GPRA) reporting and development of the Future Year Homeland Security Program (FYHSP).

The FYHSP is the Department's five-year resource and performance plan. The goal of the FYHSP is to ensure we have the right programs adequately resourced yet prioritized within fiscal constraints to best meet our strategic goals and objectives. The FYHSP database is crucial for

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maintaining information related to programs' success in meeting their program performance goals through performance outcomes, outputs and milestones. DHS uses the performance information in the FYHSP database to produce the DHS annual performance plan and FYHSP report. These reports communicate the Department's successes and future plans to meet strategic goals and objectives. The FYHSP directly links performance goals to program funding and appropriation line items. Table 1 includes an example of how the FYHSP database aligns appropriation line items to project initiatives.

Components
Components play the critical role of defining program outcomes and outputs, implementing and overseeing operations, and monitoring project performance. Components report program and project progress in FHYSP and execute management transformation efforts as they pertain to objectives and achieve both inter- and intra-Department synergies, information sharing, and operational goals.

Internal Control Program Management Office (IC PMO) - Office of the Chief Financial Officer
Reporting to the DHS Chief Financial Officer, the IC PMO aligns financial, management, and program internal controls; creates key indicators to assess internal control performance; and conducts reviews, or assists in the review of, projects, programs, and management functions to ensure compliance. The IC PMO also assists in the identification of root causes for internal control weaknesses, guides the development of necessary corrective action plans, and drafts the Secretary's Annual Assurance Statement.

Resource Management Transformation Office (RMTO) – Office of the Chief Financial Officer
The RMTO manages system transformation projects that increase efficiencies across the department. RMTO leads the effort to consolidate financial management systems across the department with a focus on standardizing and centralizing business processes, moving to a single OMB-compliant accounting line, facilitating clean audit opinions and yielding timely and accurate financial data. Success in achieving these goals rests upon an integrated core financial management system. The Under Secretary for Management, Chief Financial Officer, Chief Information Officer, Chief Procurement Officer and Chief Administrative Officer are unified in achieving efficiencies in their business processes and in the systems used throughout the department. RMTO also manages and coordinates the department-wide implementation of the eGov travel system modernization effort.

Office of the Under Secretary for Management (OUSM)
To ensure that necessary management capacity and oversight mechanisms are established and that potential administrative and operational synergies are realized, the Under Secretary for Management leads six lines of business offices that specialize in core mission support functions. Presently leading efforts to improve performance of the Department are the Offices of the Chief Administrative, Human Capital, Information, Financial, Procurement, and Security Officers.

Expected Outcomes
- Strengthening a standard of uniformity in DHS goal/program/project management
- Clarifying accountability, including roles and responsibilities of key personnel
- Improve execution of Management strategic objectives through Line of Business implementation strategies (e.g. Human Capital Operations Plan, Acquisition Management Strategy, and the Internal Controls Over Financial Reporting Playbook – ICOFR)

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Accomplishments

November 2007	Eliminated significant material weaknesses through management of the Internal Control Over Financial Reporting Playbook
November 2007	Completed the Annual Financial Report
December 2007	Completed the Draft Strategic Plan Fiscal Year 2009-13
January 2008	Assessed and strengthened momentum of DHS Transition planning efforts to ensure continuity of leadership for critical Department initiatives
January 2008	Aligned SES performance plans with DHS strategic goals and priorities
January 2008	Appointment of DHS Performance Improvement Official
February 2008	Issued the Annual Performance Report and Plan
March 2008	Issued the Future Years Homeland Security Program Report
Quarterly	Reporting in the FYHSP system by program managers of actual data and the likelihood of meeting annual performance measure targets contained in the DHS Performance Plan
April 2008	Establish DHS Performance Improvement Officer Council
August 2008	Received OMB Approval of DHS Strategic Plan

Actions Required to Complete

September 2008	Alignment of SES Performance Plans with approved DHS Strategic Plan
September 2008	Align GAO performance expectations analysis to the DHS AFR/FYHSP and ensure milestones and measures address or adjust GAO recommendations
September 2008	Review entity-level controls using the GAO Evaluation Tool and risk assessments for Headquarters' management functions.
September 2008	Review action plans, definitions of success, and lines of accountability for addressing GAO management challenges
September 2008	Alignment of Components, Directorates, and Office objectives to DHS Strategic Plan
September 2008	Revise FYHSP outcome and output based measures and goals
November 2008	Ensure accurate updates of all DHS Management Directives
November 2008	Submit Secretary's Annual Assurance Statements
December 2008	Management Directorate requiring adherence to FYHSP Database measure inputs and quarterly updates

Impediments/Challenges

- Building a robust FYHSP Database that provides enterprise resource planning capability
- Establishing Department-wide processes and practices to ensure management framework alignment and execution
- Creating outcome and output performance measures that cascade from mission goals to priorities to programs to projects

Measures

Each Department program and project will develop and document outcome and output performance measures against a baseline of compliance highlighted in the FYHSP database. Gaps and poor performance will be identified and corrective/mission action plans will be required with the goal of reducing and ultimately eliminating weaknesses and filling

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performance gaps. OUSM staff will report performance to DUSM for monitoring progress against this Plan.

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AREA A2: Joint Requirements Planning and Risk Assessment Process for Informed Decision Making (RAPID) Steering Committees

DHS Contacts: Tina Gabrielli, National Protection and Programs Directorate (NPPD), (202-282-8582) for the Risk Assessment Process for Informed Decision Making Steering Committees

Mitch Crosswait, Policy, (202-282-9026) for Joint Requirements Planning and Strategic Requirements Planning Process

Description

DHS is implementing a Strategic Requirements Planning Process (SRPP) in order to identify functional requirements that are essential for the Department to meet its mission. This process is also designed to identify potential gaps and redundant services across DHS Components. The SRPP-generated strategic requirements will help DHS rationalize operations, identify synergies, and ensure that investments comply with established, agreed-upon and documented strategic requirements linked to strategic goals.

The SRPP utilizes Requirements Planning Teams (RPTs) to develop the strategic requirements in a standard format known as a CORE requirements document. RPTs include senior-level representatives from across DHS (and the interagency as necessary) with operational expertise. Each CORE requirements document contains the following: *Capabilities*, or high-level statements of something that needs to be done to meet a homeland security mission; *Objective measures*, or quantified statements of key outcomes needed to ensure the Capabilities are met; *Resources*, or combinations of means and ways to meet the Objectives; and *Evaluative measures*, or means to verify that the Objectives have been met. The RPTs follow a well-documented process to develop a CORE document for a particular area of interest. The RPTs determine where critical capability gaps exist, where we do not have sufficient resources to meet the CORE document capabilities and objectives. The RPTs also determine where redundancies exist, and where there may be more efficient ways to meet a particular capability or objective.

As part of the SRPP, the CORE documents, capability gaps and redundancies developed by the RPTs are briefed to the Deputy Secretary via the Joint Requirements Council, composed of senior leadership from across DHS. Following approval, they become key inputs to the Integrated Planning Guidance (IPG) document, whose purpose is to fill critical capability gaps and address redundancies via guidance to DHS components in their development of the FYHSP.

The Deputy Secretary directed that the SRPP be piloted in FY 2008 with the creation of two RPTs.

In addition to the SRPP, the Secretary directed the Office of Risk Management and Analysis (RMA) to lead the establishment of a strategic risk management framework to assist in addressing DHS challenges related to risk and to ensure timely and effective risk informed decision making. RMA, in collaboration with the Department's components, has developed a vision to support the Department's efforts to advance its risk management capabilities. The vision is twofold:

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1. Establish and institutionalize an integrated risk management framework. This framework will consist of the doctrine, principles, processes, guidance, and information flows that will enable risk-informed and cost-effective decision making within components and at the DHS headquarters level. A properly executed risk management framework effectively serves as a force multiplier, as it enables better alignment of security priorities and resources to needs.
2. Conduct strategic, integrated risk analysis. We must be informed, at the strategic level, by an integrated departmental risk analysis. The integrated risk analysis should leverage the various risk assessments being conducted within and outside the Department.

An integrated risk management framework will help better ensure that these efforts are harmonized and work from the same principles and understanding. Strategic, cross-component analysis will leverage the advances DHS' components have made with regard to risk management while incorporating those advances into DHS' larger planning and resource allocation processes.

To enable the sharing and integration of risk related programs RMA implemented a risk governance process within the Department, the DHS Risk Steering Committee (RSC). The RSC provides strategic direction for integrating the Components' various risk management and analysis approaches to develop a Department-wide, coordinated approach.

A key team within the RSC governance structure is the Risk Analysis Process for Informed Decision-Making (RAPID) working group. RAPID is a strategic-level, Department-wide process that will assess risk and inform strategic planning, programming, budgeting, and execution processes. The process is focused on developing techniques to evaluate the risk reduction impacts of relevant DHS programs. RAPID looks at risk from a broad strategic perspective and seeks a common risk framework to influence resource allocations by seeking to answer - what are anticipated risks in key areas of concern? What program investments would provide the best risk reduction?

RAPID's goal is to provide a common currency for top-level decision-makers to assess programs across the Components in a single framework. Establishing guidance for the resource prioritization process to help programs across Components reflect policy priorities based on risk mitigation, effectively manage resources, ensure programmatic decisions are risk-informed, and ensure critical information is communicated to internal and external stakeholders. Once requirements are developed by the Strategic Requirements Planning Process, RAPID will help prioritize various strategic requirements aimed at different goals and objectives.

Expected Outcomes

- Establish strategic requirements for homeland security
- Identify gaps in our capability to achieve homeland security strategic requirements
- Identify redundancies where resources could be used more efficiently
- Address redundancies and gaps via appropriate resources allocation
- Provide strategic direction for assessing risk, Department-wide, to inform planning, programming, budgeting, and execution processes
- Establish guidelines and processes for DHS to integrate risk into other management systems, such as budget and program reviews

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- Review specific DHS risk initiatives to ensure cross-DHS and interagency coordination, and ensure guidelines and standards are met

Accomplishments

April 2007	Implementation of three tiered Risk Steering Committee
March 2008	Implement prototype phase that seeks to demonstrate the RAPID method utility by applying a representative sample of cases, using the FY11-15 Future Year Homeland Security Program build as a framework for evaluation
Summer 2008	Pilot Strategic Requirements Planning Process and produce two CORE strategic requirements documents

Actions Required to Complete

- Maintain an updated and informed three-tiered Risk Steering Committee membership
- Coordinate with Components in information sharing and collection activities
- IPG distributed to DHS components by October 2008 addressing capability gaps and redundancies identified in CORE strategic requirements documents

Impediments/Challenges

- Integrating the RAPID process with the Integrated Planning Guidance
- Resource constraints currently hinder implementation of full joint requirements process with a robust analytical capability.

Metrics

The Office of Strategic Plans will track the capability gaps and redundancies identified by the SRPP until they are closed and/or resolved. Areas where progress is not being made will be identified and addressed in IPGs and/or Resource Allocation Decisions (RADs).

RMA will each develop and document collaborative performance measures and monitor intra-agency participation in terms of coordination and the value of shared risk related information. Over time, trends and actual risks that are realized will be compared with expected risks and budget allocation attempts to mitigate identified risks. Gaps and poor performance will be identified and corrective/mission action plans will be required with the goal of reducing and ultimately eliminating the gaps. RMA staff will report performance to the Under Secretary for NPPD for the purpose of monitoring progress and mission support.

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AREA A3: Investment Review Board

DHS Contacts: John Higbee, Office of the Chief Procurement Officer, (202-447-5398)

Description

As the Department matures and collaborates across Components through shared goals, shares resources and assets, rationalizes functional operations, and incorporates risk into formal decision making processes, an opportunity to enhance communication, and coordination lies in the determination of what investments are made and how acquisitions are overseen. In response to these challenges, the Department implemented the Investment Review Board (IRB).

The IRB is chaired by DHS' Deputy Secretary and is Co-Chaired by the Under Secretary for Management. Since the Department now functions as a single entity through its management framework, major investment decisions are no longer made by individual Components. Through the IRB, a Component, Directorate, or Office's major acquisitions are reviewed at specific points in the acquisition life cycle. Stakeholders and Headquarters analysts are invited to consider the details of the acquisition, the resourcing provided to the acquisition (funding, personnel and schedule), and the risks the acquisition faces. This is done from a user perspective, as well as an acquisition perspective. Once the IRB is completed, the IRB Chair provides an Acquisition Decision Memorandum to the IRB principals, the Component, and the program, detailing the decisions reached and outstanding actions assigned for completion.

The IRB plays a significant role not only in the decision making process regarding major investments; it also provides oversight of program life cycle management and program adherence to cost, schedule and performance expectations. The IRB provides a forum where DHS and Component leadership share programmatic information, allowing best practices to be shared and potential risks to be mitigated. The IRB process also heightens program accountability, due to the joint review process.

Expected Outcomes

- Independent assessment of projects and programs
- Consistent methodology for review and performance assessment
- Supports the technical, cost, schedule, and programmatic basis for external reporting
- Clear, directive feedback to programs, projects, and Mission stakeholders

Accomplishments

April 2006	Implementation of Periodic Reporting requirements for Level 1 and 2 investments for Earned Value Management System compliance
Aug 2008	Draft and begin approval process for Management Directive 1400 update
November 2007	Creation of the Acquisition Quick Look Team to review and implement enterprise-wide investment best practices
Monthly	Investment Review Board review of Level 1 investments

Actions Required to Complete

Sept 2008	Acquisition Program Baseline (APB) upgrades completed and ready for Department Review on 20 Level 1 Programs

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Sept 2009	Acquisition Program Baseline (APB) upgrades completed on all Level 1 Programs; upgrades underway on Level 2 programs
Oct 2008	Obtain approval of updated Management Directive 0003 (now 252-07) to provide DHS-wide coverage and expand Acquisition beyond contracting
Oct 2008	Obtain approval / implement Management Directive 1400 update

Impediments/Challenges

- Availability of leadership and multiple stakeholders to conduct expected numbers of IRBs
- Timely collection and assessment of the program/project data
- Headquarters Staffing required to support expected annual IRB throughput

Measures

On behalf of the Deputy Secretary's office, OUSM's Office of Chief Procurement Officer (OCPO) will develop and document acquisition baseline performance measures regarding the overarching performance of investments. Over time, investment related decision trends and performance collected from periodic reporting will be compared with cost, schedule and performance baselines. Investment challenges will be identified and best practices will be developed with the goal of improving major investment decisions and program management oversight. OCPO will report performance to Under Secretary for Management for the purpose of monitoring IRB effectiveness.

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AREA A4: Corrective Action Plans

DHS Contacts: Michael Wetklow, Office of the Chief Financial Officer, (202-447-5196)

Description
Recognizing the Department's many challenges in terms of management and operations as detailed by both internal auditors such as the IG and external auditors such as the GAO, DHS is committed to improve its administrative, programmatic, and financial performance in a comprehensive manner through its management framework. In particular, DHS has developed a corrective action plan methodology that takes into account both internal and external feedback and appropriates the information to key leaders, decision makers, and accountable staff throughout the Department.

This corrective action plan methodology was developed in order to obtain a set of transformational objectives for each mission supported Component, Directorate, and Office that ensured conformance with overarching functional lines of business entity control requirements. These objectives include prompt and proper resolution of identified material weaknesses, the maintenance of accurate action plan records and reports, assurance of legal and administrative policies.

Having defined the corrective action plan objectives, DHS methodology formalized a phased approach for how the Department would implement transformation and ensure that operational performance criteria was being met in support of mission areas. For example, Financial Management transformation involved shifting the Department's efforts from audit driven activities to assuming management's responsibilities for internal controls with the end state of providing leadership useful financial information to guide mission support decisions. Other examples of overarching corrective action plans include management initiatives involving other lines of businesses such as Human Capital, Information Technology, and Acquisitions in addition to operational concerns such as Deepwater and SBInet.

Once transformation objectives are identified in response to identified material weaknesses or sub-optimal performance, the corrective action plan methodology requires comprehensive solutions to identify potential risks and incorporated mitigation strategies as key elements within final corrective action plans.

Implementing the corrective action plan methodology has proven to require clear leadership support in order to ensure that action owners are accountable and plans are completed within cost, schedule and performance criteria. Therefore, the Department created the DHS Accountability Structure which includes a Senior Management Council (SMC), an Internal Control Coordination Board (ICCB), and a Senior Assessment Team (SAT). The SMC approves the level of assurances for the Secretary's consideration and is comprised of the Department's Under Secretary for Management, Chief Financial Officer, Chief Administrative Officer, Chief Human Capital Officer, Chief Information Officer, Chief Information Security Officer, Chief Security Officer, and Chief Procurement Officer. The ICCB seeks to integrate and coordinate internal control assessments with other internal control related activities and includes representatives from all DHS lines of business to address crosscutting internal control issues. And, the SAT, led by the Chief Financial Officer, is comprised of senior level financial managers

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assigned to carry out and direct component level internal control over financial reporting assessments.

Although DHS has implemented this corrective action plan methodology, many challenges remain as the Department works towards overcoming both weaknesses that were adopted from legacy agencies and continuous new legislative requirements and resource restraints. However, by enveloping this corrective action plan methodology within the overall management framework, the Department has created a comprehensive approach to identify opportunities for improvement, ensure accountability, and include cross-functional councils that provide oversight and share best practices.

Expected Outcomes

- Prompt and proper resolution of identified material weaknesses, reportable conditions, and non-conformance conditions, and suboptimal performance; including the development, maintenance, monitoring and reporting of corrective action plans
- Maintenance of accurate records and reports regarding corrective action plan status in order to ensure oversight, accountability, and timely decision making capability
- Assurance that corrective action plans are consistent with laws, regulations, and administration policy
- Assurance that performance appraisals of appropriate officials reflect effectiveness in resolving or implementing corrective action for identified material weaknesses, reportable conditions, non-conformances and sub-optimal performance
- Providing a framework that supports a commitment for continual improvement and best practice implementation

Accomplishments

Fiscal Year 2006	Creation of Senior Management Council
March 2007	Issued the Internal Controls Over Financial Reporting Playbook
November 2007	Development of Secretary Assurance Statement corrective action plans, including first Mission Action Plans covering operational and management (non-financial reporting) material weaknesses
March 2008	Issued the Internal Control Playbook for FY 2008
June 2008	Renewed Charter establishing the Senior Management Council, Internal Control Coordination Board, and Senior Assessment Team
June 2008	Instituted regular meetings of the Senior Management Council to monitor corrective actions identified in Mission Action Plans for internal controls over operations.

Actions Required to Complete

December 2008	Complete FY 2009 Mission Action Plans describing corrective actions for material weaknesses, reportable conditions, and control deficiencies

- Allocate increased authority for Senior Management Council to support corrective action officials
- Appoint corrective action officials that are appointed by senior management for all Components, Directorates, and Offices

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Impediments/Challenges

- Timely collection and assessment of corrective action plan data
- Managerial performance and financial system reporting are key to this effort

Measures

The Office of the Chief Financial Officer leads the development and execution of corrective action plans through the Internal Control Program Management Office and documents corrective action plans. Over time, corrective action plan methodology trends and performance will be compared with cost, schedule and performance baselines. Investment challenges will be identified and best practices will be developed through the SMC, ICCB, and SAT with the goal of overseeing corrective action plan implementation and sharing best practices throughout the Department.

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AREA A5: Financial Management Systems Framework

DHS Contacts: Avie Snow, Office of the Chief Financial Officer, (202-447-0040)

Description:
The RMTO serves as the program management office for TASC and eTravel, providing day-to-day project management and communications with stakeholders. The office reaches out to components to solicit participation and support in providing the way forward for financial systems consolidation and modernization within the department. The RMTO ensures all work aligns with the DHS strategic plan as it consolidates financial systems, integrates core department resource management systems, and standardizes business processes. As a result, DHS will be a better, more accountable steward of taxpayers' dollars.

Expected Outcomes:
- Strengthening Department-wide financial accountability, moving DHS closer to a sustainable clean audit opinion
- Providing the foundation for effective internal controls and segregation of duties supported by a compliant software
- Reducing reporting errors by eliminating manual processes and controls
- Utilizing real-time interoperability to streamline reporting across the financial management enterprise
- Supporting an approved Chart of Accounts compliant with the United States Standard General Ledger and OMB Circular A-127
- Ensuring compliance with the National Institute of Standards and Technology Special Publication 800-53 – Recommended Security Controls for Federal Information Systems and the GAO's Federal Information System Controls Audit Manual
- Achieving Federal Management Line of Business compliance by standardizing data collection and transaction processes throughout the organization
- Minimizing information security risks
- Finish DHS FedTraveler implementation by end of FY2010 providing DHS a single, end to end travel solution

Accomplishments

Fiscal Year 2008	Determined a full-and-open acquisition strategy that encompasses financial management, procurement and asset management.
May 2008	Posted Request for Information in FedBizOpps seeking information from Financial Management Line of Business (FMLoB) shared service providers as well as other qualified commercial and/or government providers capable of implementing, operating and maintaining a proven, integrated federal financial management, asset management, and acquisition management system.
June 2008	Completed acquisition package materials.
July 2008	Met with potential vendors to explore early thoughts, questions and insights into the TASC acquisition strategy and program scope.

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Actions Required to Complete
- Post Requests for Proposal on FedBizOpps ooa 30 Sept 2008
- Evaluate vendor proposals
- Award contract

Impediments/Challenges
- Budget constraints
- Overcoming legacy technology and management challenges

Measures
The Office of the Chief Financial Officer leads the effort to consolidate and modernize financial systems within the department. As the effort develops and acquisition plans are detailed, success will be monitored in conformance with cost, schedule, and performance measures. Investment challenges will be identified and best practices will be developed throughout acquisition life cycles with the goal of improving enterprise-wide financial management and overseeing system migrations.

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Appendix B

NATIONAL FLOOD INSURANCE PROGRAM

Focus Areas: Program/Project Management, Repetitive Loss Properties, Flood Map Modernization, Standard Business Processes.

Sponsoring Executive: Susan Shuback, Acting Chief Financial Officer, Federal Emergency Management Agency (FEMA)

Lead Executive: Stephen Carruth, Executive Officer, Mitigation Directorate, FEMA, (202.646.3449)

Supporting Organization(s): Offices of the Chief Financial Officer; Federal Emergency Management Agency

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AREA B1: NFIP Program Oversight

Description
Established in 1968, the National Flood Insurance Program (NFIP) reduces future flood damage through hazard identification and mapping, effective community floodplain management, and insurance protection for property owners. Congress designated FEMA to administer the NFIP and the FEMA Mitigation Division has responsibility for program management and oversight. FEMA's management of NFIP has evolved to best manage mounting flood losses and escalating costs of disaster relief.

As originally conceived, the NFIP was the means to get communities and citizens to understand their risk from flooding and to mitigate against future flood damage. Congress provided the incentives to do this by encouraging community participation, discounting premiums for Pre-FIRM structures, mandating the purchase of flood insurance and authorizing grant programs to mitigate repetitively damaged structures. The NFIP's flood risk identification and floodplain management land use and building standards will have reduced the costs and consequences of flooding by an estimated $14 billion from 2000 through 2010. It would be difficult to comprehend what the costs of flooding would be for all levels of government if these standards were not in place.

The nation has benefited from the NFIP's cost savings both in human and economic terms. The challenges facing the NFIP, which place it in a high risk category, include: the outstanding debt from the 2005 hurricanes, the inability to build loss reserves, and premium discounts available to Pre-FIRM properties. Addressing these challenges requires legislative solutions.

Expected Outcomes
- Forgiveness of the NFIP's debt and accrued interest costs from the 2005 hurricanes will bring an end to borrowing to pay the cost of debt servicing.
- Creating a reserve fund will provide funds to pay claims in greater than historic average loss years.

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- Increased premiums for certain classes of properties that currently receive premium discounts will provide more revenue to the NFIP.

Accomplishments
- The Administration has been and will continue working with the Congress to secure passage of H.R. 3121 EAS.

Impediments/Challenges
- Failure to resolve the NFIP's $17.36 billion debt will result in additional new loans to cover semi-annual interest payments and make it unlikely that the NFIP will never be able to retire its debt. Any headway made as a result of subsidy reduction and setting up a reserve fund will have a limited impact if the NFIP continues to be burdened by this level of debt.

Actions Required to Complete
- Resolve the NFIP's $17.36 billion debt and accrued interest costs for losses from Hurricanes Katrina, Rita and Wilma.
- Create a reserve fund to reduce the likelihood of future NFIP borrowings and amend the Flood Fund's investment language. Currently, 42 USC 4017 gives the Flood Fund authority to invest in obligations issued or guaranteed by the U.S. only after all outstanding obligations of the Flood Fund have been liquidated.
- Eliminate the subsidy for certain classes of properties.

Measure
Secure passage of H.R. 3121 EAS, which contains language to resolve the NFIP's debt, create a reserve fund, and eliminate the subsidy on selected classes of properties. If the legislation passes by September 30, 2008, the following milestones are applicable:

Debt Forgiveness:
- September 30, 2008 – NFIP debt forgiven.

NFIP Reserve Fund:
- December 31, 2008 – Establish NFIP reserve fund with Treasury.
- June 30, 2009 - Complete analysis of rate increases need to fund the NFIP reserve fund.
- May 1, 2010 – Implement rate increases needed to fund the NFIP reserve fund.

Subsidy Elimination:
- June 30, 2009 – Complete analysis of rate increase need to accomplish the phased-in elimination of the subsidy for classes of properties.
- May 1, 2010 – Initiate rate increase to eliminate the subsidy for classes of properties.
- May 1, 2015 – No subsidy is provided for classes of properties.

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AREA B2: Severe Repetitive Loss (SRL) Pilot Program

Description
The Severe Repetitive Loss (SRL) Pilot Program, authorized by the Flood Insurance Reform Act of 2004, is in the initial year of implementation. The Act authorizes FEMA to provide assistance to reduce or eliminate the risk of flooding to more than 7,000 Severe Repetitive Loss properties nationwide. An SRL property is a residential property that is covered under an NFIP flood insurance policy and:

(a) That has at least four NFIP claim payments (including building and contents) over $5,000 each, and the cumulative amount of such claims payments exceeds $20,000; or
(b) For which at least two separate claims payments (building payments only) have been made with the cumulative amount of the building portion of such claims exceeding the market value of the building.

For both (a) and (b) above, at least two of the referenced claims must have occurred within any 10-year period, and must be greater than 10 days apart.

In fiscal year 2006 and fiscal year 2007, Congress authorized FEMA to transfer up to $40 million from the National Flood Insurance Fund to mitigate severe repetitive loss properties. In fiscal year 2008, Congress authorized $80 million for the SRL program, making a total of $160 million available for assistance in the initial year of the program.

Types of assistance available include:
- Acquisition and relocation or demolition of flood prone structures, with conversion of the underlying property to permanent open space;
- Elevation of flood prone structures;
- Floodproofing of floodprone structures; and
- Construction of minor, localized flood reduction projects.

The SRL program is unique in that property owners who decline an offer of mitigation assistance may be subject to an increase in their flood insurance premium rate.

By statute, 10% ($16 million) of the available funds were set aside for states with 50 or fewer SRL properties; applications for set aside funds were due May 7, 2008. FEMA received approximately $1 million in applications for these funds. The remaining funds are available to target states with 51 or more SRL properties via a target allocation amount; applications from target states are due May 30, 2008.

Expected Outcomes
- Reduce or eliminate claims on SRL properties insured by the National Flood Insurance Program by funding cost-effective mitigation projects.
- Provide outreach, guidance and technical assistance to applicants interested in the SRL program.

Accomplishments
- FEMA notified State Hazard Mitigation Officers and NFIP Coordinators about the SRL program in July, 2007.

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- FEMA published regulations to implement the SRL program on October 31, 2007.
- Provided extensive training and outreach on the SRL program began in November 2007.
- Guidance for the SRL Program was released January 14, 2008.
- States representing more than 95% of the SRL properties nationwide have been trained in the program.
- Applications from non-target States accepted on May 7, 2008.

Actions Required to Complete
- Close application periods for Target States.
- Review submitted applications for eligibility and completeness.
- Process eligible grant awards.
- Release program guidance for upcoming grant cycle.

Impediments/Challenges
- Capability and capacity to develop grant applications at state and local level.
- Reluctance of state and local officials to pursue program with an insurance component.
- Limited capability of data systems to track grant closeout and status of mitigated properties.

Measures
- June-December, 2008 - Post Guidance and Open Application Period
- December 2008 - Close Application Period
- January -March, 2009 - SRL application review
- April 2009 - Selection & Notification

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AREA B3: Flood Map Modernization

Description
Floods inflict more damage than any other natural hazard in the United States. In 2003, Congress funded the multi-year Federal Emergency Management Agency (FEMA) Flood Map Modernization (Map Mod) initiative to provide a technology-based, cost-effective, long-term process for updating, maintaining, storing, and distributing the flood hazard and risk information portrayed on Flood Insurance Rate Maps (FIRMs).

The advantages of digital maps over paper maps include the ability to present information in a variety of ways to support more powerful analysis, electronic access and transmission, and lower long-term production and maintenance costs.

In response to Congressional intent and stakeholder input, FEMA designed Map Mod to leverage program resources through partnerships with other Federal agencies and State and local governments involved with the NFIP and flood hazard identification.

When the Map Mod initiative is completed, it will have developed:

- Digital flood hazard data and maps for 92 percent of the U.S. population;
- New, updated, or validated flood hazard data for 30 percent of the mapped stream miles;
- Credible floodplain boundaries for 75 percent of mapped stream and coastal miles;
- Strong, effective partnerships with State, local, and other Federal agencies; and
- A premier flood data collection and dissemination platform.

Investments in flood hazard mapping ultimately results in reducing the risks to life and property from flooding, supporting the fiscal soundness of the NFIP, and lessening the financial impact on the Treasuring following natural disasters.

Map Mod is on track to successfully deliver on its measures. At the end of the second quarter of fiscal year 2008 the Program has provided digital flood hazard data to 63.9% of the Nation's population. Typically a flood map project takes about 2-3 years to deliver; as a result the projects started under Map Mod our measures will ultimately be met.

Impediments/Challenges
- Recognition of levee system protection and risk reduction on Effective Flood Insurance Rate Maps (FIRMs)

  Levees or levee systems have been constructed in approximately one-quarter of the counties that will receive DFIRMs as part of the Flood Map Modernization effort. Thus, levees that have been shown and are accredited with providing flood protection on the effective FIRMs; levees that may not be shown or accredited on the effective FIRMs, but exist; and any map updates that are necessary to accurately reflect the flood hazard and risk information in levee-impacted areas will need to be addressed during the mapping process for the affected DFIRM panels. FEMA will only recognize those levee systems that meet, and continue to meet, minimum design, operation, and maintenance standards. Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10) describes the data and documentation that FEMA must receive in order to credit a levee or levee system with providing a 1-

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percent-annual-chance level of flood protection. The required data and documentation must be supplied to FEMA by the community or other party seeking recognition of the levee or levee system. Levees that cannot meet the requirements of 44 CFR 65.10 typically will require additional engineering, mapping, and community coordination time on the part of FEMA, FEMA contractors, and FEMA mapping partners to correctly map the current flood risk in levee-impacted areas.

- Coordination and timeframe of community review of DFIRMs

  To facilitate community adoption of DFIRMs, coordination of an adequate review and comment period with all impacted communities is necessary to provide due process. This coordination may be affected by community ordinance or State law that requires the community to adopt the maps under strict guidelines or at a given time of year (e.g., annual town meeting). Community officials and citizens may provide feedback on mapping issues during the review period immediately following the issuance of the preliminary DFIRM and/or during the 90-day appeal period, which can delay completion of the DFIRM. Community review often results in new information to be incorporated into the preliminary DFIRM. When a community or other interested party files an appeal of the proposed Base Flood Elevations or base flood depths, FEMA or the mapping partner must review the data to determine whether they are technically or scientifically correct. The review and appeal periods and the resulting appeal resolution process are important in developing the most accurate maps possible. Data provided during this process can assist in this endeavor. However, appeals and/or incorporation of new information after issuance of the preliminary DFIRM can result in delays to the map completion schedule. In certain cases, additional funding may be necessary to resolve community comments or incorporate new information.

- New Mapping Partners

  Mapping partners that are new to Flood Map Modernization may not be familiar with the map production process and workflow. Although mapping partners have progressed since the beginning of Flood Map Modernization, new mapping partners have been added over the years, especially in support of Cooperating Technical Partners (CTPs). The coordination time required to provide additional assistance and outreach to affected communities and other new mapping partners may affect projected timeframes for completion of the DFIRM.

- Natural Disasters

  In the event of a natural disaster, FEMA staff supporting the Flood Map Modernization effort may be tasked to provide support to areas affected by natural disasters. In addition, State Mapping Programs may be delayed as the CTP staff is redirected to response and recovery efforts. This shift in focus from updating flood maps to responding to immediate disaster needs can cause delays in the schedule of map production.

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Actions Required to Complete

- Manage Program Risks
- Continue executing on Flood Map Modernization's plan, the Multi-Year Flood Hazard Identification Plan (MHIP) http://www.fema.gov/plan/prevent/fhm/dl_mhip.shtm
- Continue using the Map Mod Mapping Information Platform (MIP) to monitor schedule and performance of Map Mod projects

Measures

- Conduct Joint Program Review Monthly to track Program Schedule, Cost, and Performance - 3rd Thursday of each Month
- Conduct Quarterly Risk Inventory review to track against mitigation actions - No later than final day of each FY Quarter
- Meet Quarterly Key Performance Parameter targets. - Updated Balanced Score Care no later than final day of each FY Quarter

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Appendix C

MANAGING FEDERAL REAL PROPERTY

Focus Areas: Program/Project Management, Standardized Data Reporting, Standard Business Processes.

Sponsoring Executive: Donald Bathurst, Chief Administrative Officer

Lead Executive: Richard Espinoza, Assistant Director for Real Property, (202-447-5089)

Supporting Organization(s): Offices of the Chief Administrative Officer, Office of the Under Secretary for Management

Description
The Department strategically manages its federal real properties by having established asset management plans, standardized data reporting, adopted performance measures, and having developed a Department-wide Real Property Committee. Ultimately, DHS minimizes real property life cycle costs through effective property management in consideration of regional stakeholder interests, legal and budgetary limitations, and Department mission goals and resources.

Under direction from OMB, through the Presidents Management Agenda (PMA), the Department has developed an integrated and robust approach to federal real property asset management. DHS is working towards "Achieving Green" in both Progress and Status in accordance with OMB expectations and guidance in Q1 2009.

Expected Outcomes
- Optimal property utilization
- Reduced facility inventories to a minimum
- Management of infrastructure necessary to support Department transformation efforts

Accomplishments
The Department has:
- Established an OMB-approved three-year rolling timeline with date certain deadlines by which the Department will address opportunities and determine its priorities as identified in the asset management plan
- Demonstrated initial evidence taken toward implementation of asset management plan as stated in yellow standards (including meeting established deadlines in three-year timeline, meeting prioritized management improvement actions, maintaining appropriate amount of holdings, and estimating and optimizing cost levels)
- Has a Senior Real Property Officer (SRPO) who actively serves on the Federal Real Property Council (FRPC)
- Established asset management performance measures, consistent with the published requirements of the Federal Real Property Council;

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- Completed and maintained a comprehensive inventory and profile of Department real property, consistent with the published requirements of the Federal Real Property Council
- Provided timely and accurate information for inclusion into the government-wide real property inventory database
- Developed an OMB-approved comprehensive asset management plan that:
  - Complies with guidance established by the Federal Real Property Council (FRPC).
  - Includes policies and methodologies for maintaining property holdings in an amount and type according to Department budget and mission.
  - Seeks to optimize level of real property operating, maintenance, and security costs.

Actions Required to Complete

Ongoing	Maintain and analyze DHS portfolio to support real property asset management decisions in conjunction with FRPP Data
Fiscal Year 2009	Install a culture of informed, results-based decision making, implement and institutionalize RPMC Task Force appropriate use of key performance measures as bases for real property planning, acquisition, operations and maintenance, and disposal or reutilization decisions

Q4FY08

- Submit findings and recommendations to OMB regarding Real Property training and Warrant Certification Program
- RPMC to reconvene Operating Expense task force to address structures
- Complete stabilization of RPIS onto Oracle-based platform
- Draft and deliver to OCIO a proposal for a target Enterprise Architecture for a real property Asset Management IT system
- Roll out Component senior officer certification of RP data upload policy
- Award contract for multi-year DHS-wide, HQ-level audit and assessment of RP data
- Expand cross-Component use of USCG IDIQ contracts for Architecture and Engineering services
- Award Real Estate Manual contract
- Identify DHS disposal target (number and value) for FY09
- Components are advised to begin phased implementation of a consistent method to evaluate occupancy satisfaction and the use of the customer satisfaction tool subject to budget and CIO requirements

Q1FY09

- Conduct first audit and assessment under new IDIQ contract
- Develop a draft internal audit procedure to evaluate DHS and Component real property decision-making process
- Engage OCIO at all levels for assistance in placing the RPIS system or RPIS capability onto Component-accessible shared server
- Subject to RPIS on shared server, provide training class for Component use of RPIS
- Deliver preliminary target solution criteria and implementation requirements for new Asset Management IT platform to OCIO
- Re-evaluate pilot collocation options based on component recommendations
- First senior officer RP data certification submission per Component
- Issue new over-arching policy/directive on real property management

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- Report all required inventory and performance data accurately and completely to the FRPP no later than December 15th
- Report quarterly progress toward meeting the FY09 disposal target
- In accordance with FRPC guidance, implement the common screening format for assets available for Federal transfer
- Update the DHS Asset Management Plan (AMP)
- Update the DHS 3-Year Timeline
- Certify that assets identified for disposal in FY08 have left the inventory
- Present Achieving Green to OMB

Q2FY09
- Develop pilot program for new investment review process
- If funded for over-guidance, initiate procurement actions for new Asset Management IT platform
- Begin issuing new guidance documents as subset of RP policy/directive
- Begin construction of USCG HQ as part of the consolidated DHS HQ strategic plan
- Operating Expense Task Force will roll out new OE methodology pilot
- Issue draft of Warrant Program policy and procedure document
- Complete Functional Assessment contract
- Report quarterly progress toward meeting the FY09 disposal target
- Confirm that all assets identified for disposal have exited the Federal Portfolio in FY09

Q3FY09
- Complete Real Property Handbook
-
-
- RPMC and HQ DHS CAO review and approval of draft Warrant Program policy and procedure document

Q4FY09
- Deliver to OCIO, the documentation necessary to obtain Certification and Accreditation to parallel functionality of existing RPIS
- Create Task Force to monitor and report on application and compliance with management directives
- Stand up new Warrant Program policies and procedures
- Identify DHS disposal target (number and value) for FY10
- Report quarterly progress toward meeting the FY09 disposal target

Fiscal Year 2010 — Leverage human capital to maximize value added to real property decisions, the RPMC will lead a task force to develop a "Training and Certification Program" for key Real Property human capital needs

Q1FY10
- Build out of mission support consolidation lease
- Report all required inventory and performance data accurately and completely to the FRPP no later than December 15th
- Report quarterly progress toward meeting the FY10 disposal target
- Certify that assets identified for disposal in FY09 have left the inventory

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Q2FY10
- HQ Real Property will evaluate projects completed under Architecture and Engineering Services IDIQ contracts (from USCG lead RPMC work in Q2 FY09) to determine best-practices, lessons-learned, and potential future savings and cost avoidance
- Begin construction of the National Operations Center and Component Operations Center as part of the Consolidated Master Housing Plan
- Report on progress to train and certify at all three levels (one, two, and three) of Component Real Property Contracting Officers under the new Warrant Program
- Report quarterly progress toward meeting the FY10 disposal target

Q3FY10
- Develop internal audit procedures of decision making processes and RPMC review
- Develop the first DHS facility condition baseline through the consistent application of facility condition calculations and report data to FRPP on a phased, 25 percent per-year basis
- Report quarterly progress toward meeting the FY10 disposal target

Q4FY10
- Identify specific integration opportunities for the Enterprise Architecture solution, such as energy management system or facility management system
- Issue results of internal decision-making process audit and make necessary corrections
- Subject to funding, complete procurement of new Portfolio Management System
- Identify disposal target (number and value) for FY11

Impediments/Challenges
- Resources to rationalize and consolidate national capital region assets in support of Department transformation goals
- Inter-governmental partnerships with agencies that manage and share assets

Measures

December 2008	Achieve Green in both Progress and Status in Performance Improvement
December 2008	Demonstrate, relative to established baselines, the reduction of Departmental lease costs and vacant space rates across the Department
March 2009	Demonstrate effective management of the DHS real property portfolio of assets by achieving improved real property performance metrics from established baselines
Fiscal Year 2010	Demonstrate consistent use of all FRPC performance measures
Fiscal Year 2010	Maintain Green in both Progress and Status
Fiscal Year 2011	Complete the first set of collocation initiatives based on developed targets

<u>On-going</u>
- Subject to funding, extend Enterprise Architecture capabilities for Real Property Asset Management across Components
- Develop nationally focused collocation initiatives based on target utilization rate improvements, and mission and operational goals
- Consolidate utility use tracking across DHS Components
- HQ will issue amendments, as required, to assure guidance documents, manuals, management directives, and directives support the DHS real property program

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Appendix D

STRATEGIC HUMAN CAPITAL MANAGEMENT

Focus Areas:	Program/Project Management, Standardized Data Reporting, Standard Business Processes.
Sponsoring Executive:	Thomas D. Cairns, Chief Human Capital Officer
Lead Executive:	Erin Hayes, Manager of Workforce Planning and Staffing Policy, (202-357-8355)

Supporting Organization(s): Office of the Chief Human Capital Officer, Office of the Under Secretary for Management; All Mission Components, Directorates and Offices

Description
In compliance with the guidance provided by the Office of Personnel Management (OPM) and in coordination with OMB, which directs the Department's efforts to build an institutional infrastructure that can support reform, DHS has developed and implemented a means to develop an internal workforce capacity with internal skills and competencies, effectively partnering with DHS Mission Components to implement effective human capital management systems and to improve human capital management practices.

Through OMB assessments, DHS is on track with the prescribed milestones and the Department expects to obtain full compliance with OMB expectations by June 30, 2009.

Expected Outcomes
- Position strategic human capital (HC) management as a key contributor to mission accomplishment
- Integrate the Human Capital Assessment and Accountability Framework (HCAAF) Systems to achieve desired results
- Institutionalize Human Capital management systems, programs, policies, and technologies to ensure continuous improvement

Accomplishments
- Developed, documented and communicated throughout the Department a comprehensive Human Capital Plan that:
  - Is current and clearly aligns with the Department's current strategic plan,-annual performance goals, and budgetary priorities.
  - Fully addresses the Human Capital Assessment and Accountability Framework (HCAAF).
  - Strategically integrates and drives all human capital planning efforts, including workforce, succession, diversity, Federal Human Capital Survey/Annual Employee Survey action, accountability planning and other HC-related activities.
  - Includes general HC goals and objectives including outcome-oriented goals and objectives.

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  - Incorporates measures that: 1) Measure outcomes, 2) Have clear, obtainable targets, and 3) include timelines for implementation.
  - Designates accountable officials.
- Analyzed existing organizational structures from a service delivery, cost, and general workforce planning perspective. Relevant workforce solutions including, redeployment and de-layering are deployed as necessary.
- Implemented succession management strategies, including structured leadership development programs, to assure continuity of leadership; sets targets for closing leadership competency gaps (including those addressing gaps in performance management competencies): implements gap closure strategies, and meets key milestones outlined in succession management plan.
- Implemented merit-based appraisal plans and awards programs that link to Department mission, goals and outcomes; hold employees accountable for results appropriate for their level of responsibility; differentiate between various levels of performance; and provide consequences based on performance for all SES and managers. Implemented performance appraisal and awards systems that are fair, credible and transparent; assure managers are competent in their role as managers; hold managers accountable for managing employee performance, as reflected in their performance plans and ratings; and include employee involvement and feedback. The Department has expanded the performance pilot to cover a significant proportion of employees, and is working to include all Department employees under such systems.
- Implemented strategies to address workforce diversity, particularly in mission-critical occupations and leadership ranks.
- Implemented a strategy for improving the hiring process that focused on recruiting and retaining top talent and reducing timelines for hiring applicants, and integrated the Career Patterns initiative; implemented an auditable system(s) for collecting and analyzing data on stages of the hiring process consistent with the CHCO Council criteria; set a hiring timeline target based on the time from closing of announcement until offer is made (e.g., average of 45 days for all recruit actions).
- Implemented the Human Capital Accountability System approved by OPM; provide annual accountability report, which includes System, Standards, and Measures (SSM) results, outlining the effectiveness of the Department's human capital program and accountability system to the Department Head, leadership, and OPM, and results are used to inform and update the Accountability Plan as needed; and Department periodically conducts accountability reviews with OPM participation.
- Ongoing: Conduct a workforce analysis to identify competency gaps in mission-critical occupations (i.e., human resources management, information technology, acquisition, and Department-specific occupations); determine current and future human resource needs, sets targets to close gaps, including targeted employee development, recruitment and retention programs; and meets key milestones.
- Ongoing: Take corrective and improvement action, within prescribed timeframes, based on the results of the accountability activities.

Actions Required to Complete
Q4FY08
- Submit updated competency milestone reports, competency profiles and resource charts for mission critical occupations
- Submit a draft updated Human Capital Strategic Plan and Implementation Plan

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- Conduct HROA for Headquarters DHS
- Submit HROA Report as appropriate
- Finalize DHS-specific PTB6 goals and milestones with OPM and OMB

Q1FY09
- Finalize Human Capital strategic Plan and Implementation Plan aligned with DHS Strategic Plan
- Prepare and submit FY2008 Human Capital Management Report
- Submit HROA Report, as appropriate
- Conduct HROA, as appropriate
- Update DHS 5-year Workforce Plan
- Meet quarterly goals in HCSP/IP

Q2FY09
- Submit updated PAAT's for components that have not yet achieved a score of 80 (specific PAATs yet to be determined)
- Conduct HROA, as appropriate
- Submit HROA report, as appropriate
- Meet quarterly goals in Human Capital Strategic Plan and Implementation Plan
- Provide update on DHS IdeaFactory implementation
- Increase the use of Category Rating and Hiring Flexibilities by 10% over Q2 FY08 numbers
- Meet quarterly goals in HCSP/IP

Q3FY09
- Submit progress report on gap closure and improvement plans on Mission Critical Occupations
- Conduct HROA, as appropriate
- Submit HROA report, as appropriate
- Meet quarterly goals in HCSP/IP
- Meet 45 day hiring target for 80% of positions, with 95% applicant notification for the majority of DHS HQ and Components
- Improve DHS' overall Agency scores on the FHCS HCAAS indices by 1 to 3%
- Submit rest of updated PAAT's for components that have not achieved a score of 80 (specific PAATs yet to be determined)
- Execute an updated DHS Human Capital Strategic Plan and Implementation Plan
- Execute Learning and Knowledge Management strategy and demonstrate efficiencies achieved
- Continue to strengthen and improve DHS Performance culture
- Demonstrate increased efficiency and effectiveness in Talent management through closing competency gaps, reducing vacancies, achieving time to hire goals
- Continue to execute Accountability program through Human Resource Operational Audits and Delegated Examining Audits
- Implement a workforce planning process that is integrated with DHS' strategies to provide, retain and enable a high performing and motivated workforce
- Execute planned new administration transition strategies that enable DHS and Component leadership and workforce to continue to respond decisively and immediately to natural disasters and the risk of terrorism

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- Strengthen a Leadership Succession Plan that results in a deep, available internal department talent bank of potential executives, managers and supervisors; results in a reduction of leadership vacancies and a continual development of leadership competencies
- Strengthen talent management efforts that focus on the increase, retention and exchange of corporate knowledge and workforce competencies within and across the Department
- Strengthen and improve DHS Performance Culture that nurtures and reinforces Departmental workforce unity and integration
- Continue a viable DHS Human Capital Accountability Assessment program with results that demonstrate annual and long-term effectiveness and efficiencies achieved through execution of the Human Capital Strategic Plan and Implementation Plan, the delivery of human resources services and compliance with merit system principles

Q3FY10

- Execute an updated DHS Human Capital Strategic Plan and Implementation Plan
- Execute Learning and Knowledge Management strategy and demonstrate efficiencies achieved
- Continue to strengthen and improve DHS Performance culture
- Demonstrate increased efficiency and effectiveness in Talent management through closing competency gaps, reducing vacancies, achieving time to hire goals
- Continue to execute Accountability program through Human Resource Operational Audits and Delegated Examining Audits

Impediments/Challenges

Accomplishment of these activities will require significant commitment of resources. It is anticipated that constrained DHS budget allocations and Congressional oversight will continue to significantly impact resources that can be used to plan and execute the DHS Human Capital Program.

Measures

July 2009	Ensure that over 70% of employees covered under the DHS Performance Management System receive training and have performance plans aligned with organizational priorities, focused on results, have credible measures, are balanced, and make meaningful distinctions
July 2009	Meet the 45-day hiring target for 80% of positions, with 95% employee notification for the majority of DHS Components and Headquarters
July 2009	Increase use of Category Rating and Hiring Flexibilities by 100% over FY07, Third Quarter numbers
July 2009	Improve DHS' overall Department scores on the FHCS HCAAF indices by 1 to 3%

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Appendix E

INFORMATION SHARING MECHANISMS TO IMPROVE HOMELAND SECURITY

Focus Areas: Program/Project Management, Standardized Data Reporting, Standard Business Processes.

Sponsoring Executive: Charles Allen, Under Secretary for Intelligence and Analysis and Chief Intelligence Officer

Lead Executive: Carter Morris, Director, Information Sharing & Knowledge Management Intelligence and Analysis, (202-282-8248)

Supporting Organization(s): Office of Intelligence and Analysis, Office of the Under Secretary for Management (OUSM), Office of the Chief Information Officer (OCIO), National Protection and Programs Directorate (NPPD)

Description

Responsible for assessing the nation's vulnerabilities, DHS takes the lead in evaluating vulnerabilities and coordinating with other federal, state, local, and private entities to ensure the most effective response. The collection, protection, evaluation and dissemination of information to the American public, other federal agencies, state, local, and tribal governments, and the private sector is central to this task.

Maintaining a comprehensive yet cohesive information network that enhances inter- and intra-Department information sharing is complicated by geographical, infrastructural, and technical challenges. Therefore, the Department has developed three mechanisms that complement each other and enable federal, state, and local partners to collaborate and coordinate efforts.

First, the Homeland Security Advisory System targets our protective measures when specific information to a specific sector or geographic region is received. It combines threat information with vulnerability assessments and provides communications to public safety officials and the public. Second, the Protected Critical Infrastructure Information (PCII) Program facilitates greater sharing of critical infrastructure information between private sector and government entities by protecting the information from public disclosure. Third, secure communication networks, including the Homeland Security Information Network (HSIN) for SBU/CUI information and the Homeland Secure Data Network (HSDN) for classified (collateral Secret) information, provide nation-wide platforms to share essential intelligence and other homeland security information with the proper stakeholders. This information sharing is accomplished both horizontally across the government and vertically among state, local, and tribal governments, the private sector, and citizens as outlined in the President's National Strategy for Homeland Security. HSAS, PCII, HSIN and HSDN are crucial towards meeting the Department's most daunting challenge to communicate across distances and technologies.

In support of DHS' critical information sharing mechanisms, the Department has implemented multiple activities and programs that are dedicated towards working with particular federal, state,

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and local partners that may require various levels of clearance, types of information, and means of communication. First, the Constellation/Automated Critical Asset Management System (C/ACAMS) allows state and local government users to collect and use asset data and protection information to develop incident response and recovery plans to protect infrastructure assets. The Homeland Security Advisory System targets protective measures when specific information to a specific sector or geographic region is received. It combines threat information with vulnerability assessments and provides communications to public safety officials and the public. Second, HSIN, a computer-based collaboration system connecting all 50 states, five territories, Washington, D.C., and 50 major urban areas, provides a medium in which sensitive but unclassified information may be communicated to multiple stakeholders within a secure environment. Third, HSDN is the Department's strategic capability for sharing intelligence and other classified (Secret/collateral) or highly sensitive information among federal agencies with homeland security missions and key State and local partner installations, particularly Fusion Centers.

In order to assure that proper representation is considered and stakeholder concerns are heard, DHS has formed committees and working groups that meet on a regular and frequent basis with Department membership, enabling cross group discussions, best practice implementation, and a bridge of communication from DHS and other federal leadership to first responders and local emergency event support structures. During 2007, the Department established the information sharing governance framework, which operates through a three-tiered structure to represent all DHS components and enable the Department to speak with "one voice" to our external partners. The Information Sharing Governance Board (ISGB) is the decision-making body for all DHS information sharing and collaboration issues[1]. The Information Sharing Coordinating Council (ISCC) is the implementing body for information sharing issues and is comprised of information sharing action officers representing all 22 components and offices within the Department. Shared Mission Communities (SMCs) complement the governance structure, and are comprised of members of a shared mission. The SMC fosters a culture of information sharing and supports the ISCC and ISGB in gathering information sharing requirements and implementing solutions. A SMC begins as an ISCC Integrated Project Team to complete its charter and design its strategic vision, and as a community, propose their establishment to the ISCC & ISGB for approval. Through this structure, the Department is implementing the Secretary's One DHS[2] information sharing policy and executing towards the milestones detailed in the information sharing goal outlined in the Secretary's Priority Tracker.

The Department is also actively engaged in the Director of National Intelligence (DNI) Intelligence Community Information Sharing Steering Committee (IC-ISSC). The Director for Information Sharing & Knowledge Management is the DHS representative to the IC-ISSC. DHS consistently participates in the working group meetings and development of IC information sharing policy memoranda and directives, to ensure that DHS stakeholder needs are advocated and considered.

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[1] The ISGB is comprised of the Under Secretary for Intelligence & Analysis, the Chief Information Officer, the Assistant Secretary for Policy, the Director of Current Operations, the Assistant Secretary for Infrastructure Protection, the General Counsel and the Lead, Law Enforcement Shared Mission Community (currently the Assistant Secretary for Immigration & Customs Enforcement).

[2] The Secretary's Memorandum to all DHS components on the policy for *DHS Internal Information Exchange and Sharing* issued February 1, 2007.

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Other influential committees and working groups exist to support the Department. First, the Homeland Security Advisory Council provides advice and recommendations to the Secretary on matters related to homeland security. The Council is comprised of leaders from state and local government, first responder communities, the private sector, and academia. Second, the Critical Infrastructure Sector Partnership ensures that, coordinated approaches and plans are agreed upon and documented by all appropriate stakeholders, since critical infrastructure protection is a shared responsibility among Federal, State, local, and tribal governments and the owners and operators of the nation's critical infrastructure and key resources. Third, the DHS Data Privacy and Integrity Advisory Committee advises the Secretary and Chief Privacy Officer on program, policy, operations, administrative, and technology issues relevant to DHS that affect individuals' privacy, data integrity, data interoperability, and other privacy-related issues.

Although mechanisms, activities, and programs are essential for critical information sharing to be effective, trust is the most important variable for success. It has been noted that many local and private sector institutions are concerned that the Department is ill-equipped to adequately protect and effectively use the information that it provides. The Department is concerned that this interpretation may be in part due to the difficulty of communicating through third parties such as other government agencies and municipalities. Therefore, DHS has developed State & Local Fusion Centers that blend relevant law enforcement and intelligence information analysis and coordinate security measures in order to reduce threats to local communities.

In addition, the DHS National Protection and Programs Directorate's Office of Intergovernmental Programs promotes an integrated national approach to homeland security by ensuring, coordinating, and advancing federal interaction with state, local, and tribal governments. The purpose of the office's operations is multi-faceted and includes facilitating communication between the Department's expert resources and the expert resources of the nation's autonomous governments, providing advocacy for state, local, tribal, and territorial governments within the Department, and coordinating and maintaining constant awareness of the various multi-lateral communications occurring regularly throughout the Department.

By providing timely and meaningful consultation with our state, local, tribal, and territorial partners, DHS improves not only its capacity to share information with capable mechanisms and programs but also builds trust in both public and private sectors.

Expected Outcomes

- Standard set of policies and processes allowing timely inter- and intra- Department sharing of Homeland Security information
- Enhanced operational coordination and collaboration of Homeland Security elements from the local to the federal levels, via compatible information technology architecture and infrastructure
- Improved capacity and capability to collect, integrate and analyze data, identify trends, and disseminate intelligence and LE information

Accomplishments

- DHS has established and is operating a three-tiered governance structure for information sharing. At the executive level, the Information Sharing Governance Board (ISGB) meets quarterly to decide Department-wide information sharing issues. At the management level, the Information Sharing Coordinating Council (ISCC), comprised of representatives from all

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DHS components and offices, meets semi-monthly to discuss information sharing issues and formulate recommendations for the ISGB. At the execution level, the Shared Mission Communities (SMCs) and Integrated Project Teams (IPTs) meet regularly to develop solutions for information sharing issues.

- The Secretary of Homeland Security issued a DHS-wide policy on information sharing, the *DHS Policy for Internal Information Exchange and Sharing*, which provides guidance for all Departmental information sharing activities. To supplement this memorandum, the ISGB issued an Information Sharing and Access Agreement (ISAA) Guidebook to provide additional policy guidance for components in creating information sharing agreements.
- DHS completed deployment of HSDN to a total of 17 State Fusion Centers in 2007, with work in progress to reach a total of 40 Centers by the end of 2008. Using HSDN, DHS officers deployed to Fusion Centers and State and local officials in Fusion Centers with appropriate clearances can exchange classified data with each other and other federal agencies. HSDN also enables limited sharing of information with other Federal Secret networks like SIPRNet, DNI-S and FBINet, and supports classified video-conferencing.
- DHS sponsored development of a nationwide self-governing community of federal and non-federal intelligence analysts, and launched the HSIN-Intel portal to support analyst-to-analyst collaboration as well as more secure and efficient dissemination of unclassified finished intelligence products. HSIN-Intel provides enhanced security using Two-factor authentication, among other controls.
- Through the governance structure, a Law Enforcement SMC was established, which represents the first time that DHS law enforcement components have come together to discuss their mutual needs for information sharing. The LE-SMC is in the process of finalizing a DHS Law Enforcement Information Sharing Strategy (LEISS).
- DHS is finalizing a Department-wide Concept of Operations (CONOPS) for how components of the Department will interact with State and local fusion centers to ensure consistency and continuity. The State and Local Fusion Center (SLFC) CONOPs was required by the *Implementing the Recommendations of the 9/11 Commission* Act of 2007.
- DHS created a Department-wide measure for information sharing as part of the Department's Performance Plan that will examine compliance towards the DHS policy on information sharing.
- The Secretary added a goal on information sharing to the Secretarial Priorities. The Department measures its progress towards this goal on a monthly basis.

Actions Required to Complete[3]

- Finalize the DHS Information Sharing Strategy, developed through the information sharing governance structure.
- Sign a Memorandum of Agreement between DHS and FBI on who has the authority to authorize release of information from the State Fusion Centers; this agreement then needs to be promulgated to all State Fusion Centers, Homeland Security Advisors, and USG Departments/Agencies.
- Design and implement a central, Department-wide ISAA repository to ensure that components have the ability to leverage existing agreements.
- Conduct an inventory of data assets and information flows within DHS and with external partners (including state, local, tribal and private sector) to create a Department-wide repository to ensure that components have the ability to leverage existing data assets.

[3] As listed in the Secretary's Priority Tracker Information Sharing Goal #13.

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- Lead the state, local, and tribal law enforcement information sharing enterprise by enhancing Regional Sharing System solutions in conjunction with federal partners.
- Distribute the SMC Framework Charter which provides the guidelines for establishing additional SMCs across DHS and with DHS stakeholders.
- Embed intelligence officers at up to 35 State and Local Fusion Center (SLFC) sites by the end of the 2008 Fiscal Year. Assess as many SLFCs as resources will support in high interest locations to understand the mission, information sources/flows, analytic capacity, IT infrastructure, security, and partnerships with state and federal agencies.
- Develop guidelines for private sector handling of Controlled Unclassified Information (CUI) in joint partnership with the private sector through the Private Sector Subcommittee, Information Sharing Environment (ISE).
- Working with other ISE members, develop and document criteria for sharing classified information with appropriate Critical Infrastructure/Key Resource (CI/KR) sectors, and streamline procedures for declassifying critical threat information to enable broader distribution.
- Document awareness of established mechanisms and processes National Infrastructure Protection Plan (NIPP) and National Response Framework (NRF) for information sharing within the targeted private sector community, e.g. CI/KR sectors, through existing DHS outreach programs through the 2008 CI/KR National Annual Report.

Milestones	Original Target End Date	Current End Date	Percent Complete	Comments
A. Utilize info-sharing governance structure to facilitate achieving objectives of "One DHS" memo.				
1. In conjunction with the Office of General Counsel, review all ISAAs to ensure compliance with "One DHS". Where permissible, re-negotiate non-compliant agreements and provide a standard notice to external partners of "One DHS" policy.	12/31/2007	9/30/2008	45%	The ISGB has directed the ISCC to revitalize efforts to collect and review the ISAAs.
2. Design and	3/31/2008	9/30/2008	55%	The first

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Milestones	Original Target End Date	Current End Date	Percent Complete	Comments
implement a central, Department-wide ISAA repository to ensure that components have the ability to leverage existing agreements.				deliverable (ISAA Data Fields Requirement Document) has been reviewed and is complete. A first draft of the Functional Requirements Document is under review.
B. Develop info-sharing framework to reducing gaps in information flows by establishing organizational awareness of Enterprise Data Assets available within DHS.				
1. Conduct an inventory of data assets and information flows within DHS and with external partners (including state, local, tribal and private sector)	9/30/2008	12/31/2008	45%	As of 6/30/08, at the current rate of acquisition, the data asset baseline will not be complete by the milestone but is on plan to be completed by 12/30/2008.
2. Design and implement a repository to ensure that components have the ability to leverage existing data assets and information flows.	12/31/2008	12/31/2008	50%	Requirements phase is 100% complete. Design phase has begun. Function Requirements Document is complete.

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Milestones	Original Target End Date	Current End Date	Percent Complete	Comments
C. Promote a culture of info-sharing by establishing a framework on shared missions and info-sharing standards				
1. Lead SLT law enforcement info sharing enterprise by enhancing Regional Sharing System solutions (RSS) in conjunction with federal partners (DOJ, DOD, ODNI, and PM-ISE). Demonstrate an ability to share DHS law enforcement info with two RSS.	12/31/2007	6/30/2008	100%	The San Diego and Los Angeles deployments are completed and progress continues to be made with DOJ and Arizona communities.
2. Establish the Law Enforcement SMC to foster an environment through which DHS law enforcement components can address their information sharing needs, best practices, and challenges in a unified manner.	10/31/2007	7/18/2008	95%	With the completion of the SMC Framework Charter the LE SMC Charter is complete and ready for consideration by the ISGB.
3. Provide the guidelines for	12/31/2008	4/18/2008	100%	The SMC Framework

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Milestones	Original Target End Date	Current End Date	Percent Complete	Comments
and establish additional SMCs across DHS and with DHS stakeholders, with stewardship from I&A.				Charter was unanimously approved by the ISGB on 18 April 2008.
D. Establish partnerships with all State & Local Fusion Centers (SLFCs) and high-interest cities to improve info-flow between DHS and fusion centers; improve fusion center effectiveness				
1. Develop a Concept of Operations (CONOPS) for internal DHS support to State & Local Fusion Centers, which is supportive of the joint CONOPS in development with the Department of Justice	10/31/2007	6/30/2008	95%	The Privacy Office completed the Privacy Impact Assessment and the CONOPS is being re-circulated to ensure currency. Both documents will go out for Departmental review by mid-July.
2. Embed Intelligence Officers at up to 35 sites by the end of the 2008 Fiscal Year.	9/30/2008	9/30/2008	71%	Two Intelligence Officers were deployed to the field in June 2008 after one month of orientation and training.
3. Assess as many SLFCs as resources will support, in high interest locations to understand the mission, information sources/flows, analytic	12/31/2008	12/31/2008	100%	Targeted number of assessments is 35. Four assessments were completed in April – bringing the total to 35.

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Milestones	Original Target End Date	Current End Date	Percent Complete	Comments
capacity, IT infrastructure, security and partnerships with state and federal agencies.				
E. Improve info-sharing between DHS Critical Infrastructure/Key Resources protection partners at all levels of government and private sector partners.				
1. Develop guidelines for private sector handling of CUI information in joint partnership with the private sector through the Private Sector Subcommittee, Information Sharing Environment.	9/30/2008	11/30/2008	40%	
2. Working with other ISE members, develop and document criteria for sharing classified information with appropriate CI/KR sectors, and streamline procedures for declassifying critical threat information to enable broader distribution.	12/31/2008	12/31/2008	60%	
3. Document	9/30/2008	9/30/2008	40%	Work has begun

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Milestones	Original Target End Date	Current End Date	Percent Complete	Comments
awareness of established mechanisms and processes (NIPP and NRF) for information sharing within the targeted private sector community, e.g. CI/KR sectors, through existing DHS outreach programs through the 2008 CI/KR National Annual Report				on the 2008 CI/KR National Annual Report and progress is steady.

Impediments/Challenges

- Information sharing across geographical, infrastructural, and technical challenges requires a high level of standardization and coordination
- Trust requires opportunity and dedication over long periods of time

Measures

Each Department program and project will develop and document outcome and output performance measures against a baseline of compliance highlighted in the FYHSP database. Gaps and poor performance will be identified and corrective/mission action plans will be required with the goal of reducing and ultimately eliminating the gaps. The Office of Intelligence and Analysis staff will report performance to the Deputy Secretary for the purpose of monitoring progress towards this Plan.

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Appendix F

PROTECTING THE FEDERAL GOVERNMENT'S INFORMATION SYSTEMS AND CRITICAL INFRASTRUCTURE

Protecting the Federal Government's information systems and critical infrastructure involves both a federal-systems focus and a focus on the critical infrastructure which supports federal government information systems. The complexity and interdependency of these supporting critical systems requires risk management within the IT Sector, which builds, manages and maintains the IT infrastructure itself, and the cybersecurity of all sectors, including those affecting federal government information systems, the Defense Industrial Base, and the communications and management control systems upon which federal information systems rely.

I. Federally controlled Information Systems and Federally Controlled Systems Supporting CI

DHS Contact: Jenny Menna, National Cyber Security Division, (703-235-5316)

Scope: Protecting federal computer systems and the systems that support CI.

Overall: Develop a long-range plan to improve the effectiveness and efficiency of information security programs.

Short-Term: Within two years, for Federally controlled information systems and Federally controlled systems supporting CIKR, the Office of Management and Budget (OMB), Department of Homeland Security (DHS), National Institute of Standards and Technology, and national security authorities will work with the departments and agencies to reduce risk through better planning for and more consistent implementation of security controls and improved performance measurement of agency security programs and processes.

Focus areas

1. Increase compliance with the Federal Information Security Management Act (FISMA), Homeland Security Presidential Directive 7 (HSPD-7), and guidance concerning agency continuity of operations and national security/emergency preparedness telecommunications through:
   - Integrating requirements of FISMA, HSPD-7, Federal Emergency Management Agency (FEMA) guidance and National Communications System Directives to simplify processes and promote consistent implementation across government,
   - Continuing to define and prioritize Federally controlled information systems by risk considerations,
   - Increasing the number of information technology (IT) systems meeting key FISMA performance measures, and
   - Improving the quality of agency FISMA processes through increased qualitative assessments by agency Inspectors General (IG) and other independent experts as appropriate.

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2. Promote more cost-effective implementation of key security controls through developing common security solutions.
   - Achieve greater efficiency and effectiveness through standardizing and sharing capabilities, skills, and processes across government, to the maximum extent practicable (i.e., implementing the Information Systems Security Line of Business)

Process

1. OMB to provide major initiatives and goals for each focus area.
2. OMB to identify milestones for meeting goals for initiatives identified.
3. OMB to indicate what metrics will be used to measure improved performance.
4. OMB/DHS concurrence on goals, milestones, and metrics obtained.
5. Senior leadership buy-in obtained.
6. Progress monitored with quarterly staff meetings and quarterly/semi-annual updates.
7. Quarterly and semi-annual reports prepared as applicable.

Responsible Organizations

OMB, through the Administrator, Office of E-Government and IT, is responsible for identifying the goals and overseeing the initiatives cited in this Plan, but effective execution largely depends on departments and agencies.

Goals

The goals under this Plan are to improve the protection of Federally controlled information systems and Federally controlled systems supporting CIKR using the following measures and others to be developed later to:

- Determine immediate and root causes of current information security vulnerabilities and gaps
- Provide leadership and direction for mitigating the risk from these vulnerabilities and gaps
- Implement a set of risk-informed, cost-effective controls and measures to adequately protect information and Federally controlled information systems
- Adapt to rapidly changing technologies and risk environments

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Metrics and Baselines	3rd Quarter FY05 Status	2nd Quarter FY06 Status	2nd Quarter FY07 Status	2nd Quarter FY08 Status
Metric	Federal Departments and Agencies	Federal Departments and Agencies	Federal Departments and Agencies	Federal Departments and Agencies
FISMA compliance—Certification and accreditation	79% of systems certified and accredited	84% of systems certified and accredited	85% of systems certified and accredited	89% of systems certified and accredited
FISMA compliance—Certification and accreditation	IGs rate 15 agencies as having good or satisfactory processes	IGs rate 17 agencies as having good or satisfactory processes	IGs rate 17 agencies as having good or satisfactory processes	IGs rate 19 agencies as having good or satisfactory processes
FISMA compliance—Plan of action and milestone	IGs verify the process at 18 agencies to remediate IT security weaknesses	IGs verify the process at 19 agencies to remediate IT security weaknesses	IGs verify the process at 19 agencies to remediate IT security weaknesses	IGs verify the process at 19 agencies to remediate IT security weaknesses
FISMA compliance—Incident handling	Sporadic/low levels of reporting by some agencies	Sporadic/low levels of reporting by some agencies	Increased reporting by some agencies, but sporadic/low levels of reporting by other agencies persists.	Increased reporting by some agencies, but sporadic/low levels of reporting by other agencies persists.
FISMA compliance—Incident handling	Einstein incident detection tool installed by DHS/NCSD at 2 Departments and Agencies	Einstein incident detection tool installed by DHS/NCSD at 5 Departments and Agencies	Einstein incident detection tool fully installed by DHS/NCSD at 12 Departments and Agencies with 4 additional in process.	Einstein incident detection tool fully installed by DHS/NCSD at 12 Departments and Agencies with 4 additional in process.
FISMA compliance—Categorization of systems by risk impact level	Baseline data from agencies not currently available	92% of systems assigned a risk impact level	93% of systems assigned a risk impact level (From annual 2006 FISMA report)	94% of systems assigned a risk impact level
FISMA compliance—Tested contingency plans	57% of contingency plans tested on an annual basis	58% of contingency plans tested on an annual basis	73% of contingency plans tested on an annual basis	81% of contingency plans tested on an annual basis
FISMA compliance—Tested security controls	76% of systems have security controls tested on an annual basis	67% of systems have security controls tested on an annual basis	83% of systems have security controls tested on an annual basis	91% of systems have security controls tested on an annual basis

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Metrics and Baselines	3rd Quarter FY05 Status	2nd Quarter FY06 Status	2nd Quarter FY07 Status	2nd Quarter FY08 Status
Metric	Federal Departments and Agencies	Federal Departments and Agencies	Federal Departments and Agencies	Federal Departments and Agencies
FISMA compliance—Agency oversight of contractor systems	IGs verify that 16 agencies have used appropriate methods to ensure that contractor provided services are adequately secure	IGs verify that 18 agencies have used appropriate methods to ensure that contractor provided services are adequately secure	IGs verify that 18 agencies have used appropriate methods to ensure that contractor provided services are adequately secure	IGs verify that 17 agencies perform oversight and evaluation to ensure information systems used or operated by a contractor of the agency or other organization on behalf of the agency meet the requirements of FISMA, OMB Policy and NIST guidance. [1 agency (SSA) IG answered "not applicable," and one agency IG (DoD) did not answer.]
IT systems installed and maintained in accordance with security configurations	Baseline data will be available September 15, 2005	22 agencies have an agency wide security configuration policy	22 agencies have an agency wide security configuration policy	24 agencies have an agency wide security configuration policy
Efficiency—Information Systems Security Line of Business	FY07 business case currently in development. OMB established steering group to govern implementation	DHS designated managing agency for the line of business. Staffing for the program management office is underway	Program Management Office established and approximately 85% staffed.	Program Management Office established and approximately 100% staffed.
Efficiency—Development of contracting vehicles for security hardware, software, and services	1 contracting vehicle for security training (USA Learning)	1 contracting vehicle for security training (USA Learning)	No contract vehicles developed at this time. Interagency work groups in process of evaluating agency common needs to determine priorities.	No contract vehicles developed at this time. Technical requirements for 3 security tools: configuration management, vulnerability assessment, and network mapping have been finalized and provided to GSA for procurement

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Metrics and Baselines	3rd Quarter FY05 Status	2nd Quarter FY06 Status	2nd Quarter FY07 Status	2nd Quarter FY08 Status
Metric	Federal Departments and Agencies	Federal Departments and Agencies	Federal Departments and Agencies	Federal Departments and Agencies
				action under the SmartBUY program.
Efficiency—Establishment of Shared Service Centers for IT security products and services	None currently established	None currently established	3 agencies selected as SSCs for Security Awareness and Training (Office of Personnel Management, Department of State, and Department of Defense). 2 agencies selected as SSCs for FISMA Reporting. (Environmental Protection Agency and Department of Justice)	3 agencies selected as SSCs for Security Awareness and Training (Office of Personnel Management, Department of State, and Department of Defense). 2 agencies selected as SSCs for FISMA Reporting. (Environmental Protection Agency and Department of Justice)

Metrics and Fiscal Year Targets:

Metric	FY2006	FY2007	FY2008
FISMA compliance—Percentage of systems certified and accredited	90% (95% of high risk systems)	90% (100% of high risk systems)	95% (100% of high risk systems)
FISMA compliance—Agencies with good or higher certification and accreditation processes	20	22	24
FISMA compliance—Agencies with verified processes to remediate IT security weaknesses (plans of action and milestones)	20	22	24
FISMA compliance—Incident handling – agencies with automated intrusion detection tool (Einstein)	8	16	24
FISMA compliance—Categorization of systems by risk impact level	80%	100%	100%
FISMA compliance—Tested contingency plans	65% (95% of high risk systems)	80% (100% of high risk systems)	90% (100% of high risk systems)
FISMA compliance—Tested security controls	85% (95% of high risk systems)	90% (100% of high risk systems)	95% (100% of high risk systems)

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Metric	FY2006	FY2007	FY2008
FISMA compliance— Agencies using appropriate methods to ensure contractor provided services are adequately secure	18	20	24
FISMA compliance— IT systems installed and maintained in accordance with security configurations	security configurations implemented for greater than 70% of the systems inventory (80% of high risk systems)	security configurations implemented for greater than 80% of the systems inventory (100% of high risk systems)	security configurations implemented for greater than 96% of the systems inventory (100% of high risk systems)
Efficiency— Number of Scorecard agencies above 90% of Certification and Accreditation, tested security controls, and tested COOPs	0 (planning phase)	0 (planning phase)	Available Q4 FY08
Efficiency— Number of scorecard agencies who report the time necessary to complete reporting or training is reduced, or they are able to redirect FTEs to other security activities when using SSCs	0 (planning phase)	0 (planning phase)	Available Q4 FY08
Efficiency— Number of agencies reporting cost savings from using FISMA reporting SSCs	0 (planning phase)	0 (planning phase)	Available Q4 FY08

Initiatives
OMB's major initiatives and the focus areas to which they contribute are shown below.

Initiative	FISMA compliance	Cost effective implementation
Information Systems Security Line of Business		X
A-11 Budget Process		X
FISMA reporting	X	
President's Management Agenda	X	

Descriptions of each one of these initiatives are attached and include a description of the initiative and responsible organization, expected outcomes, milestones, impediments/challenges, and metrics.

Methodology for Evaluation
The initiative lead is responsible for the initial assessment of the validity of the data for each of the initiatives and for tracking progress of the initiative. OMB and DHS will monitor the validity of the data as part of initiative implementation and reporting metrics as defined. Additionally, as needed independent groups (e.g., IGs, Government Accountability Office, and other experts) will validate data during planned engagements.

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II. Information Systems Supporting Critical Infrastructure Beyond Federal Control

DHS Contacts: Jenny Menna, National Cyber Security Division (NCSD), (703-235-5316) for the Information Technology Sector Specific Plan; Charles H. Davis, Office of Infrastructure Protection, (703-235-3636) for the National Infrastructure Protection Plan (NIPP) Program Management Office; Brian C. Scott, Office of Infrastructure Protection, (703-235-5284) for the NIPP Metrics and Reporting Office

Scope: Protecting federal computer systems and the systems that support CI.

Overall: Develop a long-range plan to improve the effectiveness and efficiency of information security programs.

Short-Term: Federal computer systems must rely on IT and Communications infrastructure that are not within federal control. DHS has the responsibility for plans and leadership that will encourage improved protection of such systems. The Department has finalized and began implementation of the June 2006 National Infrastructure Protection Plan (NIPP) and is in the process of the 2009 Triennial Review after its approval. This was followed by the approval and release of the first Information Technology (IT) Sector Specific Plan (SSP) in May 2007. Together the NIPP, IT SSP, and other 18-CI and key resource (CIKR) SSPs provide a coordinated approach for establishing national priorities, goals, and requirements for CIKR protection so that Federal funding and resources are applied in the most effective manner to reduce vulnerabilities, deter threats, and minimize the consequences of nationally significant events and other incidents. The NIPP establishes the overarching concepts relevant to all CIKR sectors identified in Homeland Security Presidential Directive 7 (HSPD-7) or by the Secretary, and addresses the physical, cyber, and human elements of the infrastructure required for effective implementation of comprehensive programs. As appendices to the NIPP, the CIKR SSPs also provide additional detail on efforts to reduce cyber risk across the 18 CIKR sectors. These plans and activities directly address information systems that support CI beyond federal control, including those that directly support the Government Facilities and the Defense Industrial Base Sectors.

Focus areas

The NIPP acknowledges that the U.S. economy and national security are highly dependent on the cyber infrastructure because it enables the Nation's essential services. The term "cyber" refers to electronic information and communications systems and the information contained therein. Although innovative technology and interconnected networks improve productivity and efficiency in operations, they also increase the Nation's risk if cyber security is not addressed and integrated appropriately. To address this risk, the NIPP includes an IT Sector responsibility, as well as a cross-sector cyber element. The IT Sector produces and provides hardware, software, and IT systems and services. NCSD serves as the Sector-Specific Agency (SSA) for the IT Sector and works closely with public and private sector security partners to identify and manage Sector risk. All CIKR sectors are consumers of IT, and as such, are responsible for implementing cyber security within and for the cyber infrastructure that they use. NCSD provides cross sector cyber security support to assist other CIKR sectors to improve the cyber security of their respective cyber infrastructure. This assistance includes contributing cyber elements to the NIPP during its annual reviews and triennial revision; delivering cyber CIKR

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protection expertise to SSAs and SSP authors to help them enhance the cyber aspects of their risk management efforts; providing cyber expertise and content to various DHS risk assessment methodologies; and reviewing SSPs and Sector CIKR Protection Annual Reports (Sector Annual Reports) to ensure sectors' CIKR protection efforts address cyber assets and risks. The DHS Office of Infrastructure Protection has responsibility for overall NIPP implementation and ensuring that CIKR Sectors address the physical and human elements of their infrastructures.

The NIPP and its component SSPs, including the IT SSP, serve as the foundation for addressing the challenges to securing the Nation's critical information infrastructure. Other initiatives, including control systems security, the United States-Computer Emergency Readiness Team (US-CERT) and cyber exercises, which are described later in this document, further support the goal of ensuring the security of information systems across the CIKR sectors. Specifically, these initiatives address the GAO-identified actions for policy and guidance, trusted relationships, analysis and warning, and information sharing incentives that are discussed below.

1. **Policy and Guidance.** Develop a comprehensive and coordinated national plan to facilitate CIKR protection that clearly delineates the roles and responsibilities of Federal and nonfederal security partners, defines interim objectives and milestones, sets time frames for achieving objectives, and establishes performance measures.

2. **Trusted Relationships.** Develop productive relationships within the Federal Government and between the Federal Government and State and local governments and the private sector.

3. **Analysis and Warning Capability.** Improve the Federal Government's capabilities to analyze incident, threat, consequence, and vulnerability information obtained from numerous sources and share appropriate, timely, and useful warnings and other information concerning both cyber and physical threats to Federal and nonfederal entities.

4. **Information Sharing Incentives.** Provide appropriate incentives for nonfederal entities to increase information sharing with the Federal Government and enhance other CIKR protection efforts.

In addition, the NIPP and IT SSP address several of the GAO findings contained in GAO-05-827T "Critical Infrastructure Protection: Challenges in Addressing Cybersecurity" dated July 20, 2005, and in GAO-07-310 "High Risk Series – An Update" dated January 2007. The NIPP and IT SSP will increase awareness about cyber security roles and capabilities, facilitate effective partnerships with stakeholders, enhance analysis and warning capability, and improve two-way information sharing with these stakeholders.

Process

1. DHS to provide major initiatives and goals for each focus area.
2. DHS to identify milestones for meeting goals for initiatives identified.
3. DHS to indicate what metrics will be used to measure improved performance.
4. OMB/DHS concurrence on goals, milestones, and metrics obtained.
5. Monitor progress with monthly staff meetings and quarterly updates.
6. Quarterly status reports will be held with OMB and GAO to monitor progress.

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Responsible Organizations
DHS, through the Assistant Secretary for Cybersecurity and Communications, the Director of the National Cyber Security Division, and the Assistant Secretary for Infrastructure Protection, is responsible for identifying the goals and overseeing the initiatives cited in this Plan, but effective execution is dependent on the SSA for the 18 CIKR sectors and other entities, including private sector owners and operators, to implement the initiatives and measure their results.

The IT Sector is comprised of producers of IT, focusing on hardware manufacturers, software developers, and service providers; and the Internet as a key resource. The public-private partnership embodied in the IT Sector Coordinating Council is a crucial component, as the vast majority of all CIKR is owned and operated by the private sector. An effort to implement the IT SSP began in earnest in February 2007 and through continued collaboration in 2008 with representatives of the IT SCC and the IT Government Coordinating Council (GCC) is making progress toward achieving its goals of protection and prevention through risk management, situational awareness, and response, recovery and reconstitution.

Goals
The overarching goal of the NIPP is to build a safer, more secure, and more resilient America by enhancing protection of the Nation's CIKR to prevent, deter, neutralize, or mitigate the effects of deliberate efforts by terrorists to destroy, incapacitate, or exploit them; and to strengthen national preparedness, timely response, and rapid recovery in the event of an attack, natural disaster, or other emergency. DHS will use the following measures and others to be developed later. Current metrics are framed around process or outputs in developing plans and completing milestones. As the NIPP and IT SSP are revised over time, outcome metrics will be developed and used in place of the following process-oriented metrics.

Milestones and Baselines - FY 2008 (End of Year):

Initiative	Focus Area	Milestone	Baseline Completion Date
NIPP—18 CIKR Sectors			
Develop NIPP to serve as guiding framework for securing CIKR	Policy & Guidance, Trusted Relationships	Finalized NIPP Base Plan	Q3 FY06
Develop core metrics and sector-specific metrics for NIPP performance measurement in collaboration with security partners	Policy & Guidance, Trusted Relationships, Information Sharing Incentives	NIPP Metrics Identification	Q3 FY07 Q3 FY08 – core metrics update
Develop performance measurement levels associated with each metric in collaboration with security partners	Policy & Guidance, Trusted Relationships, Information Sharing Incentives	Performance Measurement Thresholds/Levels	Q3 FY07 Q3 FY08
Develop data collection methods in collaboration with partners	Policy & Guidance, Trusted Relationships, Information Sharing Incentives	Data Collection Methods/Tools	Q3 FY07 Q3 FY08
Identify metrics for effective security practices already in use	Policy & Guidance, Trusted	Metrics Effective Security Practices	Q1 FY07 Q1 FY08

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Initiative	Focus Area	Milestone	Baseline Completion Date
by some SSAs	Relationships, Information Sharing Incentives		
Collect the necessary data to assess/measure performance of each sector	Analysis & Warning Capability	Sector CIKR Protection Annual Reports	Q4 FY06 Q4 FY07 Q4 FY08
Assess all sectors together to develop national assessment of the "state of CIKR protection"	Analysis & Warning Capability	National CIKR Protection Annual Report	Annually; completed FY06 completed FY 07 Q4 FY08
Develop updates to metrics on a regular basis	Policy & Guidance	Performance Metrics Updates	Q4 FY07 Q4 FY08
NIPP Triennial Review	Policy & Guidance, Trusted Relationships	Revised NIPP Base Plan	Q4 FY08
IT Sector			
Develop a framework and process for developing IT sector-specific metrics in collaboration with security partners	Policy & Guidance, Trusted Relationships, Information Sharing Incentives	IT Sector Metrics Framework	Q2 FY08
Develop IT sector-specific metrics in collaboration with partners	Policy & Guidance, Trusted Relationships, Information Sharing Incentives	Implementing the SSP and Tracking Progress Chapter in the IT SSP	Q3 FY08
Develop data collection and reporting processes and tools for metrics to assess progress against sector goals	Policy & Guidance, Information Sharing Incentives	Metrics procedures and protocols	Q1 FY07 (completed high level structure and reporting mechanism) Q3 FY08 (full procedures and collection guidelines)
Develop IT Sector risk assessment methodology in collaboration with security partners	Analysis & Warning Capability, Policy & Guidance, Trusted Relationships	Risk Assessment Methodology	Q1 FY07 (completed methodology framework) Q1 FY08 (full methodology) Q2 FY08 (Pilot)
Develop IT Sector Annual Report in collaboration with security partners	Trusted Relationships	IT Sector Annual Report	Q4 FY07 (completed for the 2007 report) Q4 FY08 (2008

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Initiative	Focus Area	Milestone	Baseline Completion Date
			report completion date)
Identify sub-functions and elements of critical IT Sector functions in collaboration with security partners	Analysis & Warning Capability, Trusted Relationships	Critical IT Sector functions decomposition matrix	Q1 FY08
Develop measures and thresholds for consequence, vulnerability, and threat in collaboration with security partners	Analysis & Warning Capability, Trusted Relationships	Risk Measures	Q1 FY08
Identify threats to the Sector and map them against the critical IT Sector functions in collaboration with security partners	Analysis & Warning Capability, Trusted Relationships, Information Sharing Incentives	Threat and Critical Functions Mapping	Q1 FY08
Identify protective measures for nationally critical IT Sector infrastructure to mitigate threats, vulnerabilities, and consequences in collaboration with security partners	Analysis & Warning Capability, Trusted Relationships	Protective Measures Guidance	Q1 FY07 (completed identification of existing protective programs and potential capability gaps as part of IT SSP) Q3 FY08 (Identify additional protective measures based on assessments)
Coordinate IT Sector research and development (R&D) priorities and efforts	Information Sharing Incentives, Trusted Relationships	R&D Workshop	Q4 FY08 Q4 FY09 (annually)
Update IT SSP as part of annual review process in collaboration with security partners	Policy & Guidance, Trusted Relationships	Revised IT SSP	Q1 FY07 (completed first version) Q2 FY08 (annually)
Initiate Threat Intelligence Coordination Working Group (TICWG), in collaboration with the Homeland Infrastructure Threat and Risk Analysis Center and sector security partners, to enhance the quality of analytical and threat warning products targeted to the IT Sector	Information Sharing Incentives, Trusted Relationships, Analysis & Warning Capability	Establish working group Quarterly threat briefing to the sector from HITRAC and other intelligence community partners	Q4 FY07

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Initiative	Focus Area	Milestone	Baseline Completion Date
Cross Sector Cyber			
Continue to provide cross-sector cyber security guidance and support to SSAs and federal agencies in their CIKR protection efforts	Policy & Guidance, Trusted Relationships	Review and provide input on cyber components of other SSPs Review and provide input on cyber components of Sector Annual Reports	Q1 FY07 (completed) Q1 FY08 (annually) Q3 FY07 (completed) Q3 FY08 (annually)
Assess cyber security trends across the CIKR sectors within the overall national assessment of the state of critical infrastructure protection activities as provided by the CIKR sectors in their Sector Annual Reports	Policy & Guidance	National CIKR Protection Annual Report and Cyber Annex to the National CIKR Protection Annual Report	Q4 FY07 Q4 FY08 (annually)
Develop an asset identification methodology for SSAs to use to determine cyber infrastructure elements	Analysis & Warning Capability, Trusted Relationships	Cyber Asset Identification Methodology	Q2 FY07 (completed) Q4 FY07 (implemented in at least one Sector)
Develop a cyber security vulnerability assessment methodology that SSAs may use as part of their Sector risk assessment approaches	Analysis & Warning Capability, Trusted Relationships	Cyber Security Vulnerability Assessment Methodology	Q1 FY07 (completed) Q2 FY08 (automated assessment)
Co-chair monthly Cross Sector Cyber Security Working Group meetings	Analysis & Warning Capability, Trusted Relationships, Information Sharing Incentives	Co-chair monthly meetings	Ongoing
Provide US-CERT portal access to CI sector partners to deliver cyber security analytic and warning products and encourage information sharing among stakeholders and with DHS to complement the Homeland Security Information Network	Analysis & Warning Capability, Trusted Relationships, Information Sharing Incentives	Launch Cross Sector Cyber Security Working Group Portal Compartment	Q4 FY07
Control Systems Security			
Develop and distribute Control Systems Cyber Security Self Assessment Tool to the control	Analysis & Warning Capability,	Control Systems Cyber Security Self Assessment Tool	Q1 FY08

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systems community to qualitatively measure their cyber security posture and encourage enhanced protective efforts	Information Sharing Incentives		
Develop curriculum guidance focusing on cyber security aspects of CI control systems for incorporation into university information security degree programs	Policy & Guidance	Control Systems Security Curriculum Guidance	Q2 FY08
Assess CI control systems and provide recommendations to mitigate and address vulnerabilities to protect against cyber threats	Analysis & Warning Capability	Control Systems Assessments	Q4 FY07 (Ongoing)
Work with academia to draft curriculum guidance at the undergraduate and graduate level for incorporation into university information security degree programs, focusing on the cyber security aspects of control systems.	Policy & Guidance, Trusted Relationships	Training and Awareness Workshops	Q3FY07
Develop a set of common procurement requirements and contractual language that CIKR owners and operators can leverage to ensure the control systems they are purchasing or maintaining are operated in compliance with security requirements.	Policy & Guidance, Trusted Relationships	Cyber Security Procurement Language for Control Systems	Q2 FY08
Sponsor training and awareness workshops for domestic and international industry stakeholders and security partners to increase awareness of potential cyber incident impacts and vulnerabilities	Policy & Guidance, Trusted Relationships	Training and Awareness Workshops	Q4 FY07 (Ongoing)
Cyber Exercises			
Conduct Chicago regional tabletop exercise (TTX) with CI security partners to analyze the impact of an incident to interdependent cyber infrastructure in the region	Trusted Relationships, Analysis & Warning Capability	ChicagoFIRST TTX	Q4 FY07
Sponsor and execute cyber TTX in Oregon for TOPOFF 4 to discuss cyber impacts and response related to the TOPOFF4 exercise incident	Trusted Relationships, Analysis & Warning Capabilities, Policy	Oregon TTX	Q4 FY07

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scenario	& Guidance		
Conduct National Cyber Exercise: Cyber Storm II, which focuses on four CI sectors and will include participants from six additional CI sectors	Trusted Relationships, Analysis & Warning Capability, Policy & Guidance	Cyber Storm II	Q2 FY08
US-CERT			
Deploy Einstein at thirteen Federal agencies	Trusted Relationships, Analysis, & Warning Capability	Einstein Program	Q2 FY07 (completed)
Create a Quarterly Trends and Analysis Report for public constituents and streamline the publishing process	Information Sharing Incentives, Analysis & Warning Capability	Quarterly Trends and Analysis Report	Q2 FY07 (completed) Q3 FY07 (completed) Q4 FY07 (completed) Q1 FY08 (completed) Q2 FY08 (completed) Q3 FY08 (completed) Q4 FY08
Create a web site for the Homeland Secure Data Network to facilitate the dissemination of important and SECRET classified information with constituents in the Intelligence Community	Information Sharing Incentives, Trusted Relationships, Analysis & Warning Capability	HSDN Web Site	Q3 FY07 (completed)
Redesign the public US-CERT web site to better feature and highlight the National Cybersecurity Alert System	Information Sharing Incentives, Analysis & Warning Capability	Public US-CERT Web Site	Q1FY08 (completed)
Continue to collaborate with NIST to expand the National Vulnerability Database, a US Government repository of standards based vulnerability management data.	Information Sharing Incentives, Analysis & Warning Capability	National Vulnerability Database	Q4FY08

Metrics and Fiscal Year Targets
NCSD is in the process of revising our metrics for the referenced programs to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Initiatives
DHS's major initiatives and the focus areas to which they contribute are shown below.

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Initiative	Policy & Guidance	Trusted Relationships	Analysis & Warning Capabilities	Information Sharing Incentives
NIPP	X	X	X	X
IT SSP	X	X	X	X
Cross Sector Cyber	X	X	X	X
Control Systems Security	X	X	X	X
Cyber Exercises	X	X	X	
US-CERT	X	X	X	X

Descriptions of each one of these initiatives are attached and include a detailed description of the initiative and responsible organization, expected outcomes, milestones, impediments/challenges, and metrics.

Methodology for Evaluation

The initiative lead is responsible for the initial assessment of the validity of the data for each of the initiatives and for tracking progress of the initiative. DHS components will establish a methodology for monitoring the validity of data as part of initiative implementation and reporting metrics as defined. Additionally, as needed independent groups (e.g., contractors, DHS Inspector General, and GAO) will validate data during planned engagements.

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AREA F.1: Information Systems Security Line of Business

Focus Area: Cost effective implementation

Lead Agency: Office of Management and Budget (OMB) and Office of Cybersecurity and Communications (CS&C), National Cyber Security Division, Department of Homeland Security (DHS)

Description
Information Systems Security (ISS) was proposed as an eGov Line of Business (LOB) to provide leadership and direction for improving effectiveness and consistency of information systems security across the Federal Government. The goal of the LOB is to address those areas of information security which are common to all agencies and are not specific to the mission of any individual agency. The ultimate outcome will be substantial improvement in Federal Government information system security effectiveness and consistency, and more efficient use of resources.

Expected Outcomes
The ISS LOB will:
- Raise the level of ISS across government agencies for areas of information security that are common to all agencies and not specific to the mission of any individual agency, and to eliminate the need for each agency to develop their own duplicative capability.
- Provide benefits and cost savings/avoidance through shared services by eliminating duplication, increasing expertise through specialization, and freeing-up resources for mission specific requirements and other tailored security requirements above what is offered through the LOB. This approach is referred to as "common solutions."
- Through consolidation, establish specialized Shared Service Centers (SSC) that provide a common framework for the U.S. Government's ISS, speed remediation and implementation of enhancements, share best practices, provide expertise through consultation, and use aggregated acquisitions for products and services when appropriate.
- Establish a governance structure that elevates decision-making for common activities of ISS from "local" programs to an enterprise level that ensures consistency and strengthens ISS government-wide.
- Provide opportunities and advantages that will improve ISS for agencies that are resource constrained.

Accomplishments
- Completed guidelines for implementing the ISS LOB. (Q2FY06)
- Established the Program Management Office. (Q3FY06)
- Developed and submitted FY08 joint business case to OMB for the ISS LOB. (Q4FY06)
- Created interagency review/evaluation teams for the Training and Federal Information Security Management Act (FISMA) reporting areas. (Q4FY06)
- Created an interagency Implementation Work Group. (Q1FY07)
- Established the Federal Systems Security Governance Board (FSSGB). (Q1FY07)
- Completed review/evaluation of agency capability statements for FISMA Reporting and Security Awareness Training. (Q1FY07)
- Completed final recommendations report. (Q1FY07)

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- Announced selection of SSC for Security Awareness Training and FISMA Reporting. (Q2FY07)
- Completed Customer Agency Guidelines. (Q3FY07)
- Provided template for SSC Service Level Agreement. (Q3FY07)
- Established four interagency work groups. (Q3FY07)
- Submitted FY09 Joint Business Case. (Q3FY07)
- Developed, submitted, and gained approval from FSSGB on recommendations on identifying specialized/role-based Tier II training and situational awareness, and incident response (SAIR). (Q1FY08)
- Began delivery of Tier 1 SSCs for security awareness training programs that meet FISMA requirements through the Joint Department of State-USAID Solution Team (JSAS), OPM and DoD Shared Service Center (SCC). (Q1FY08)
- Obtained responsibility for overseeing the selection criteria and implementation of the Access Providers for the Trusted Internet Connection (TIC) initiative. (Q2FY08)
- Submitted work group recommendations report to FSSGB for system certification. (Q2FY08)
- Developed technical requirements for system certification and accreditation (C&A). (Q2FY08)
- Developed draft technical requirements for Tier II Training and SAIR Tier 1. (Q2/Q3FY08)

Milestones

Q4FY08
- Submit FY10 Joint business case.

FY09
- Issue request for SCO for Security Awareness Training (New submissions).
- Review/reprogram. Based on established performance measures, and current schedule and costs, review program progress and determine need to reprogram as necessary.
- Conduct review/analysis of common requirements.
- Submit FY11 Joint business case.

FY10
- Conduct review/analysis of common requirements.
- Submit FY12 Joint business case.

FY11
- Review/reprogram. Based on established performance measures, and current schedule and costs, review program progress and determine need to reprogram as necessary.
- Submit FY13 Joint business case (as necessary).

FY12
- Review/reprogram. Based on established performance measures, and current schedule and costs, review program progress and determine need to reprogram as necessary.
- Submit FY14 Joint business case (as necessary).

FY13
- Conduct review/analysis of common requirements.

Impediments/Challenges

None

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Metrics
NCSD is in the process of revising our program-level metrics for the referenced program to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Remarks
Through the identification of common requirements and implementation of the ISS LOB via SSCs, the security of Federal information systems will be improved, ensuring the reliability, availability, and confidentiality of critical information systems.

The Federal Chief Information Officer (CIO) Council provides a standing forum for vetting ISS issues, and is the principal body in which the ISS LOB seeks cooperation and support. As the governance body of the ISS LOB, the FSSGB may consult with the CIO Council on key decisions affecting ISS within the Federal enterprise. The monthly CIO Council meeting is a key venue for DHS leadership to engage the community on urgent/current issues which the ISS LOB could address through interagency work groups.

As the principal provider of security tools and services, the private sector has a key interest in ISS LOB activities. The private sector must be assured that their interests are considered in deliberations, planning, and implementation of ISS LOB activities. Most public venues involving the security tools/services community provide an opportunity to assure these key stakeholders that the ISS LOB considers them vital partners in the acquisition and delivery of services to the Federal departments and agencies.

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AREA F.2: National Infrastructure Protection Plan

Focus Area: Policy and Guidance, Trusted Relationships, Analysis and Warning Capabilities, Information Sharing Incentives

Lead Agency: Office of Infrastructure Protection, Department of Homeland Security (DHS)

Description
Homeland Security Presidential Directive-7 (HSPD-7) mandated development of a National Infrastructure Protection Plan (NIPP) as the primary vehicle to guide implementation of the United States' policy for enhancing protection of the Nation's critical infrastructure and key resources (CIKR). DHS is charged with developing and implementing the NIPP, which was published in June 2006.

The NIPP provides the coordinated approach for establishing national priorities, goals, and requirements for CIKR protection so that Federal funding and resources are applied in the most effective manner to reduce vulnerabilities, deter threats, and minimize the consequences of nationally significant events and other incidents. It establishes the overarching concepts relevant to all CIKR sectors identified in HSPD-7 or by the Secretary, including the Information Technology Sector, and addresses the physical, cyber, and human elements of the infrastructure required for effective implementation of comprehensive protection programs for all 18 CIKR sectors. The NIPP specifies the key initiatives, milestones, and metrics required to protect the Nation's CIKR. It sets forth a comprehensive risk management framework and clearly defines roles and responsibilities for DHS; Federal Sector-Specific Agencies (SSA); other Federal, State, local, tribal, and international entities; and private sector infrastructure owners and operators.

Expected Outcomes
- Effective allocation of CIKR protection resources to address greatest risks and gaps.
- Robust two-way information sharing between the government and the private sector.
- Voluntary participation of owners and operators.
- Improved trusted relationships between government and private industry.

Accomplishments
- Established Critical Infrastructure Partnership Advisory Council (CIPAC). (Q2FY06) held annual plenary meeting in Q4 2007 and Q4 2008.
- Issued final NIPP Base Plan. (Q3FY06)
- Submitted first National CIKR Protection Annual Report. (Q1FY07) also the second in Q1FY08.
- Developed NIPP core metrics for NIPP performance measurement in collaboration with security partners. (Q3FY07)
- Released 17 Sector-Specific Plans. (Q3FY07)
- Aggregated the 17 Sector CIKR Protection Annual Reports and the State and local CIKR protection submissions and develop the 2007 National CIKR Protection Annual Report; which was submitted to the executive Office of the President. (Q4FY07)
- Initiated data collection methods for collaboration with partners through the Sector Partnership Metrics framework. (Q1FY08)
- Established 18th sector in 2008 for Critical Manufacturing.

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Milestones
Q3FY08
- Develop sector-specific metrics in collaboration with security partners.
- Identify metrics for effective security practices in use by sectors/SSAs.
- Collect core metrics data.
- Receive 2008 Sector CIKR Protection Annual Reports.

Q4FY08
- Assess all sectors together to develop national assessment of the state of CIKR protection through the National CIKR Protection Annual Report.
- Prepare the 2008 National Annual Report for submission to the Executive Office of the President on September 1, 2008.

Impediments/Challenges
- Coordination and collaboration with broad range of security partners.
- Voluntary participation of private sector.
- Policy barriers/impediments to information collection.

Metrics
Measure the efficacy of risk management activities performed under the NIPP and the progress made in reducing the risks of the Nation's CIKR to terrorist attack and other hazards so as to inform national and sector-level risk management decisions.

- Provide a point of reference for individual CIKR sectors to reflect their distinctive characteristics and requirements;
- Provide a basis for establishing accountability, documenting performance, identifying issues, promoting effective management, and reassessing goals and objectives; and
- Measure the effectiveness of the framework for CIKR protection public-private partnerships and gauge the success of the national partnership model in contributing to enhanced risk management and CIKR protection.

Remarks
The NIPP framework requires cyber to be included as a critical element in all 1817 existing CIKR SSPs.

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AREA F.3: Information Technology Sector-Specific Plan

Focus Area: Policy and Guidance, Trusted Relationships, Analysis and Warning Capabilities, Information Sharing Incentives

Lead Agency: Office of Cybersecurity and Communications, National Cyber Security Division, Department of Homeland Security (DHS)

Description
The National Infrastructure Protection Plan (NIPP) was developed in response to Homeland Security Presidential Directive 7 (HSPD-7) to provide a consistent, unifying structure for integrating current and future critical infrastructure and key resource (CIKR) protection efforts. The Information Technology (IT) Sector-Specific Plan (SSP) is one of 18 SSPs that were published in May 2007 as appendices to the NIPP. The IT SSP provides a framework for identifying and managing Sector risk, enhancing information sharing, identifying existing and future protective programs, structuring research and development priorities, and tracking plan implementation progress.

Expected Outcomes
- Effective public-private partnership to manage risk to the IT Sector and promote overall security and resilience of the sector.
- Assessment of the risk to critical IT Sector functions and an overall risk profile for the sector.
- Identification of future protective program needs and research and development (R&D) priorities.
- Enhanced information sharing framework for the sector.

Accomplishments
- Cataloged IT Sector protective measures for nationally critical IT Sector infrastructure to mitigate threats, vulnerabilities, and consequences. (Q1FY07)
- Developed, in partnership with the IT Sector Coordinating Council (SCC) and IT Government Coordinating Council (GCC), the first joint public-private sector IT SSP. (Q1FY07)
- Met with the IT SCC regularly to develop the IT SSP and begin implementation of the actions contained therein. (Q1FY07 –Q3FY08)
- Developed core and programmatic IT Sector metrics. (Q1FY07, Q1FY08)
- Established IT SSP implementation groups comprised of SCC and GCC representatives. (Q2FY07)
- Identified critical IT Sector functions. (Q2FY07)
- Developed IT Sector Annual Report. (Q3FY07, Q3FY08)
- Developed quarterly implementation schedule and work breakdown structure for IT SSP action items (Q3FY07)
- Convened Threat Intelligence Coordination Working Group (TICWG) with Homeland Infrastructure Threat and Risk Analysis Center (HITRAC) and sector security partners to ensure the incorporation of cyber security expertise into products and briefings and facilitated the dissemination of high quality analytical and threat/warning products to IT Sector and other CIKR sector cyber stakeholders. (Q4FY07)

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- Provided classified briefings to cleared IT Sector stakeholders on a broad spectrum of threats to the IT infrastructure in collaboration with HITRAC and other intelligence community partners. (Q4FY07, Q1FY08, Q2FY08)
- Identified critical IT sector sub-functions and elements of those sub-functions to prepare to identify and assess vulnerabilities and risks to these critical functions. (Q4FY07)
- Developed consequence assessment framework for the sector. (Q4FY07)
- Developed measures and thresholds for consequence, vulnerability, and threat. (Q1FY08)
- Identified threats to the sector and mapped them against the critical IT Sector functions. (Q1FY08)
- Completed the IT Sector risk assessment methodology. (Q1FY08)
- Provided IT Sector perspective to DHS pandemic influenza contingency planning efforts by adding content to DHS documentation. (Q1FY08); conducted pandemic preparedness webinar. (Q3FY08)
- Developed IT Sector programmatic metrics responses. (Q2FY08)
- Initiated IT Sector Risk Assessment Pilot. (Q2 FY08)
- Conducted pilot IT Sector risk assessment for two critical functions (identify and assess vulnerabilities, threats, and consequences). (Q2FY08).
- Developed 2008 IT SSP Update. (Q3FY08)
- Evaluated IT Sector risk assessment pilot results. (Q3FY08)
- Chaired quarterly IT GCC meeting to ensure the coordination and input of IT GCC perspectives and activities with the activities stated above. (Q3FY08)

Milestones

Q4FY08

- Begin the full IT Sector risk assessment.
- Identify additional protective measures for nationally critical IT sector infrastructure.
- Chair quarterly IT GCC meeting and ensure the coordination and input of IT GCC perspectives and activities with the SCC activities stated above.

FY09

- Complete IT sector baseline risk assessment.
- Develop IT Sector Annual Report.
- Align protective programs and research and development initiatives with risks identified in the risk assessment.
- Develop and implement mitigation strategies for identified risks.
- Continuing SSP action item implementation via the SCC and GCC.

Impediments/Challenges

- Protected Critical Infrastructure Information (PCII) Concerns. PCII is an information protection tool that facilitates information sharing between the Government and the private sector; however, the private sector has continued to express concerns about the PCII Program. While the Department is confident in the PCII protections, to bolster private sector support for the program, the DHS PCII Program Office has already implemented enhancements in its operating procedures and continues to address sector concerns. In an attempt to simplify the process, US-CERT has developed an option for the private sector to submit data for PCII protection through the US-CERT Portal. Some of the IT Sector's concerns may also be addressed as they engage in the National Cyber Exercise, Cyber Storm II, which plans to use PCII to share information during the planning process.

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- Inconsistency between "Top-Down" and "Bottom-Up" Risk Management Approaches. The IT Sector has voiced concern that asset-based initiatives, such as DHS Tier 1 and Tier 2 and National Asset Database (NADB) programs seem to be incompatible with the top-down, function-based approach outlined in the IT SSP. This top-down approach, which focuses on understanding the functions of the infrastructure rather than cataloging physical fixed assets, was determined to be more effective for the highly distributed IT infrastructure. The IT Sector's risk approach fulfills the intent of the NIPP Risk Management Framework by adapting and modifying its activities and concepts to address the unique IT Sector risk environment. NCSD has been working to reconcile these approaches and map examples of physical assets categories that support IT critical functions in order to facilitate response to near-term DHS data collection needs. The IT Sector will continue working with DHS and other security partners to increase awareness and understanding of its function-based approach and demonstrate how risk can be addressed through implementation of their top-down approach.
- Threat Information Sharing. The intelligence community has identified threats and countermeasures that can help the IT Sector and homeland security community implement preventive and protective measures. To ensure sensitive threat information is protected, but also shared with proper IT Sector security partners so that they can take appropriate protective actions, NCSD is identifying cleared individuals in the private and public sectors and arranging classified spaces for information sharing. The IT Sector is implementing the actions from the information sharing chapter of the IT SSP which should help to clarify and facilitate the policies, processes, and technology issues constraining the sharing of threat information at the classified and For Official Use Only (FOUO) levels. For example, the IT Sector has formed a small working group to engage with HITRAC and other intelligence community partners to share current threat information with cleared individuals, shape future analytical, threat/warning products, and develop processes to share information efficiently and effectively with those "who need to know" in order to take protective actions.

Metrics
NCSD is in the process of revising our metrics for the referenced program to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Remarks
The IT Sector is comprised of producers of IT, focusing on hardware manufacturers, software developers, and service providers; and the Internet as a key resource. The public-private partnership embodied in the IT SCC is a crucial component, as the vast majority of all CIKR is owned and operated by the private sector.

An effort to implement the IT SSP began in earnest in February 2007 and has continued through collaboration with representatives of the IT SCC and the IT GCC over 2007 and 2008, as the IT Sector is making progress toward achieving its goals of protection and prevention through risk management, situational awareness, and response, recovery and reconstitution.

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AREA F.4: Cross Sector Cyber Security

Focus Area: Policy and Guidance, Trusted Relationships, Information Sharing Incentives

Lead Agency: Office of Cybersecurity and Communications (CS&C), National Cyber Security Division (NCSD), Department of Homeland Security (DHS)

Description
All critical infrastructure and key resource (CIKR)(CI) sectors are consumers of information technology (IT), and as such, are responsible for implementing cyber security within and for the cyber infrastructure that they use. The NCSD Critical Infrastructure Protection Cyber Security Program's Cross Sector Cyber Security initiative is assisting Sector-Specific Agencies (SSAs) and other security partners with improving the security of their respective CI and key resource (CIKR) cyber infrastructure. The Cross Sector Cyber Security program provides cyber guidance and methodologies to sectors to assist them in mitigating cyber risk (especially cyber infrastructure vulnerabilities) and in developing effective and appropriate protective measures. This guidance includes contributing cyber elements to the National Infrastructure Protection Plan (NIPP); delivering cyber CIKR protection expertise to SSAs and Sector-Specific Plan (SSP) authors to help them enhance the cyber aspects of their risk management efforts; providing cyber expertise and content to various sectors' risk assessment methodologies; and reviewing SSPs and Sector Annual Reports to ensure sectors' CIKR protection efforts address cyber assets and risks.

Expected Outcomes
- Identification of systemic cyber risks and mitigation strategies for the Nation's CIKR sectors.
- Greater understanding of infrastructure interdependencies and improved security of cyber and communications assets, systems, networks, and functions.

Accomplishments
- Provided guidance documents, technical assistance, and feedback to SSAs on the development of cyber security concepts and methodologies in their SSPs. (Q1FY07)
- Developed and refined cross sector risk guidance and methodologies (e.g., cyber security vulnerability assessment (CSVA), asset identification methodology) and provided cyber security content for risk and vulnerability assessment methodologies within the Risk Analysis and Management for Critical Asset Protection (RAMCAP), the Chemical Sector Comprehensive Review, and the Chemical Security Assessment Tool. (Q1FY07)
- Collaborated with the Intelligence Community (IC) and the Homeland Infrastructure Threat and Risk Analysis Center (HITRAC) to assess risk across sectors. (Q2FY07)
- Analyzed and commented on cyber components of Sector Annual Reports. (Q3FY07)
- Identified cross-sector cyber security research and development (R&D) requirements from across the SSPs and provided them for incorporation into the DHS Science and Technology Directorate's R&D efforts. (Q3FY07)
- Established the Cross Sector Cyber Security Working Group (CSCSWG) to address cross sector cyber risk assessment and interdependencies. The CSCSWG serves as a forum to bring government and the private sector together to address common cyber security challenges and opportunities across the CIKR sectors. Convened group and held first meeting. (Q3FY07). Meet monthly (Ongoing)
- Provided analysis of cyber components of other CIKR sectors' Annual CIKR Protection Reports to NIPP Program Management Office. (Q4FY07)

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- Developed Cyber Appendix to the National CIKR Protection Annual Report. (Q4FY07)
- Coordinated a cyber security threat briefing for the NIPP Federal Senior Leadership Council and Private Sector Cross Sector Coordinating Council to ensure that stakeholders in all sectors understood the cyber threat. (Q4FY07)
- Refined cross sector risk guidance and methodologies (e.g., cyber security vulnerability assessment and asset identification methodologies) and provided cyber security content and training for risk and vulnerability assessment methodologies to the following CIKR sectors: Chemical, Communications, Government Facilities, Dams, Water, and Transportation. (Q1FY08)
- Provided a baseline analysis of cyber component of the 17177 CIKR SSPs to support the CSCSWG effort to assess cyber security in the SSPs, identify trends, interdependencies, and model practices. (Q1FY08)
- Provided input questions to the Office of Infrastructure Protection's (OIP) Protective Security Coordination Division's Enhanced Critical Infrastructure Protection (ECIP) initiative, leveraging the CSVA for Tier 1/Tier 2 asset assessments. (Q2FY08)
- Supported development of the 2008 SHIRA with HITRAC. (Q2FY08)
- Provided guidance, review and comment on cyber components of Sector Annual Reports.
- Supported CSCSWG activities related to systemic risk to the cyber infrastructure of all 18 CIKR sectors. (Q3FY08)
- Participated in writing team for 2008 National Annual Report. (Q3FY08, Q4FY08)
- Briefed new Critical Manufacturing sector on cyber programs. (Q308)

Milestones

Q4FY08

- Refine cross sector risk guidance and methodologies (e.g., cyber security vulnerability assessment and asset identification methodologies) and provide cyber security content for risk and vulnerability assessment methodologies.
- Analyze cyber content of the first revisions of the SSPs.

FY09

- Support cross sector cyber risk assessment process in partnership with HITRAC.
- Continue to promote use of CSVA across the sectors and enhance functionality based on user feedback.
- Participate in the Writing Team for the 2009 National Annual Report.
- Continue to provide cross sector cyber security subject matter expertise, guidance, tools and support to the 18 CIKR sectors.
- Enhance information sharing and address cross sector cyber security projects via the CSCSWG.

Impediments/Challenges

- Coordination across 18 CIKR sectors to identify common trends and systemic risks is dependent on collaboration and consensus-building within each sector (i.e. public-private sector partners as well as SSAs) and with NCSD.
- Global nature of cyber infrastructure and IT Sector will require coordination beyond the U.S.

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Metrics
NCSD is in the process of revising our program-level metrics for the referenced program to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Remarks
CS&C's National Cyber Security Division (NCSD) works in collaboration within government and with private sector owners and operators to reduce cyber vulnerabilities to critical infrastructure through the risk management framework established by the NIPP.

NCSD assists the critical infrastructure sectors in reducing the Nation's risk through integrating cyber content and guidance into vulnerability assessments and risk management programs.

DHS has developed a customizable, scalable methodology for use by sectors and their members to identify consequential cyber assets. DHS has also developed a flexible assessment tool that analyzes an entity's cyber security posture, and describes gaps and targeted considerations that can reduce overall cyber risks. This assessment tool has been leveraged in existing DHS risk and vulnerability assessment methodologies, including the RAMCAP[4] and Comprehensive Review program.[5] DHS also has been working closely with the Chemical, Dams, Drinking Water and Water Treatment Systems, Government Facilities, and Transportation Systems sectors to assess cyber security through their respective risk assessment approaches and plans to work with other sectors in the future.

DHS requested that the Critical Infrastructure Partnership Advisory Council (CIPAC) establish the CSCSWG comprising representatives of the 17 then-existing CIKR sectors with cyber security expertise. The CSCSWG held its inaugural meeting on May 30, 2007, and is designed to provide a forum and mechanism for exchanging information on common cyber security challenges and issues and addressing interdependencies. All sectors are actively participating.

[4] RAMCAP is a DHS self-assessment tool for determining vulnerability and consequences.
[5] The Comprehensive Review program is a DHS-initiated effort to assess the security posture of high-consequence CIKR.

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AREA F.5: Control Systems Security

Focus Area: Policy and Guidance, Trusted Relationships, Analysis and Warning Capabilities, Information Sharing Incentives

Lead Agency: Office of Cybersecurity and Communications, National Cyber Security Division (NCSD), Department of Homeland Security (DHS)

Description
DHS' Control Systems Security Program (CSSP) coordinates efforts among government organizations, as well as asset owners, operators and vendors, to address the risk associated with Industrial Control Systems (ICS) and the associate hardware and software applications. To reduce the severity of impact of a cyber attack against ICS and to ensure resilience in design and operation, the program engages and promotes various risk identification and mitigation activities.

Expected Outcomes
CSSP was established by NCSD to increase the resilience of control systems by identifying cyber security vulnerabilities, developing vulnerability mitigation recommendations and strategies, and coordinating government and industry activities for improving the security posture within the Nation's critical infrastructure. The goal of the CSSP is to guide a cohesive effort between government and industry to reduce the risk to critical infrastructure and key resource (CIKR) industrial control systems.

Accomplishments
- Published the Procurement Language for Control Systems Security, which provides guidance to industry on improving cyber security procurement language. (Q3FY08)
- Hosted monthly teleconference meetings with control systems vendors to provide a forum to share information and common concerns, and to discuss control system security needs for legacy and next generation products. (Q1FY08, Q2FY08, Q3FY08, Q4FY08)
- Coordinated with security partners (e.g., Federal departments and agencies, Sector Coordinating Councils (SCCs), etc.) to identify vulnerabilities and develop and initiate mitigation plans for asset owners and operators of CIKR. Conducted outreach to international partners and control systems vendors to raise awareness about vulnerabilities and mitigations. (Q1FY08, Q2FY08, Q3FY08, Q4FY08)
- Performed cyber vulnerability assessments on vendor control systems and provided solutions to vulnerabilities and recommendations to protect against cyber threats. (Q1FY08, Q2FY08, Q3FY08, Q4FY08)
- Supported the United States Computer Emergency Readiness Team (US-CERT) by providing a control systems analyst and working directly with the control systems community to secure control systems through the production and dissemination of timely situational awareness information for control systems security and through the identification, analysis, and reduction of risk to control systems. (Q1FY08, Q2FY08, Q3FY08, Q4FY08)
- Sponsored training and awareness workshops with industry to increase awareness among control systems owners and operators of potential cyber incident impacts and vulnerabilities. The CSSP conducted a week long, advanced control systems cyber security workshop aimed at increasing international (United States, United Kingdom, Canada, Australia, and New Zealand) cooperation and coordination in control system cyber security. (Q3FY08)

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- Delivered the Control Systems Cyber Security Self Assessment Tool (CS2SAT) for use by the control systems community to qualitatively measure the cyber security posture of their control systems environment. Negotiated additional licenses for the private sector in order to provide greater distribution of the tool. (Q1FY08, Q2FY08, Q3FY08, Q4FY08)
- Published curriculum guidance at the graduate level for incorporation into university information security degree programs, focusing on the cyber security aspects of control systems. (Q2FY08)
- Published the Federal Coordination Strategy for Securing Control Systems. (Q3FY08)
- Conducted the initial baseline review for an overall Coordinating Strategy for Securing Control Systems, leveraging the Federal Strategy and industry partnerships. (Q3FY08)
- Developed test scenarios and tested prevalent control systems vendor products for vulnerabilities and work with vendors to develop mitigations. (Q1FY08, Q2FY08, Q3FY08, Q4FY08)
- Coordinated with ISA to finalize distribution agreement for the Control Systems Cyber Security Self-Assessment Tool (CS2SAT). (Q1FY08)
- Released the Catalog of Control Systems Security Requirements in collaboration with international standards organizations. (Q2FY08)
- Delivered an "OPSEC for Control Systems" web based course that introduces the basic concepts of operations security (OPSEC) and applies these concepts to the control system environment. Course received 1st place for electronic media from the Interagency OPSEC Support Staff. (Q2FY08)
- Conducted with PCSF and the SANS Institute the 2008 SANS SCADA Summit. (Q2FY08)

Milestones

Q4FY08

- Pilot and test rapid-response program to train control systems experts on forensics and provide tools needed to equip an incident response team to support control systems security events.
- Complete the operational phase of a control systems malware identification capability.
- Distribute updated scenario and analysis for cyber attack on control systems.
- Publish a final version of the Procurement Language for Control Systems Security, which provides guidance to industry on improving cyber security procurement language.
- Design and run a pilot effort through the PCII Program where control systems vendors can submit location information on what control systems reside in which CI/KR sectors.

FY09 Milestones

- Continue training programs for security partners.
- Enhance risk reduction tools and products, including the Control Systems Cyber Security Self Assessment Tool (CS2SAT)
- Conduct vulnerability discovery, characterization, and assessments
- Perform Operational Risk Management (e.g. incident response, malware persistence and analysis)
- Finalize the Strategy for Securing Control Systems (GAO recommendation)
- Continue CIKR education efforts and planning support
- Develop products and tools for additional sectors and standards
- Support control systems field assessments (with IPD, PSAs, etc.)
- Expand Control Systems Analysis Center (recapitalization) (NDA issues)

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- Expand vulnerability, validation and malware testing
- Expand advanced training for process control systems engineers
- Enhance Operational Risk Management capabilities

Impediments/Challenges
Critical infrastructure owners and operators are often reluctant to share facility and incident data, including specific security vulnerabilities and concerns, with the Federal Government. The CSSP is working closely with the private sector through the development of the Strategy to Secure Control Systems, Individual Sector Roadmaps for Securing Control Systems, Education and training, and workshop sessions to develop scenarios and processes to exchange vulnerability information and create mitigation plans. This consensus building approach to vulnerability identification and mitigation will help improve security because critical infrastructure owners and operators will be able to implement cyber security solutions based on the shared mitigation plans.

Metrics
NCSD is in the process of revising our program-level metrics for the referenced program to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Remarks
CSSP supports the critical infrastructure and key resource sectors in reducing the Nation's vulnerability to terrorism and other disasters by providing informational products and education and training materials that assist control systems stakeholders with identifying and reducing direct risks for control systems. For example, CSSP developed a Control Systems Cyber Security Self Assessment Tool for asset owners and operators to identify control systems security vulnerabilities and solutions that can be implemented in their specific facility.

As the DHS focal point for cyber security activities related to control systems, NCSD communicates and collaborates with many diverse organizations, including government agencies, industry associations, national laboratories, equipment vendors and asset owners and operators.

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AREA F.6: Cyber Exercises

Focus Area: Policy and Guidance, Trusted Relationships, Analysis and Warning Capabilities, Information Sharing Incentives

Lead Agency: Office of Cybersecurity and Communications, National Cyber Security Division (NCSD), Department of Homeland Security (DHS)

Description
The Cyber Exercises program plans, coordinates, and conducts cyber-focused exercises in order to develop, evaluate, improve, and refine the capabilities of the Department of Homeland Security (DHS) and the full spectrum of state, local, regional, international, and private sector cyber partners to prevent, protect, respond to and recover from incidents affecting cyber components (information, hardware, software, data, and networks) of the Nation's critical infrastructure. Through participation in and sponsorship of different types of exercises - workshops, tabletop, functional, and full-scale - NCSD establishes partnerships and cooperation mechanisms for information sharing with other government entities (local, state, federal, and international), as well as the private sector.

Expected Outcomes
- Planning, coordination, and execution of cyber exercises at the national/international, state, local, regional, and sector level.
- Development, evaluation, improvement and refinement of DHS capabilities to prevent, protect, respond to and recover from incidents affecting cyber components of the Nation's critical infrastructure and key resource (CIKR) sectors.
- Establishment and strengthening of partnerships and cooperation mechanisms for information sharing with other government entities and the private sector through the exercise planning and execution process.
- Informing of the DHS policy process to enhance DHS authorities to better execute its cyber security mission.
- Increased cyber security awareness within the U.S. CIKR sectors.
- Contribute to deterrence of cyber attacks by continually exercising and improving DHS and partners' cyber security preparedness and response capabilities.

Accomplishments
- Co-sponsored execution of the Multi-State Information Sharing and Analysis Center cyber TTX. (Q3FY05, Q3FY07)
- Planned and coordinated participation by NCSD and the NCRCG in government-wide Exercise Pinnacle [Continuity of Operations exercise]. (Q3FY05, Q3FY07)
- Co-sponsored the National Collegiate Cyber Defense Competition to foster education and growth of professionals in the cyber field. (Q3FY06, Q3FY07)
- Sponsored regional exercise (Cyber Tempest) in New York with the New York State Office of Cyber Security and Critical Infrastructure Coordination. (Q1FY07)
- Assisted the State of Delaware in conducting their annual cyber exercise by providing cyber and exercise subject matter expertise. (Q1FY07)
- Initiated planning for Cyber Storm II, including conducting the Concept Development Conference and Initial Planning Conference. (Q1FY07)

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- Initiated planning and coordination efforts with the DHS Federal Emergency Management Agency (FEMA) and each of the Top Officials 4 (T4) exercise venues to include cyber in their exercise efforts. (Q1FY07)
- Sponsored and conducted cyber TTX for the Usual 5 to finalize their current draft Standard Operating Procedures in continued preparation for Cyber Storm II. (Q2FY07)
- Sponsored, coordinated, and executed a cyber workshop/ TTX in Guam for the T4 Exercise in close collaboration with the DHS FEMA. (Q3FY07)
- Initiated planning for regional TTXs in Chicago with ChicagoFIRST by conducting an Initial Planning Conference. (Q3FY07)
- Co-sponsored execution of Chicago Regional infrastructure interdependencies TTX. (Q4FY07)
- Sponsored, coordinated, and executed a cyber workshop/ TTX in Oregon for the T4 Exercise in close collaboration with the DHS FEMA. (Q4FY07)
- Planned and coordinated NCSD and Usual 5 participation in Zenith Global 07 exercise. (Q4FY07)
- Conducted Cyber Storm II Mid-Planning Conference with federal, international, state, and private sector stakeholders. (Q4FY07)
- Assisted the State of Illinois in conducting their annual functional exercise by providing cyber and exercise subject matter expertise. (Q4FY07)
- Sponsored, planned, and executed tabletop cyber exercise with State of Vermont. (Q4 FY07)
- Coordinated with the DHS Science and Technology Directorate (S&T) on the testing and deployment of the Exercise Modeling Tool. (CyberSMART)
- Sponsored, planned, and coordinated appropriate cyber security scenario content in the T4 Full Scale Exercise through the Cyber Working Group and in close collaboration with G&T. (Q1FY08)
- Executed Cyber Storm II national cyber exercise. (Q2FY08)
- Conducted After Action Process and developed After Action Report for Cyber Storm II exercise. (Q3 FY08)
- Sponsored, planned, and executed cyber exercise with State of Massachusetts. (Q4 FY08)
- Assisting ChicagoFIRST (financial services sector coordinating group) with the development and ultimate execution of a cyber exercise. (execution planned for Q4 FY08)

Milestones

FY 2009

- Initiate and execute planning process for Cyber Storm III (planned for 2010). Cyber Storm planning process is historically between 18 – 24 months.
- Integrate aspects of Comprehensive National Cyber Initiative into Cyber Storm III planning and development.
- Develop and deploy Cyber Exercise Program technical assistance/cyber exercise support program. This program is being developed to bolster CEP's role in supporting and participating in cyber exercises with the full range of critical infrastructure partners, (state, local, regional, sector) and to enhance collective cyber security preparedness, and to identify and address interdependencies in cyber preparedness and response.
- Continue to sponsor, coordinate, and execute State, local, regional, and sector cyber exercises at an increased rate using the CEP technical assistance/cyber exercise support program.
- Publish and disseminate the Cyber Storm II After Action Report.

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- Develop findings, identify areas for improvement, and formulate a roadmap based on the observations laid out in the Cyber Storm II After Action Report.
- Encourage action across stakeholder community to address Cyber Storm II findings as appropriate.
- Participate in all phases of development, planning, and execution of National Level Exercise -09. (NLE 09)
- Coordinate with relevant sector coordination bodies to integrate Cyber objectives and play into NLE-09, and other exercises, cyber and otherwise.
- Continue to coordinate and execute future Top Officials exercises.
- Continue to develop and execute an exercise plan to facilitate operational interaction with the Usual 5.
- Continue to provide technical exercise assistance to Usual 5 countries.
- Work with the International Watch and Warning Network (IWWN) to integrate capabilities into future cyber exercise plans.
- Support National Cyber Response Coordination Group (NCRCG) efforts to conduct tabletop and other exercises.
- Manage Cooperative Agreement with University of Texas at San Antonio (UTSA) Center for Infrastructure Assurance and Security (CIAS) to conduct state and local cyber security preparedness assessments and exercise activities.

Impediments/Challenges
None

Metrics
NCSD is in the process of revising our program-level metrics for the referenced program to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Remarks
Exercises are an important opportunity to further explore vulnerabilities of CIKR sectors, relationships, and information sharing mechanisms in a controlled environment. Once vulnerabilities have been identified, stakeholders can explore the interdependencies across the CIKR sectors and discuss/validate protective measures to combat these vulnerabilities.

Exercises allow stakeholders/participants to improve coordination and communication paths with their State, Federal, and international counterparts as well as with the private sector. Exercises are also an important component of the mechanisms that facilitate better understanding of and preparation for a variety of cyber focused scenarios that involve significant disruption of the Nation's CIKR sectors with major implications for homeland security.

In an effort to bring together and coordinate with all parties involved in securing the Nation's CIKR, including Federal, State, and international government and private sector stakeholders, the NCSD CEP utilizes exercises as a forum to discuss current and potential threats as well as possible solutions in a non-attribution setting.

Exercises provide the opportunity to evaluate and validate existing plans, processes, and procedures. Throughout the development and execution of an exercise, various attack scenarios are explored and rehearsed in a controlled venue to address prevention and mitigation strategies;

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evaluate plans, processes and procedures currently in place; and examine policy issues, ultimately intended to develop lessons learned and post-exercise action plans that will better secure the Nation's CIKR sectors.

Without proper information sharing relationships and communication paths, our Nation will not be adequately prepared to protect or defend itself during an attack on any of the CIKR sectors, cyber or otherwise. Exercises are an excellent environment where these relationships can be built and strengthened not only in the interagency arena but with the private sector as well.

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AREA F.7: United States Computer Emergency Readiness Team (US-CERT)

Focus Area: Trusted Relationships, Analysis and Warning Capabilities, Information Sharing, FISMA Compliance, Policy and Guidance

Lead Agency: Department of Homeland Security (DHS), Office of Cybersecurity and Communications, National Cyber Security Division

Description
US-CERT Operations leads a public-private partnership to protect and defend the Nation's cyber infrastructure. US-CERT serves as the national focal point for coordinating cyber security issues affecting the Nation's infrastructure to include analyzing and reducing cyber threats and vulnerabilities, disseminating cyber threat warning information, and coordinating incident response activities. US-CERT coordinates information sharing with Federal agencies, State and local governments, private sector partners, infrastructure owners and operators, international allies, and the public to collect and disseminate cyber security threat and attack information.

Expected Outcomes
- Understanding and analysis of the malicious code and other attack tools and development of countermeasures or recommend courses of action to combat malicious code that targets or exploits the U.S. Federal government and/or critical infrastructure.
- Means to gather cyber information prior to attacks and use that information to prevent attacks, protect cyber infrastructure, and restore infrastructure when attacks are successful.
- Alerts and warnings to build public awareness of the shared responsibility to protect individual cyber and communications networks.
- Increased situational awareness for Federal agencies and the Nation's cyber infrastructure so that they reduce cyber threats and vulnerabilities through identification, analysis, and comprehension of broad network activity, cyber security trends, and incident handling.

Accomplishments
- Created and published Quarterly Trends and Analysis Report for public constituents and streamlined the publishing process. (Q3FY06, Q4FY06, Q1-Q4FY07)
- Created a web site for the Homeland Secure Data Network to facilitate US-CERT dissemination of important and SECRET classified information with constituents in the Intelligence Community. (Q2FY07)
- Implemented a plan to redesign the public US-CERT web site so that it better features and highlights the National Cyber Security Alert System. (Q3FY07)
- Verified, updated, and confirmed the alert system's SOPs. (Q4FY07)
- Deployed Einstein at a total of 13 Federal agencies. (Q4FY07)
- Created a new mailing list notifying the public of Current Activity. (Q4FY07)
- Completed concept paper and budget requests for increased operational capacity. (Q4FY07)
- Drafted US-CERT Private Sector CONOPS. (Q4FY07)
- Provided on-site incident response to twelve agencies. (Q3-Q4FY07)
- Provided on-site incident response to forty agencies. (Q1-Q3 FY08)
- Redesign the public US-CERT web site to better feature and highlight the National Cyber Security Alert System. (Q2 FY08)
- Produce detailed reports of analysis activity for the purpose of informing and educating response personnel. (Q2 FY08)

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- Installed upgraded incident handling (Remedy) software on the Mission Operating Environment. (Q2 FY08)

Milestones

Q2FY08
- Finalize Trusted Internet Connection (TIC) requirements and request, receive, and evaluate Department and Agency plans to reduce and consolidate connections.

Q3FY08
- Release list of Departments and Agencies that will be Trusted Connection Access Providers.

Q4FY08
- Continue to work with the National Institute of Standards and Technology(NIST) to expand the National Vulnerability Database, a US Government repository of standards based vulnerability management data.
- Deploy Einstein sensors at additional Federal agencies.
- Annually verify, update, and confirm the US-CERT Operation's SOPs.
- Continue to work with international partners, specifically the U5 group of nations.
- Partner with additional private entities to market live feed that attracts a new subscriber base.

Q1FY09
- Finalize EINSTEIN System Program Baseline Documentation.
- EINSTEIN 2.0 Phase I Complete.

Q2FY09
- Enhance and expand data storage center for Einstein.
- EINSTEIN 3.0 Concept Development and System Evaluation.
- Produce detailed reports of analysis activity for the purpose of informing and educating response personnel.

Q3FY09
- EINSTEIN 2.0 Phase II Complete for first 30 sites. (TBR on Agency schedule)
- EINSTEIN 2.1 System Definition. (vizualation and collaboration)

Q4FY09
- Develop implementation plan for alternative operations center outside the region.
- Deploy Einstein sensors at additional Federal agencies.
- EINSTEIN 2.1 Operational IOC.
- Annually verify, update, and confirm the US-CERT Operation's SOPs.
- Continue to work with international partners, specifically the U5 group of nations.
- Partner with additional private entities to market live feed that attracts a new subscriber base.
- Continue to work with NIST to expand the National Vulnerability Database, a US Government repository of standards based vulnerability management data.

FY10 – FY13
- Deploy Einstein sensors at additional Federal agencies.
- Annually verify, update, and confirm the US-CERT Operation's SOPs.
- Continue to work with international partners, specifically the U5 group of nations.

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- Provide space for industry personnel to physically reside in US-CERT Operations Center.
- Continue to expand the National Vulnerability Database.
- Continue to produce detailed reports of analysis activity for the purpose of informing and educating response personnel.

Impediments/Challenges
As the demand for US-CERT capabilities grows, current Federal staff is at capacity with analysis, project management, and outreach responsibilities, and the program needs additional contracting support. In addition, increased demand for the production of alerts and bulletins and the desire for more frequent updates to the web site and portal require an increase in Federal full time equivalents (FTE) and contract support. While US-CERT is making progress against its staffing goals which has decreased the demand on existing staff, until US-CERT is able to achieve its staffing goals, the challenge will remain. Also, the process to sign memorandum of understanding between DHS and agencies poses slight delays in the growth of the Einstein program.

Metrics
NCSD is in the process of revising our program-level metrics for the referenced program to ensure they adequately address the specific focus areas and provide insight into program efficiency and results.

Remarks
US-CERT is the primary Federal agency charged with promoting and coordinating the cybersecurity of the Federal IT infrastructure to help secure and defend the nation from cyber events, incidents, intrusions and attacks. US-CERT's incident handling, analysis, situational awareness, and production programs help prepare for and deter against catastrophic cyber incidents by achieving a collaborative risk management and deterrence capability. The programs work together to promote public awareness and a coordinated, national response system for major cyber disruptions.

US-CERT coordinates with the NCC, other DHS entities, Federal departments and agencies, State and local governments through the Multi-State ISAC, the private sector through the NIPP Sector partnership framework, and international governments, including the UK, Canada, Australia, New Zealand, and others.

US-CERT disseminates timely and actionable cyber security information, alerts, and warnings to homeland security partners and the American public to improve cyber awareness and help protect critical information networks. Information is disseminated through several mechanisms, including but not limited to two web sites:

- The **public US-CERT web site** is an information source for citizens, private enterprise, IT professionals, and Federal agencies. The website features regularly updated summaries of cyber security incidents and issues, and it disseminates this information through "really simple syndication" feeds and subscriber mailing lists. The program's primary information product is the National Cyber Alert System, which includes Technical Cyber Security Alerts, Cyber Security Alerts, Cyber Security Bulletins, and Cyber Security Tips. Additional information products include Current Activity, Vulnerability Notes, the Vulnerability Knowledgebase, and Quarterly Trends and Analysis Reports.

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- The **US-CERT Secure Portal** provides sensitive unclassified, cyber security information to ISACs, the Government Forum of Incident Response and Security Teams, and other key vetted stakeholders. The program posts information products for its secure portal constituents, including Situational Awareness Reports, Technical Information Papers, Federal Information Notices, Critical Infrastructure Information Notices, Quarterly Trends Reports, and other alerts.

US-CERT's situational awareness capability consists of the following initiatives:

- Mission Operating Environment (MOE) – A collection of hardware and software that provides an operating platform that is sequestered from the Internet, separate from the DHS Local Area Network, and supports the US-CERT's cyber security operations. The MOE provides US-CERT with the capability to conduct incident handling, analysis, and information sharing safely and securely without infecting computing infrastructure that supports DHS operations.

- Einstein – A collection of hardware and software that supports an automated process to collect, correlate, analyze, and share cyber security information across Federal government networks. Einstein collects data flows in real time from participating Federal agency Internet connections and provides an enhanced view and analysis of the health of critical cyber networks across the U.S. Government. The program provides a knowledge base for improving network security, resulting in increased resiliency of critical electronically delivered government services.

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Senator Lindsey Graham
Additional Questions for the Record
Nomination Hearing of Jane Holl Lute
March 26, 2009

As you know, Project Seahawk will be transitioned from the Department of Justice to the Department of Homeland Security (DHS) jurisdiction on October 1, 2009. This interagency operational center for port security has proven to be a model that can strengthen our security through improved federal, state, and local cooperation. In addition, under the Security and Accountability for Every Port Act of 2006 ("SAFE Ports Act"), Congress mandated the establishment of interagency operational centers for port security at all high priority ports in the U.S. In that legislation, the Seahawk interagency operational center in Charleston was cited as a model for DHS to follow in meeting this requirement.

Over $45 million in federal funds have been allocated to Project Seahawk. I strongly believe it is in our interests to ensure the lessons learned over the last six years are preserved and that the integrity of Seahawk is maintained. Local participation is a critical component in the success of the Seahawk program.

It is now my understanding that under the Administration's transition plan, responsibility for funding the following programs will be turned over solely to state and local law enforcement:

-Local Law Enforcement Combined Marine Unit Facility
-South Carolina Intermodal Security Enhanced Policing Program
-Joint Law Enforcement Secure Wireless Program
-Joint Law Enforcement Integrated Voice Communications Program
-State and Local Law Enforcement Officer Integration Program

Additionally, I have been notified that the National Radiological Test and Development Program and the South Carolina Radiological Detection Program may be eliminated. These programs are crucial in providing initial isotope identification and linking any radiological signal to the Seahawk Operations Center. Eliminating these programs would remove a very important security feature for Seahawk and the port of Charleston.

While I understand the existing Project Seahawk structure will have to be modified as it transitions to DHS, local and state budget shortfalls would eliminate these programs as they currently exist. I am greatly concerned that without DHS assistance, local law enforcement agencies will not have the resources to participate fully in the Seahawk program.

Seahawk has been effective because each component plays an important role in supporting the broader mission. Without the current level of participation of local law

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enforcement, Seahawk's integrated structure will be harmed and port security will be compromised.

1. Please clarify and describe in detail which programs DHS intends to support financially.

I understand the importance of this issue to you and your constituents, and I commit to close and sustained dialogue with you about SeaHawk.

I understand that DHS will financially support the vast majority of SeaHawk programs, projects, and operating capabilities. To my understanding, the Department strongly believes in the value of Interagency Operations Centers as capability multipliers and as such believes that State and local authorities will recognize the benefits of continued participation.

I have been told that the USCG will assume the role of host for Project SeaHawk, including the responsibility for providing administrative, logistical, and information technology support services. The USCG intends to eventually replace the SeaHawk Joint Integrated Information Portal with their Command-21 sponsored "Watchkeeper" system, currently in development.

To maintain the positive impact of Project SeaHawk on the local port community, I have been informed that efforts are currently underway to bridge the transition from a DOJ-funded program to one funded and maintained by DHS. A decision on how the various programs will be funded beyond FY 2009 is still under consideration by DHS at this time.

2. For those programs DHS plans to turn over to state and local law enforcement, what measures does DHS plan to take to assist local law enforcement agencies so that they are able to participate fully in the Seahawk program?

While specific funding mechanisms beyond FY 2009 are still under development by DHS, I have been informed that the Department anticipates being able to provide administrative, logistical, and information technology support services to the Interagency Operations Center. Providing such 'host' services will ensure that local law enforcement agencies choosing to participate will only need to address their internal staffing and staff support functions. If confirmed, I look forward to personally reviewing these issues and ensuring that proper plans are in place.

3. Please describe DHS's efforts to establish interagency operational centers for port security at all high-priority ports as required under the SAFE Ports Act of 2006.

Primary responsibility for implementing Interagency Operations Centers has been vested with the USCG and its Command 21 project. If confirmed, I will support the Coast Guard's efforts to continue implementation of this important program.

I have been assured by the Department that the lessons learned from Project SeaHawk have been and are continually being incorporated into the DHS Interagency Operations Center project. As an example, many of the key functional components of the SeaHawk Joint Integrated Information Portal are being incorporated into the USCG "Watchkeeper" system currently under development. As I understand it, the Department views SeaHawk as a model which, with appropriate modification for port specific differences, serves as a baseline example for nation-wide establishment of Interagency Operations Centers.

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Susan Collins
Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
Room 344 Dirksen Senate Office Building
Washington, DC 20510

March 2, 2009

Dear Chairman Lieberman and Ranking Member Collins:

Please accept this letter in support of Ms. Jane Holl Lute in connection with her nomination to the position of Deputy Secretary of the United States Department of Homeland Security (DHS). As set forth below, I believe Ms. Lute is well suited for the position and would be a valuable asset to DHS.

My experience working with Ms. Lute is in connection with my duties between 2006 and 2008 first as the Deputy Chief, and then as Chairman, of the United Nations Procurement Task Force (Task Force). The Task Force was a temporary investigative entity established the United Nations Secretary-General in 2006 following the Iraqi Oil-for-Food Investigation in order to address further allegations of fraud and corruption in the United Nations Secretariat and to add strength to the oversight function in the UN. In conjunction with the Task Force, the Secretary-General also established a senior level Procurement Working Group to address specific concerns in UN contracting as well as the high profile suspension in January 2006 of eight senior UN officials. I participated with Ms. Lute on this working group, as she was at the time an Assistant Secretary-General in the United Nations Department of Peacekeeping Operations (DPKO).

Between 2006 and 2008, the Task Force carried out a number of investigations and issued several reports which concerned, in addition to a number of other UN departments, several peacekeeping missions and UN staff participating in these operations. Upon completion of the investigations, Investigation Reports were provided to the Secretary-General, other senior officials, the Procurement Working Group and the heads of the relevant departments. Heads of departments served as "Programme Managers," and were responsible for addressing the findings and recommendations contained in the Investigation Reports. During this time, Ms. Lute was vested with Programme Manager responsibilities for DPKO.

Ms. Lute continuously supported the Task Force's investigations, and our efforts to minimize the risks posed to the Organization as a result of the significant amount of funds used for DPKO procurement. While Programme Managers in the UN are not formally required to follow or accept the conclusions and recommendations of oversight

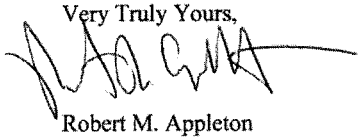
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bodies, Ms. Lute nevertheless reacted swiftly and responsibly, and took immediate corrective action where we found corruption, fraud, or violations of internal rules or procedures of the UN.

In matters which extended beyond the conduct of particular staff members to broader concerns in some missions, Ms. Lute responded with an equal degree of energy and attention. Rather than exerting needless effort on the procedural matters which often plague the administration of justice in the UN, Ms. Lute focused her efforts on optimizing peacekeeping operations. In a large international organization which is sometimes challenged by strong disagreements between departments, Ms. Lute overcame such impediments and did not allow these circumstances to interfere with her efforts to enhance DPKO functions. It was evident to me that Ms. Lute shouldered a heavy management burden, as there were significant challenges in numerous remote locations throughout the world; however, Ms. Lute appeared to me to be diligent in carrying out her many responsibilities. Perhaps most importantly, I found Ms. Lute to display integrity and honesty in the matters in which we interacted, and was always of an even demeanor. While we disagreed on some matters in a few instances, I always fully respected her approach to the cases, her efforts to address issues raised, and her energy and enthusiasm to accomplish the mission of her department.

In summary, Ms. Lute's departure from the United Nations will be a significant loss to the Organization and its peacekeeping operations. If I can be of any further assistance in this matter, or if you wish further detail, please do not hesitate to contact me.

Very Truly Yours,



Robert M. Appleton
Former Chairman
United Nations Procurement Task Force

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

LEROY D. BACA, SHERIFF

February 23, 2009

The Honorable Joseph I. Lieberman, Chair
Homeland Security and Governmental Affairs Committee
Dirksen Senate Office Building, Room 340
1st & C Streets, NE
Washington, DC 20510

Dear Senator Lieberman:

LETTER OF SUPPORT FOR MS. JANE HOLL LUTE
DESIGNATED NOMINEE - ASSISTANT SECRETARY
DEPARTMENT OF HOMELAND SECURITY

This letter will confirm my support for Ms. Jane Holl Lute as a fully qualified candidate for the position of Assistant Secretary, Department of Homeland Security.

I have met with Ms. Holl Lute and have discussed significant issues and strategies for greater success concerning the Department of Homeland Security. I have also conversed with Secretary Janet Napolitano. I believe these two very talented leaders will form a strong visionary team that all local, state and federal public safety stake holders can work closely with.

Ms. Holl Lute has the exact credentials I believe are necessary to lead and understand the international and local connections and operations that are necessary to truly deal with the complex issue of terrorism. I found her to be imaginative and familiar with how to effectively deal with diverse people and large bureaucracies. We can talk the same talk with ease. I am very impressed with her work credentials and achievement while assigned to the United Nations, a challenging environment in which to succeed.

A Tradition of Service

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Ms. Holl Lute has significant management, administrative, organizational, budget and leadership experience with the United Nations and United States Armed Services. Her sensitivity for diverse people of all nationalities, faiths, and nations of the world is exactly an area we could improve on.

I am a very active leader in the Major Cities Chiefs' Association as well as a member of the Board of Directors of the National Sheriffs' Association. It would be an honor for me to work with Ms. Jane Holl Lute. I highly recommend her appointment.

Sincerely,

LEROY D. BACA
SHERIFF

Deutsche Asset Management
A Member of the Deutsche Bank Group

Christopher B. Burnham
Vice Chairman and Managing Director

Deutsche Asset Management
345 Park Avenue, 24th Floor
New York, NY 10154

Tel: 212-454-4999

christopher.burnham@db.com

February 10, 2009

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340, Senate Dirksen Office Building
Washington, DC 20510

Dear Joe,

As you know, I served with Jane Holl Lute when I was the Under Secretary General of the United Nations for management from 2005 to 2006. I write you today to unequivocally endorse her candidacy to be the next Deputy Secretary of the Department of Homeland Security.

As the senior management officer and senior American within the UN Secretariat, I worked closely with Jane on a day-to-day basis for over 18 months. As you know, after serving as Colin Powell's chief financial officer, and acting Under Secretary of State for management for Condi Rice, I went to the UN to try and instill some semblance of controls and governance. I had a front row seat, and I saw those who were good managers, and those who were poor. I encountered those who tried to hinder my progress, and those who worked tirelessly to advance the cause of integrity and responsibility at the UN.

Jane Lute was not a good manager she was a great manager. Inheriting the single most difficult mission at the entire UN—Peacekeeping, she supported my efforts at good governance and controls, and advocated for even stiffer controls within Peacekeeping—such as the creation of an Inspector General within Peacekeeping. She streamlined logistics, supporting over 100,000 troops in the field, and facilitating more than a dozen (real) missions that our airmen, soldiers, Marines and sailors, might otherwise have had to fulfill. I want to emphasize, that this is under the most difficult field conditions, and exacerbated by the most complicated and unwieldy governance structure in the history of mankind.

Perhaps of greatest importance, was Jane's full and total support of my effort to launch a procurement investigation taskforce, and her subsequent total support of Bob Appleton and his investigations into corruption at the UN.

The role of deputy secretary in any agency is that of COO. Therefore, Jane's experience as COO of an agency as globally diverse and difficult as UN Peacekeeping is an exceptional experience to prepare her for the difficulties of running day-to-day operations of DHS.

Deutsche Asset Management is the marketing name in the US for the asset management activities of Deutsche Bank AG, Deutsche Bank Trust Company Americas, Deutsche Bank Securities, Inc., Deutsche Asset Management Inc., Deutsche Asset Management Investment Services Ltd., Deutsche Investment Management Americas Inc. and Scudder Trust Company.

While Jane has served as both a field grade Army officer, and a senior staffer at the NSC for both Democrats and Republicans, it is the enormous difficulty of managing and leading for the past five years, critical operations around the world while dealing with dozens of ambassadors, $8 billion budgets, and the UN Security Council to boot that makes her such an outstanding candidate for the position to which she has been nominated.

Jane and her husband, Lt. Gen Doug Lute have together, served our country for more than fifty years. This is an exceptional patriotic couple.

Jane has the global experience, management experience and skills, military training, legal training, PhD—in short, academic excellence and superb leadership experience, to break down silos, integrate databases, support operations domestically and abroad, and protect our country.

I ask you as a fellow American, and with keen understanding of what it takes to be the COO of unwieldy complicated organizations, to give your full support to Jane's candidacy.

With deep respect and best personal regards,

Christopher B. Burnham
Former Under-Secretary-General of the United Nations
Former Chief Financial Officer and Assistant Secretary of State

Woodrow Wilson
International
Center
for Scholars

LEE H. HAMILTON
President and Director

February 13, 2009

The Honorable Joseph I. Lieberman, Chairman
Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Joe,

It has come to my attention that Janet Napolitano has nominated Jane Holl Lute to be Deputy Secretary of the Department of Homeland Security. Jane is a superb candidate for this position. Her experience, knowledge, judgment and integrity give her exactly the qualities needed to meet the challenges the Department and country face.

In addition to a distinguished military career—she retired with the rank of Major and worked on General Schwarzkopf's staff during First Gulf War—she is a scholar, with a PhD in political science from Stanford and a JD from Georgetown. After the war, she joined the National Security Council, working first with President George H.W. Bush and later with President Clinton.

She served as Executive Director of the Carnegie Commission on Preventing Deadly Conflict, where she oversaw the publication of more than seventy publications relating to the prevention of deadly conflict. She served as a Senior Public Policy Fellow here at the Woodrow Wilson Center, and she is still spoken of here fondly and with immense respect for her abilities and achievements.

She worked with former Senator Tim Wirth to establish the United Nations Foundation and Better World Fund, where she was executive vice president and Chief Operating Officer. She then moved to the UN to bolster its peacekeeping missions as Assistant-Secretary General for the Department of Peacekeeping Operations. By common consent, she did the best job anyone has done to raise the standards and tighten the organization of Peacekeeping even though it remains inherently problematic as the most difficult department within the UN system.

In short, she has a rare capacity for getting things done and done well; especially pertinent in this context is her ability to bring about harmonious functioning of different elements within a large organization. I recommend her with the strongest support possible.

Sincerely,

Lee H. Hamilton

ONE WOODROW WILSON PLAZA, 1300 PENNSYLVANIA AVENUE, NW, WASHINGTON, DC 20004-3027 T 202.691.4000 F 202.691.4001 WWW.WILSONCENTER.ORG

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March 13, 2009

The Honorable Joseph I. Lieberman
Chairman
U.S. Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the nearly 13,000 chief fire and emergency officers of the International Association of Fire Chiefs (IAFC), I strongly endorse the nomination of Ms. Jane Holl Lute to be the Deputy Secretary of Homeland Security. The IAFC urges the U.S. Senate to quickly confirm Ms. Lute to this position.

Ms. Lute has a long and distinguished career that gives her the experience to manage the U.S. Department of Homeland Security. She served the American people both in the U.S. Army and on the National Security Council staff. In addition, she recently served as the United Nations' Assistant Secretary-General for Peacekeeping Operations. We believe that this position has given her the experience to understand the importance of coordinating the efforts of different jurisdictions, which is vital to successful all-hazards response operations. We also believe that her U.N. experience will provide an asset in coordinating the logistical aspects of the national response to a major disaster, and her military experience will be helpful if a federal response requires the support of the U.S. Northern Command.

Based on her experience, the IAFC believes that Ms. Lute is well-qualified to ensure that the U.S. Department of Homeland Security is capable of responding to all hazards, natural and man-made. We urge you to schedule her confirmation hearings expeditiously, and urge you to support her confirmation.

Sincerely,

Larry J Grorud

Chief Larry Grorud, CFO, MIFireE
President



MAJOR CITIES CHIEFS ASSOCIATION

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Washington, DC
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February 20, 2009

The Honorable Joseph Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
U.S. Senate
Washington, DC 20510

The Honorable Susan M. Collins
Ranking Member
Committee on Homeland Security
and Governmental Affairs
U.S. Senate
Washington, DC 20510

Dear Senators Lieberman and Collins:

On behalf of the Major Cities Chiefs, representing the 56 largest jurisdictions across the Nation, I am writing to support the nomination of Jane Holl Lute to become Deputy Secretary of Homeland Security; she deserves swift confirmation by the Senate.

After meeting with the Deputy Secretary-Designate, we came away impressed by her management skills, honed at the U.N. while managing and coordinating efforts to build sustainable peace in countries emerging from conflict. We also note that her management of critical support programs to all U.N. field missions, peacekeeping operations, and special political missions in over thirty countries around the world makes her uniquely qualified to help manage DHS with its many different agencies, bureaus and offices.

Through her service in uniform during Desert Storm, and as veteran staff member of two White House National Security Councils, we are confident that Ms. Lute has the ability and expertise needed to help Secretary Napolitano lead the Department of Homeland Security. We look forward to working with Ms. Lute to build a strong bond between DHS and local law enforcement.

American law enforcement has always looked to you for leadership and we again turn to you to move the nomination of Jane Lute quickly through the confirmation process.

Sincerely,

Robert Davis
Chief of Police
San Jose, California
Vice President

United Nations Nations Unies

HEADQUARTERS - SIEGE NEW YORK, NY 10017
TEL.: 1 (212) 963 1234 - FAX: 1 (212) 963 4879

March 29, 2009

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340, Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Susan Collins
Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
Room 344, Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Lieberman and Ranking Member Collins,

It is with great pleasure that I write to you both on behalf of Ms. Jane Holl Lute regarding her nomination as Deputy Secretary of the Department of Homeland Security.

As Chairman of the United Nations Advisory Committee on Administrative and Budgetary Questions (ACABQ) and a former member of the United States delegation to the United Nations, I have worked closely with Ms. Lute since her appointment at the United Nations in August 2003. By way of background, the Advisory Committee is a subsidiary body of the General Assembly mandated to advise the Member States on all administrative and budgetary matters emanating from the Secretary General, including, *inter alia*, all matters related to mounting, managing and sustaining peacekeeping operations in the field.

During Ms. Lute's tenure at the United Nations she held three senior-level positions, Assistant-Secretary General in the Department of Peacekeeping, Assistant-Secretary General in the Department of Field Support and lastly Assistant-Secretary General for the Peacebuilding Support Office. My focus is on the two former positions she held, where she made a lasting impact on the way the United Nations conducts and supports peacekeeping operations. I must underline that during the time that Ms. Lute pursued significant reform initiatives, it was also a time of unprecedented growth in the Organization's peacekeeping operations, not only in volume but in complexity, resulting from Security Council decisions. Ms. Lute ably managed and provided critical logistic and administrative support to some 28 United Nations peacekeeping operations and field missions, with over 115,000 uniformed and civilian personnel.

Ms. Lute, perhaps more than any other senior official at the United Nations in recent years, fought for and succeeded in reforming the way the United Nations does business. She overhauled and instituted higher standards for the basic business processes of the Office of Mission Support in the Department of Peacekeeping Operations and continued the process of professionalizing the way the United Nations staffed, serviced and supported field operations in the Department of Field Support. In an Organization that is all too often comfortable with maintaining the *status quo*, Ms. Lute took difficult and contentious decisions to move personnel out of key positions, when it became apparent that they were not up to the task. She insisted on the standardization and rationalization of how United Nations peacekeeping operations were structured and staffed, with a view to reducing the risk of arbitrary or inconsistent budgeting of the core elements of annual peacekeeping costs. Ms. Lute's persistence resulted in the institution of a new process for the selection of senior leadership in field operations that identifies the best qualified personnel to manage and lead missions in complex and difficult environments and thereby eliminating any possibility for nepotism and cronyism. Furthermore, Ms. Lute instituted mandatory induction training on accountability and oversight, good conduct and discipline, and sound management practice for all new senior-level field staff.

Ms. Lute was central to instituting necessary and urgent reforms in response to allegations of sexual exploitation and abuse committed in some peacekeeping operations. In an atmosphere of great resistance and denial by some Member States, Ms. Lute doggedly pursued efforts to create an environment of zero tolerance for sexual exploitation and abuse. She led the Task Force on Sexual Exploitation and Abuse which resulted in the investigation and dismissal of personnel found guilty. Under her leadership, Memoranda of Understanding with troop contributing countries were amended to ensure that the countries shouldered the responsibility for unacceptable and illegal actions committed by their military personnel while serving in United Nations peacekeeping operations.

Ms. Lute's integrity, competence, tenacity and commitment to reforming that which is unacceptable are precisely the types of qualities one would wish to see in the leaders of large institutions with even greater responsibilities.

Ms. Lute's extensive international, military and management experiences, coupled with her outstanding academic background renders her an ideal choice to assist in leading the United States Department of Homeland Security.

It is without reservation that I fully support her nomination.

Sincerely,

Susan McLurg

Susan McLurg
Chairman
United Nations Advisory Committee
on Administrative and Budgetary
Questions

NATIONAL SHERIFFS' ASSOCIATION

1450 Duke Street • Alexandria, VA 22314-3490 • 703-836-7827 • Fax 703-683-6541
WWW. SHERIFFS.ORG • NSAMAIL@SHERIFFS.ORG

February 20, 2009 VIA FACSIMILE

The Honorable Joseph I. Lieberman, Chair
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510
FAX (202) 228-4469

The Honorable Susan M. Collins, Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
344 Dirksen Senate Office Building
Washington, D.C. 20510
FAX (202) 224-9603

Dear Chairman Lieberman and Ranking Member Collins:

On behalf of the National Sheriffs' Association (NSA), we are writing to express our strong support for the nomination of Jane Holl Lute to become the Deputy Secretary of the United States Department of Homeland Security (DHS). We respectfully urge you to confirm her nomination without delay.

The position of Deputy Secretary of DHS requires that the individual not only be abreast of all homeland security and emergency response operations, but must be willing to undertake the management of the expansive agency. Ms. Lute's diverse background and experience make her the ideal candidate to serve in this prestigious role.

Throughout her distinguished career, Ms. Lute has served in positions where she gained critical knowledge in security operations and planning. In particular, she gained such knowledge as a United States Army Officer in Operation Desert Storm and as part of the National Security Council staff under Presidents George H.W. Bush and William Jefferson Clinton.

Furthermore, Ms. Lute obtained crucial experience in crisis response and organizational management during her tenure with the United Nations (U.N.), serving as Assistant Secretary-General in both the United Nations' Department of Field Support and Department Peacekeeping Operations. Currently, as a U.N. Assistant Secretary-General, she is responsible for building and maintaining peace in nations overcoming conflict.

Recently, NSA had the privilege of personally meeting with Ms. Lute to discuss the vital partnership between sheriffs and DHS. We were extraordinarily pleased not only with her vast qualifications, but with her understanding of the importance of maintaining and enhancing the relationship between DHS and state and local law enforcement agencies. Together, with Secretary Janet Napolitano, we are confident in Ms. Lute's ability to continue to strengthen and cultivate the relationship between DHS and state and local law enforcement, creating a safer America for all citizens.

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Ms. Lute has served her nation in positions req uiring the establishment of multi-agency coordination and the fostering of relationships among various and diverse agencies and nations. She exhibits both the tenacity and diplomacy essential for assisting DHS in the prevention from terrorist attacks against the United States, as well as effectively responding to any significant homeland security emergency which may arise.

As one of the largest law enforcement associations in the United States, the National Sheriffs' Association is calling upon the United States Senate to swiftly confirm Jane Holl Lute as the Deputy Secretary of the Department of Homeland Security.

Respectfully,

Sheriff David A. Goad
President

Aaron D. Kennard
Executive Director

Serving Our Nation's Sheriffs Since 1940



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Ms. Nancy Dragani, OH

Vice President
Mr. David Maxwell, AR

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Region IX
Mr. Ed Teixeira, HI

Region X
Mr. John Madden, AK

February 24, 2009

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Susan Collins
Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
Room 442 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

The National Emergency Management Association (NEMA) is in support of the nomination of Jane Holl Lute to be the Deputy Secretary of the U.S. Department of Homeland Security.

Ms. Lute's background and experience would lend themselves very well to the position of DHS Deputy Secretary, specifically her experience with managing complex organizations, crisis response and security operations and planning.

NEMA respectfully encourages the Committee to confirm Ms. Lute as soon as possible.

Sincerely,

Nancy Dragani
President
National Emergency Management Association

NEMA OFFICES:
The Council of State Governments
2760 Research Park Drive • P.O. Box 11910 • Lexington, Kentucky 40578-1910 • (859) 244-8000 • FAX (859) 244-8239
WASHINGTON OFFICE:
Hall of the States • 444 North Capitol Street, Suite 401 • Washington, DC 20001 • (202) 624-5459 • FAX (202) 624-5875

HRH Prince Zeid Ra'ad Al-Hussein
Ambassador
3504 International Drive, NW
Washington, DC 20008

February 10, 2009

The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340 Senate Dirksen Office Building
Washington, DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

I have learned recently that questions are being asked by some distinguished members of the Committee relating to the manner by which the United Nations handled the subject of sexual exploitation and abuse committed by United Nations peacekeepers. While aware, of course, the Senate is about to embark on the confirmation hearings of Ms. Jane Holl Lute for the position of Deputy Secretary of Homeland Security, and not wishing in any way to interfere in these proceedings -- given that I am Jordan's ambassador to the United States -- I nevertheless feel it would be helpful to the committee members if I could offer a few observations on the subject, but only in my capacity as the UN Secretary-General's former Advisor on Sexual Exploitation and Abuse (SEA) in UN Peacekeeping Operations (from 2004-2007).

For the sake of background, I wish to note that sexual exploitation and abuse in UN peacekeeping was first identified in the late 1980s, increased in frequency throughout the 1990s, and then reached a point in 2004 when the UN secretariat sought a new approach. Kofi Annan subsequently asked me – a former UN peacekeeper and at the time Jordan's ambassador to the UN -- to analyze the problem in depth and offer an independent report on the issue. This report was also called for by the UN General Assembly.

During the second half of 2004 I traveled to the Democratic Republic of the Congo to grasp the full extent of the problem their first hand, and I conferred widely with officials in and out of the UN. On my return to New York, my team and I authored a comprehensive report which both diagnosed the problem and offered a comprehensive strategy toward its elimination.

From the very minute I began to work on this, I was assisted by both the (then) head of UN peacekeeping: Jean-Marie Guehenno, and the Assistant Secretary-General for UN peacekeeping Ms. Jane Holl Lute. Assistant Secretary-General Lute was, from day one,

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fiercely committed to ridding the UN of this dreadful phenomenom and when most of her colleagues (in and out of the UN secretariat) were largely dismissive of the allegations against peacekeepers, she would have none of it. Instead, she fought with equal determination to unwrap these disturbing practices. It is worth noting in this context that, in earlier years, an allegation against a UN peacekeeper would predictably be concealed from public view by a very embarrassed UN. Ms. Lute sought to change all that.

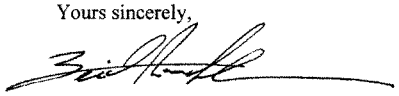
Indeed, after the report was released in March 2005, Assistant Secretary-General Lute and the UN Peacekeeping Department put into effect swiftly and efficiently all the measures that could have been implemented without any further legislative authorization from the UN General Assembly. Ms. Lute not only embraced our proposed reforms but also made clear to everyone involved there was simply no room for compromise. In this I could not have had a better ally. She was simply formidable. And the results were a testimony to her successful advocacy for system-wide reform. She was an equally strong advocate for the victims of abuse, and she would tolerate no opposition to the proposed measures. Ultimately, I believed she understood (before anyone else did) that for UN peacekeeping long-term it was a case of reform substantially or disappear altogether. What recommendations could not be implemented by Ms. Lute usually required prior authorization from the General Assembly. Some of these other items in my report were adopted gradually by the Assembly, while others have yet to be agreed to.

I had always made it clear that unless my report was adopted and implemented in its entirety, we would continue to see allegations of sexual exploitation and abuse by UN peacekeepers. To the extent some of these reports continue to surface periodically cannot, nor should not, be attributed to any fault on the part of senior UN officials, like Ms. Jane Holl Lute. Quite the contrary: Ms. Lute was a champion of reform. She demonstrated consistently the courage to act honorably, and responsibly, in leading the United Nations, and its 192 Member States, through the tough process of recognizing the organization's failures and then remedying them. In the final analysis, if there is any blame to be had for the persistence of SEA in UN peacekeeping, it must instead go to the governments represented at the UN – all of them -- for failing to adopt the full range of measures recommended by my team and I.

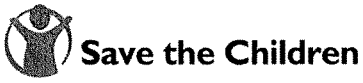
Those of us committed to eradicating sexual exploitation and abuse in peacekeeping have found no greater friend and ally than Jane Holl Lute.

I hope this clarification is hopeful to the distinguished members of the committee and naturally I would be only too willing to assist if there are other questions.

Yours sincerely,



Zeid Raad Al Hussein



The Honorable Joseph Lieberman
Chairman
Senate Committee on Homeland Security and Governmental Affairs
Room 340, Dirksen Senate Office Building
Washington, DC 20510
USA

The Honorable Susan Collins
Ranking Member
Senate Committee on Homeland Security and Governmental Affairs
Room 344, Dirksen Senate Office Building
Washington, DC 20510
USA

2 March 2009

Dear Chairman Lieberman and Ranking Member Collins,

In support of Ms Jane Holl Lute's nomination to the Department of Homeland Security and Governmental Affairs and in support of challenges to her record on tackling issues concerning sexual exploitation and abuse of children, Save the Children UK would like to submit the following letter of recommendation.

Save the Children UK has a strong track record of research, policy development, and practical action on the issue of the sexual exploitation and abuse (SEA) of children by peacekeepers and aid workers. Save the Children UK has championed the cause of zero tolerance of this unacceptable practice since 2002 when we carried out joint research on this issue with UNHCR in West Africa. Since that date Save the Children UK has carried out further pieces of research, enhanced our own Child Safeguarding Policy to protect the children with whom we work, and pressed UN agencies, INGOs and others to take the steps necessary to prevent, and robustly respond to, SEA. As part of that work, we have actively participated in the UN Task Force on Protection from Sexual Exploitation and Abuse of the Executive Committees on Humanitarian Affairs and on Peace and Security (ECHA/ECPS).

Save the Children UK has enjoyed a very positive and constructive working relationship with Ms Jane Holl Lute on this issue. Ms Holl Lute has consistently engaged fully with our research findings and recommendations on this issue and responded positively and decisively to any challenges they raise.

Ms Holl Lute has made an important contribution to the zero tolerance of SEA. Most notably, she mobilised significant increased investment into tackling this issue across several UN agencies and NGOs in her capacity as the co-chair of the above-mentioned UN-NGO interagency Task Force on SEA. Under Ms Holl Lute's leadership, DPKO has invested far more into tackling SEA and to far greater effect than any other operational UN agency. She has championed this issue both internally to the UN and externally, not least in the High-Level UN Conference on eliminating SEA in which I participated in December 2007. This conference resonated worldwide and has led to

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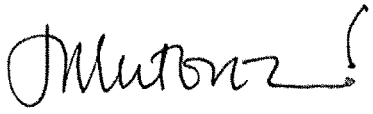
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concrete changes for children. She leaves a legacy of sustained UN-wide engagement in tackling this issue.

I would be happy to answer any further queries you may have in respect of this letter.

Yours sincerely,



Jasmine Whitbread
Chief Executive

Human Rights Watch voiced similar concerns in 1993 over the UN mission to Cambodia, and in 2002 a report into UN abuses in west Africa accused the UN of preferring to play down allegations of the sexual abuse of minors.

Yet in each case no further action was taken and no prosecutions brought, highlighting the issue of the lack of accountability. "The UN are trying to hide, rather than investigate - the problem in Bosnia and Kosovo is still huge," says Helga Konrad, the special representative in combating human trafficking for the Organisation for Security and Co-operation in Europe. "The UN and troop-contributing countries are playing ping-pong with their responsibilities of prosecution and investigation. The sending countries don't take responsibility for their troops' actions; they just pass it back to the UN. There is an urgent need for a much clearer definition of where this responsibility lies."

For those who work for the UN, the protection of its reputation is paramount. As the pressure mounts on the beleaguered secretary general, there is much talk of "zero tolerance" and of cracking down not just on the troops who abuse but on those who command them. Amid all this pressure it is perhaps unsurprising that an atmosphere of secrecy prevails, with few people prepared to go on the record for fear of jeopardising their chances of continuing to work within the organisation.

Ms Konrad believes that these internal problems within the UN run so deep that they are affecting its ability to perform as a force within international peacekeeping. "The misconduct of senior-level employees of peacekeeping missions and UN institutions is seriously undermining global peace-keeping operations," she says.

"The countries who contribute troops and the UN as an institution have got to share the responsibility of prosecution of individuals involved in sexual exploitation and abuse."

The UN mission in the Congo, however, appears to be in denial of the full extent of the problem, although it claims to be taking the issue seriously. William Swing, the special representative of the secretary general for Monuc, reiterated the need to move forward, and said: "Any kind of behaviour that violates the UN charter and code of conduct has to be dealt with as soon as possible. We are making progress, and the important thing is that, now we are aware of the problem, to develop a follow-up mechanism."

http://news.independent.co.uk/world/africa/story.jsp?story=599626

United Nations A/61/264 (Part II)

General Assembly

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Sixty-first session
Agenda items 127 and 132

Report on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Report of the Office of Internal Oversight Services Part two:* peacekeeping operations

Summary

The present report is submitted in conformity with General Assembly resolution 48/218 B of 29 July 1994 (para. 5 (e)), resolution 54/244 of 23 December 1999 (paras. 4-5) and resolution 59/272 of 23 December 2004 (paras. 1-3). It covers peacekeeping oversight activities of the Office of Internal Oversight Services during the 18-month period from 1 July 2005 to 30 December 2006.

The Office of Internal Oversight Services issued more than 170 oversight reports related to peacekeeping, which accounted for over 50 per cent of all recommendations put forward during the period. In many of the reports the Office noted a breakdown in one or several components of internal control or a total disregard for controls. Programme managers have accepted the majority of the recommendations and have initiated action to rectify the weaknesses.

While inspection and evaluation resources dedicated to peacekeeping remained flat during the present reporting period, there was an increase in resources for both audit and investigations, which enabled the Office of Internal Oversight Services to perform additional oversight work. The establishment of the Procurement Task Force in January 2006 further helped to identify significant waste, abuse, negligence and other forms of mismanagement, as well as fraud, in the establishment and execution of a number of high-value contracts between the Organization and various vendors who provided goods and services to United Nations peacekeeping missions.

* Part one of the report and addenda (A/61/264 (Part I) and Add.1; and Add.2) were issued on 15 August and 29 September 2006 respectively.

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Highlights of the report include the following:

Integrity violations. The Office of Internal Oversight Services investigated a broad range of integrity violations in peacekeeping operations. In two separate cases, the Office substantiated allegations that military contingent members had sexually abused under-age girls. Office of Internal Oversight Services investigations during the period also substantiated evidence of gross negligence, corruption and serious mismanagement at some peacekeeping missions.

Procurement. Audits and investigations identified serious deficiencies in procurement management, systems and process in peacekeeping operations, including serious weaknesses in internal controls and inadequate managerial accountability. The Procurement Task Force issued 11 reports detailing significant findings of waste, abuse, negligence and other forms of mismanagement, as well as fraud.

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Preface

I am pleased to submit to the General Assembly the first Office of Internal Oversight Services annual report dedicated to peacekeeping activities. The report covers the period from 1 July 2005 to 31 December 2006 and sets out the Office of Internal Oversight Services' major findings in peacekeeping operations during the period.

A report dedicated to United Nations peacekeeping operations is required given the size and magnitude of those operations and the extent of the Office's involvement in the oversight of the Department of Peacekeeping Operations.

Looking back over the past 18 months and the more than 170 reports that the Office of Internal Oversight Services issued on peacekeeping activities, one management shortcoming appears noticeable, namely the absence of a robust internal control framework that sets out management's responsibility for, among other things, the control environment, risk assessment and control activities. As highlighted in the present report, there have been multiple instances in which a breakdown of the internal control system has exposed the Organization to unnecessary risk and, in some cases, has facilitated the mismanagement and misuse of resources.

Adverse working conditions or difficult operational conditions are often cited as reasons for poor internal controls, reasons that the Office of Internal Oversight Services cannot accept. The high risks inherent in field environments necessitate stronger internal controls and even greater scrutiny to help the Organization to guard against the types of mismanagement and misuse of resources referred to in the present report.

During the reporting period, considerably more resources were dedicated to oversight of peacekeeping activities, largely through the support of the Assembly. This has enabled the Office of Internal Oversight Services to place more staff in the field, which I feel has contributed to its ability to respond more effectively to increased oversight requirements. During the period the Office has also made significant progress towards achieving its goal of a fully risk-based workplan by 2008, which will allow it to better identify the areas of peacekeeping operations that require greater scrutiny.

I wish to underscore the importance of expeditious implementation of recommendations to reduce the United Nations' risk of exposure to losses and waste. While in many cases programme managers have begun to take corrective action, peacekeeping operations remain vulnerable until recommendations are fully implemented.

In conclusion, the Office of Internal Oversight Services feels there is good progress towards achieving the required coverage for oversight of peacekeeping operations. I believe that while the management response, as evidenced by the implementation rate for recommendations, is showing a positive trend, there is still much room for improvement to further reduce the risk of exposure to losses and waste. I also wish to reiterate that a fully functioning internal control framework is a critical component for assurance and accountability, and I look forward to seeing the implementation of such a framework as soon as possible.

(*Signed*) Inga-Britt **Ahlenius**
Under-Secretary-General for Internal Oversight Services

23 February 2007

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I. Introduction

1. During the period 1 July 2005 to 31 December 2006, the Office of Internal Oversight Services (OIOS) issued over 170 oversight reports related to peacekeeping operations. The recommendations issued in those reports represent over 50 per cent of all OIOS recommendations issued during the reporting period. The present report highlights only the areas OIOS deems of most concern to the Organization.[1] The annex provides a review of the OIOS methodology for the allocation of resident auditors to peacekeeping missions, as requested by the General Assembly in its resolution 60/268.

2. With the rapid surge in peacekeeping operations,[2] the scope of work of the Office of Internal Oversight Services has increased considerably. Resident auditor staff in peacekeeping and special missions increased by 45 per cent[3] during the 18-month reporting period. Resident investigators were introduced to the United Nations Operation in Côte d'Ivoire (UNOCI), the United Nations Mission in the Sudan (UNMIS), the United Nations Mission in Liberia (UNMIL), the United Nations Operation in Burundi (ONUB), the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the United Nations Stabilization Mission in Haiti (MINUSTAH). In inspections and evaluations, a review of approach and methodology is under way to ensure comprehensive coverage of peacekeeping operations. OIOS headquarters staff dedicated to peacekeeping oversight activities also increased by 32 per cent during the same period. The figure shows the number of resident auditors and investigators assigned to peacekeeping and special political missions as of 31 December 2006.

[1] Although a waiver of page limitations requested by OIOS was granted, OIOS is in general disagreement with those limitations, as they infringe upon the Office's independence in terms of reporting to the Assembly.

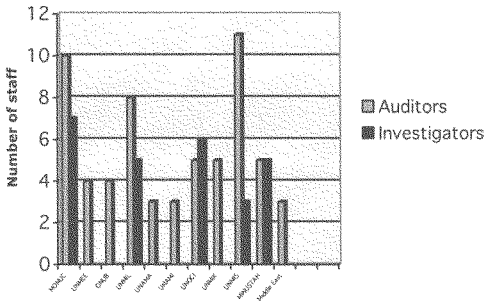
[2] The total peacekeeping budget, including the United Nations Logistics Base and the support account, increased from $2.7 billion in 2001/02 to $5 billion in 2005/06 (A/60/727).

[3] The increase occurred between 30 June 2005 and 31 December 2006, including all categories of staff.

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Figure I
Office of Internal Oversight Services resident oversight staff
(as of 31 December 2006)



Risk assessment of peacekeeping operations

3. As part of the goal of achieving a fully risk-based workplan by 2008,[4] OIOS, with the assistance of a consulting firm, conducted a risk assessment of the Department of Peacekeeping Operations and selected peacekeeping missions (AP2006/600/14)[5] in early 2006. The endeavour was instrumental is assisting OIOS to better identify the high-risk areas for review and consequently to ensure that the findings represented in the present report refer to some of the highest-risk areas that should be addressed.

Comprehensive audits related to peacekeeping

4. In its resolution 59/296 of 22 June 2005, the General Assembly requested the Office of Internal Oversight Services to conduct a comprehensive management audit of the Department of Peacekeeping Operations. OIOS reported its findings to the Assembly (A/60/717), which were consolidated from the following audit reports: procurement (AP2006/600/20), financial and budget management (AP2006/600/19), human resources management (AP2006/600/18), information and communication technologies (AP2006/600/17), integrated mission planning (AP2006/600/15), substantive operations (AP2006/600/16) and best practices (AP2006/600/23). In addition, pursuant to the same resolution, OIOS will provide to the Assembly, for its consideration at the second part of its sixty-first session, a separate report dealing with the Department's management structures. Overall, the audit concluded that the

[4] OIOS assignments will be selected and prioritized based on the level of risk they pose to the Organization.

[5] Denotes the symbol assigned to the report submitted to the programme manager.

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Department's management structures must ensure that operational and management processes are fully integrated with a strong internal control framework, and supported by effective governance and accountability mechanisms. The audit also pointed out serious weaknesses in internal control and inadequate managerial accountability for administrative and logistical support functions, as identified in prior OIOS audits. No systematic risk management mechanism had been developed as part of an overall internal control framework, and the monitoring of the Department's subprogrammes by the Office of the Under-Secretary-General, Department of Peacekeeping Operations, needed major improvement. The Office of Internal Oversight Services, however, noted that the Department had already made efforts to improve its management structures. The Department's reform programme, Peace Operations 2010, launched in 2005, included many initiatives to improve its management structures in such key areas for change as people, doctrine, partnerships, resources and organization.

5. Pursuant to General Assembly resolution 60/255, OIOS conducted an audit of the Department of Political Affairs' ability to manage and direct special political missions, with a view to ensuring the efficient use of post and non-post resources (A/61/357). Overall, OIOS found a high risk of duplication and overlap regarding the functions of the regional divisions of the Department of Political Affairs and the Office of Operations of the Department of Peacekeeping Operations.[6] During the period 2007-2009 OIOS will carry out comprehensive audits of all special political missions. The audits will assess the appropriateness of the internal controls in budgeting and finance, human resources management, asset management, programme administration and other areas relating to operations of special political missions.

Internal control and accountability

6. Peacekeeping activities are subject to difficult operational circumstances and unforeseen challenges. Such conditions increase the Organization's exposure to risk and make it crucial for an effective internal control framework and accountability mechanisms to be in place. OIOS has in several instances pointed out that the control environment, that is, the tone at the top and commitment to strong controls and ethics, is the foundation and the most important component of internal control. Challenging operational realities cannot be used to justify a weak control environment. Inefficient and weak internal controls expose the Organization to misuse of funds and even fraud and corruption. In many peacekeeping audits and investigations conducted over the past 18 months, OIOS noted a breakdown in some components of internal control, including, in the worst cases, a total disregard for controls on the part of some senior managers. An internal control framework emphasizing accountability and ethical behaviour in conformity with the Charter of the United Nations, which requires that staff members act in the best interests of the Organization, are the best guarantee for effective and efficient use of resources.

7. The audit and investigation reports issued during the period highlighted serious weaknesses in internal control, waste, abuse, negligence and other forms of mismanagement, as well as fraud. While in some cases administrative and disciplinary action has been swift, in the opinion of the Office of Internal Oversight

[6] Since January 2005, the Department of Peacekeeping Operations has been providing administrative and logistical support to special political missions.

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Services, programme managers have not been consistent in applying the standards to which they hold staff accountable. OIOS is very concerned that following the issuance of the Procurement Task Force reports in September and October 2006, management action has not been taken in the case of four individuals against whom there were adverse findings (two of whom were part of the eight staff members placed on special leave with full pay in 2006). OIOS stresses that prompt action is required to ensure that the implicated individuals are held fully accountable and that the Organization is fully committed to root out mismanagement and corruption. OIOS is also very concerned that the Organization lacks effective policies and procedures to discourage vendors from participating in fraudulent activities and encourage them to cooperate with OIOS investigations. The existing vendor suspension and removal process is weak and unfocused and exposes the Organization to conflicts of interest since the United Nations Procurement Service manages the process. The Procurement Task Force has reported instances in which vendors have committed acts of fraud or impropriety in several peacekeeping missions, but information about the misconduct has not been shared between missions. More specifically, the Task Force has identified some vendors that acted improperly in one mission and that thereafter engaged in the same misconduct in other missions. Communication between missions and between missions and the Procurement Service has been lacking. Further, there have been instances in which the Task Force has found vendors to have engaged in misconduct and/or unlawful activity and thereafter to have gained further business with the Organization, both directly and indirectly. For example, there have been circumstances in which a vendor that has committed fraud against the Organization has later gained business with the Organization as a subcontractor for a separate vendor who had been awarded the contract by the Procurement Service after a competitive bidding exercise. In such instances, the selected vendor simply assigned the contract to the prohibited vendor, and the prohibited vendor performed under the contract as if it was originally awarded the contract in the first instance. Such weaknesses, shown in recent highly visible cases, contributed significantly to delays in debarring vendors who had engaged in corrupt practices, exposing the Organization to further losses of its assets and negatively affecting its reputation. The debarment of the above-mentioned vendors resulted primarily from compelling evidence provided by OIOS and media publicity surrounding the cases, not from a proactive and bold anti-corruption policy.

II. Oversight results by risk area

A. Integrity violations

8. During the reporting period, OIOS investigated a broad range of integrity violations in peacekeeping operations, including mismanagement, embezzlement, and sexual exploitation and abuse. Of particular concern were allegations related to sexual exploitation and abuse, expressly prohibited in ST/SGB/2004/13,[7] which

[7] ST/SGB/2003/13 defines sexual exploitation as "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another". Sexual abuse is defined as "the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions".

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represented nearly one third (463) of all allegations received by OIOS during the period.

9. As of 31 December 2006, 30 of the 463 sexual exploitation and abuse allegations received by OIOS had been fully investigated and reports issued to the Department of Peacekeeping Operations. A total of 203 remain under investigative status. A further 74 cases were referred to the Department for its review and action. As per the OIOS mandate, in 54 cases where evidence was not found to support the allegation, the subject of the inquiry was cleared of any wrongdoing. In one case, the complaint was withdrawn upon the Office's checking with the complainant. The remaining 101 sexual exploitation and abuse matters were as follows: advisories to programme managers; insufficient information for investigation; allegations that were similar to other matters and thereby merged with existing cases; or those that were overtaken by events, such as a significant time period elapsed between the alleged act and its reporting, thereby rendering investigation impossible. An additional three sexual exploitation and abuse investigation reports were issued during the period, involving allegations from the previous reporting period. Some of the cases arising from allegations received during the period are described below.

Sexual abuse and exploitation

10. In UNMIL (0706/05), the Office of Internal Oversight Services substantiated allegations of prima facie evidence that a military contingent member had sexually abused an under-age girl. OIOS recommended that the Department of Peacekeeping Operations refer the case to the national authorities of the concerned troop-contributing country for criminal action against the military contingent. The Department followed up on the case with the relevant permanent mission to the United Nations on several occasions; however, to date, an adequate response, consistent with the evidence of the case, has not been received.

11. In MONUC (0635/05), OIOS substantiated allegations that a military contingent member had sexually abused an under-age girl, which resulted in the birth of a child. OIOS has also investigated similar allegations involving another girl and a member of the same military contingent; however, that allegation could not be substantiated because the alleged victim could not be located. Both cases revealed evidence of improper conduct on the part of the contingent Commander of the respective military contingent members, in that he had provided financial and subsistence support to the families of the two girls for more than seven months. Through those actions, OIOS inferred that the Commander hoped to minimize any complaints made by the family as to the sexual exploitation of the local girls. OIOS recommended, through the Department of Peacekeeping Operations, that the concerned troop-contributing country take appropriate action, including action against the Commander.

12. In UNMIS (0416/05), OIOS substantiated allegations that a staff member responsible for monitoring the performance of a service contractor had sexually exploited and abused four women formerly employed by the contractor. Similarly, OIOS substantiated allegations that the same staff member had harassed other females employed by the same contractor. All OIOS recommendations in the case were accepted and implemented by the Department.

13. In UNOCI (0298/05), OIOS found that several staff officers from different national contingents had brought females, including prostitutes, to a hotel used as

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the mission force headquarters, contrary to mission instructions. The investigation also found that military management had failed to create an environment that prevented military personnel from engaging in conduct that was, or could be, reasonably construed as sexual exploitation and abuse. Contributing to the lax control environment were ambiguous command memoranda and serious deficiencies in security controls that allowed non-United Nations female personnel entry to the force headquarters, presenting a significant security risk to United Nations personnel and assets. The Department implemented all OIOS recommendations in the case.

14. OIOS believes that curbing the instances of sexual exploitation and abuse by United Nations peacekeeping personnel requires a collaborative effort by all stakeholders. Individual troop-contributing countries must ensure that all personnel are fully aware of their responsibilities towards host country nationals. OIOS also believes that the United Nations family must make a greater effort to address the dire economic and social conditions in which vulnerable persons live in areas where many of the peacekeeping missions are located. The OIOS recommendation in this case was accepted and implemented by the Department.

15. The Internal Audit Division of the Office of Internal Oversight Services also reviewed the state of discipline in a global audit of field missions led by the Department of Peacekeeping Operations to obtain an understanding of the environment in which gross violations of United Nations standards of conduct occurred and to assist senior management in the Department in determining a course of action to strengthen the Organization's standards of conduct and ensure full compliance (see A/60/713). OIOS acknowledges that the Department and the Office of Human Resources Management of the Department of Management have already implemented a number of OIOS recommendations resulting from that review. For example, the Department of Peacekeeping Operations established conduct and discipline teams at Headquarters and in 12 field missions. The teams' mandate covers the oversight of conduct and discipline matters in peacekeeping to ensure compliance with United Nations standards of conduct by all peacekeeping personnel. The teams are an important tool to ensure that mission management is informed of relevant developments in the Mission on conduct and discipline matters. In addition the teams provide policy guidance and technical advice in the creation and implementation of training to strengthen the capacity of missions to address misconduct, in particular sexual exploitation and abuse.

16. The Department of Peacekeeping Operations, the Office of Human Resources Management and the OIOS Investigations Division are developing various training programmes, including modules on the code of conduct, on the prevention of sexual exploitation and abuse and on investigative techniques. To date, training modules 2 and 3 of a mandatory training programme on the prevention of sexual exploitation and abuse, aimed at mid-level managers and military commanders, have been completed. The modules are being reviewed by conduct and discipline teams and the Integrated Training Service of the Department of Peacekeeping Operations prior to their finalization by 30 March 2007.

17. OIOS will continue to undertake investigations into the misconduct, in particular in cases of sexual exploitation and abuse, reported in peacekeeping missions and will offer recommendations for sanctions and policy changes where practical. However, it is vital that all stakeholders address their own accountability

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in this area to ensure behavioural change and a reduction in the abuse of vulnerable persons.

Mismanagement

18. In the United Nations Office in Timor-Leste (UNOTIL) (ID 645/05), OIOS conducted an investigation into allegations of serious mismanagement of the assets stored in the communication and information technology warehouse in Dili. The evidence adduced by the investigation confirmed gross negligence and serious mismanagement on the part of the communication and information technology service asset manager and highlighted the lack of supervision and oversight by the service's line managers, leading to a loss of United Nations property with a total value of some $249,000. OIOS recommendations to the Department, including seeking reimbursement from the managers concerned and taking appropriate action against responsible mission staff, are in various stages of implementation.

19. In another investigation into mismanagement, the United Nations Interim Force in Lebanon (UNIFIL) (ID 261/05) OIOS found that senior officers of the contingent of one troop-contributing country, including the Commanding Officer, had put into place a system whereby they fraudulently overstated their fuel requirements by making false statements about their travel activity and forging data about fuel consumption by generators. The senior officers then sold the excess fuel thus generated to local buyers. They also sold United Nations rations to local shops and supermarkets, using local and contingent interpreters as middlemen. In a separate finding, documents obtained by OIOS showed that the same battalion used only twenty per cent of their serviceable vehicles, though the United Nations reimbursed the Government of the troop-contributing country for maintaining the entire fleet of vehicles in a serviceable condition, thus inflating the reimbursement by the United Nations to five times the amount that was actually necessary. The investigation concluded that the estimated loss incurred by the United Nations as a result of the above illegal activities was $1.5 million. Evidence was also obtained to support findings that one military officer of the same battalion had violated the national law of his country by taking bribes in his official capacity as a member of the selection panel in assigning posts to troops wishing to join the contingent. OIOS recommended that the Department ensure that the troop-contributing country take appropriate action against the officers concerned. Furthermore, OIOS recommended that the Department ensure that the officers concerned not be assigned to peacekeeping missions in the future and that appropriate action be taken against the contingent interpreters. The Department has implemented the majority of the OIOS recommendations issued in the case and, in particular, has repatriated the entire contingent from the Mission and has sought follow-up action against the senior officers from the concerned troop-contributing country.

20. Fuel management is a major risk area for the Organization, and pursuant to General Assembly resolution 60/259, OIOS conducted an audit of fuel management in 10 field missions.[8] The results of the audit will be summarized in a separate report to the General Assembly in the second part of the resumed sixty-first session.

[8] The 10 field missions were MINUSTAH, MONUC, ONUB, the United Nations Assistance Mission in Afghanistan (UNAMA), the United Nations Assistance Mission for Iraq (UNAMI), the United Nations Mission in Ethiopia and Eritrea (UNMEE), UNMIK, UNMIL, UNMIS and UNOCI.

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Investigations Task Force at the United Nations Interim Administration in Kosovo

21. The Investigations Task Force, a tripartite group comprised of OIOS, the European Anti-fraud Office (OLAF) and the Financial Investigations Unit of the United Nations Interim Administration Mission in Kosovo (UNMIK), is mandated to conduct investigations of publicly owned enterprises in Kosovo (Serbia). During the reporting period, task force investigations focused on fraud and corruption in the energy sector in Kosovo. Specifically, 13 fraud and corruption matters were identified at the Kosovo Electricity Company (KEK) for investigation. Three of those cases (see below) were provided to the Special Representative of the Secretary-General for his approval of the referral and for onward transmittal to the UNMIK Department of Justice for criminal investigation. Another case was referred to the European Union (EU) as it involved a staff member of the EU. Nine cases are under investigation. UNMIK has confirmed that the Special Representative approved and transmitted the three Investigations Task Force cases on KEK to the UNMIK Department of Justice for judicial action in December 2006.

22. The three cases referred to the Special Representative are as follows:

- Approximately $5.5 million of UNMIK and EU funds for the purchase of electricity from abroad were diverted to other bank accounts controlled by third parties.
- Unexplained transactions of more than $1.3 million (one million Euros) were identified in the account of a KEK employee with a regular monthly salary of less than one thousand dollars.
- Conditions exceedingly unfavourable to KEK in an agreement relating to the refurbishment of a hydropower station and the buy-back of energy between KEK and a Member State company were identified.

B. Procurement

23. Audits and investigations of procurement have identified serious deficiencies in procurement management, systems and processes. As a consequence of the report of the Independent Inquiry Committee on the oil-for-food programme and of the arrest and conviction of a United Nations procurement officer, a task force was established (see A/61/264 (Part I), para. 55) to investigate wrongdoing in all procurement matters wherever the Organization is engaged. Unless procurement recommendations are addressed with paramount concern, millions of dollars remain at high risk of misuse and waste.

24. Several of the cases mentioned in the present section are still under consideration by the Office of Human Resources Management. Where applicable, OIOS has made a special note of those cases. The staff members concerned should not be judged responsible until the matter has been fully adjudicated within the Organization's system of justice.

Procurement Task Force

25. Since June 2006, the Procurement Task Force has issued 11 reports. The reports detail significant findings of waste, abuse, negligence and other forms of

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mismanagement, as well as of fraud, in the establishment and execution of a number of high-value contracts between the Organization and various vendors to provide goods and services to United Nations peacekeeping missions. The contracts directly involved the following missions: the United Nations Mission in Ethiopia and Eritrea (UNMEE), UNMIS, UNMIL, MONUC, the United Nations Transitional Administration in East Timor (UNTAET), MINUSTAH and others. The Task Force has identified significant waste and/or fraud caused by the action of vendors and their agents and representatives, negligence, abuse and other forms of mismanagement, as well as some acts of fraud by certain officials within the Organization.

26. The Task Force initially focused its resources on investigating eight staff members placed on special leave with full pay in January 2006. The Task Force has issued nine reports pertaining to the eight staff members. Four of them served in peacekeeping missions; the others held responsibilities that included procuring goods and services for peacekeeping missions. The Task Force has recommended that three of the eight staff members be cleared of claims of wrongdoing, that one be referred for criminal prosecution and that the Organization address the issue of accountability for the other four for breaches of rules, and/or other forms of mismanagement. The staff member whose case was referred for criminal prosecution has since been dismissed by the Organization. The status of the four remaining staff members is still under consideration at the time of the present report.

27. The significant cases investigated by the Task Force are described below.

28. The Task Force continues to focus on a matter identified in the OIOS audit concerning the procurement of an air services contract for UNTAET in 2000 (PTF 6/06). The Task Force identified the existence of a scheme in which individuals presenting themselves as representatives of the vendor steered the contract to individuals who proceeded to overcharge the Organization for various services and to bill the Organization for services in fact not rendered. Considerable effort by the Task Force was exercised in this matter, which resulted in the identification of a sophisticated scheme to divert monies paid by the Organization by a circuitous route through various financial institutions throughout the world. The Task Force has identified false and fraudulent documents submitted to the Organization to justify the overpayment of at least $1.4 million in connection with the air services contract. It also found that two senior officials of the United Nations failed to exercise proper scrutiny of the transaction. Officials of the Member State concerned have indicted four individuals in the scheme. The Task Force has been unable to conclude the matter owing to the absence of the power to compel Member States to assist in the investigation.

29. Following another investigation, the Task Force issued a report dated 27 July 2006 (PTF 26/06) pertaining to one of the eight staff members mentioned above, which identified an extensive scheme by agents and representatives of a large telecommunications firm to defraud the Organization. The scheme was established by the company and its agents, and with the assistance of a United Nations Procurement Officer. The Task Force investigation found that the Procurement Officer had engaged in a series of unauthorized acts in an effort to provide the company with an advantage in the procurement exercises and deflect criticism of the company when allegations of corruption and mismanagement surfaced. The Task

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Force found that the Procurement Officer had favoured this company in a number of contracts with an aggregate value in excess of $100 million, including a $27 million contract to provide manpower support in the Organization's various missions. Further, the Task Force determined that representatives of the company repaid the Procurement Officer for his preferential treatment by providing him with two valuable pieces of Manhattan real estate worth in excess of $1.5 million at a price below market rate, and by bestowing other gifts upon him.

30. In response, the Organization charged the procurement official with misconduct and subsequently dismissed him. Several vendors identified by the Task Force that had engaged in misconduct and fraud were removed from the vendor roster. The Organization also referred the matter to the United States Attorney's Office for the Southern District of New York, which has charged the Procurement Officer with criminal offences. The prosecution was based principally on evidence and information gathered and reported by the Task Force. The vendor's principal agent pleaded guilty to the conspiracy identified by the Task Force, and was subsequently charged by the United States Attorney's Office for the Southern District of New York. The agent acknowledged in open court that he had provided the procurement official with the valuable real estate at a price below market rate in return for favourable treatment of the company by the Procurement Officer in the contract-bidding process.

31. The Task Force also reported in December 2006 (PTF 7/06) on significant corruption in the procurement of food rations for UNMIL and UNMEE, and found that the procurement exercises for those contracts were tainted by a well-planned scheme to steer the contract towards a particular vendor. The Task Force reported that a United Nations staff member helped the representative of the vendor and several of its officials to corrupt the procurement process through the replacement of bid pages of the company's proposal after the deadline and actual submission of the bids. The Task Force concluded that a procurement official provided the company with financial information from competing bids after the bids were submitted and closed, and that he allowed the company to lower its projected costs to win the contract bid. Once that bid was achieved, the procurement official permitted the company to amend the contract to reap additional sums of money unnecessarily and improperly.

32. The Task Force found that the above-mentioned criminal scheme was facilitated by the failure of a senior official and two other staff members in supervisory positions to exercise due care and specifically, to scrutinize contractual documents properly. The Task Force has recommended that appropriate action be taken by the Organization.

33. The Organization has since paid the company in excess of $130 million under the contracts, of which approximately $860,000 could be determined by the Task Force at present as financial losses. The Task Force has recommended that the Organization make a referral to prosecuting authorities in the United States of America, the United Kingdom of Great Britain and Northern Ireland and Italy and consider seeking civil damages. In an initial response, the Organization has suspended two companies from the vendor register.

34. In addition, the Task Force has focused a great deal of attention on several cases involving allegations of procurement irregularities in UNMIS (PTF 18/06, 29/06, 20/06). The Task Force has reviewed several procurement exercises and

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found violations of procurement and financial rules by the Mission's staff, including the Mission's senior management, in the following instances: (a) the improper use of a contract to purchase fuel for a troop deployment, resulting in the Organization incurring an obligation of $1.3 million; (b) the purchase of a system of solar runway lights for a local airport; (c) another matter in which a scheme existed between an aviation officer, a procurement official and the Chief Executive Officer of a vendor to steer the solar runway lights contract (and other contracts) to the vendor; and (d) the purchase of other items for the Mission in breach of financial and procurement rules. The Task Force identified breaches of United Nations Regulations and Rules and/or other forms of mismanagement by four staff members, two of whom engaged in criminal acts and who have since left the Mission. Referral of these two former Mission staff members matter to prosecutorial authorities was recommended. The Task Force also identified significant waste of United Nations resources in the Mission. A later OIOS audit issued in October 2006 revealed several cases of mismanagement and waste, as well as fraud indicators to be further investigated by the Task Force (see paras. 33-38).

35. In response, the Organization has removed two vendors from the vendor register. The Organization continues to contemplate what action, if any, it will take against two senior staff members in the Mission who exercised supervisory roles in several of the matters in which failings were identified.

Procurement audits

36. In addition to UNMIS procurement irregularities brought to light by the Procurement Task Force, OIOS audits conducted during the period have identified serious weaknesses in UNMIS procurement management.

37. An audit of procurement management in UNMIS (AP2006/632/08) revealed serious control weaknesses and identified a number of potential fraud indicators as well as cases of mismanagement, wasteful expenditures, overpayments to vendors and questionable procurement practices. For example, the Mission followed the practice of soliciting bids from a short list of vendors, but the criteria for short-listing were often not transparent. Potential bidders were not given sufficient time to submit their bids, and the timelines for the submission of bids and proposals as indicated in the Procurement Manual were not being observed. Those practices restricted the competition and increased the costs to the Mission. For example, a $17 million contract for the supply of gravel was awarded on a "sole bid" basis at what appeared to be exorbitant prices.

38. The Mission incurred an estimated $1.2 million in unnecessary expenditures for hotel accommodations as a result of making block bookings of hotel rooms for military personnel and underutilizing them. Those expenditures could have been avoided or significantly reduced if the Mission had included an appropriate clause in the contract to allow UNMIS to cancel the booking for unwanted rooms by giving adequate prior notice.

39. The audit found that the Mission could enjoy cost savings of an estimated $9 million over a two-year period by obtaining a licence from the host Government for self-clearance of imported goods with the local customs authorities. However, to date, UNMIS has been unsuccessful in obtaining that clearance from the Government of the Sudan. In addition, control weaknesses in the administration of

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contracts for inland transportation need to be addressed to avoid losses to the Mission through the use of uneconomical contractors.

40. Other cases of waste found by the audit included the unnecessary expenditure of $50,000 for the purchase of inferior or obsolete digital cameras, payment of $50,000 towards goods destroyed in transit while they were under the vendor's responsibility and the unnecessary expenditure of $57,000 for the lease of a warehouse that was never used.

41. The audit also identified a number of potential fraud indicators and cases of mismanagement and waste that required further examination through an in-depth inquiry to determine if fraud had occurred and to assign accountability for irregularities, waste and mismanagement. UNMIS accepted most of the OIOS recommendations and indicated that procurement planning had considerably improved and that controls had been strengthened to ensure compliance with established procurement procedures. UNMIS took immediate action to recover overpayments amounting to $315,000, based on the audit findings, from the concerned contractors. OIOS awaits further information from the Mission, the Department of Management and the Department of Peacekeeping Operations on the steps taken to address accountability for the irregularities, waste and mismanagement identified by the audit.

42. Following a horizontal audit of the management of rations contracts conducted in five peacekeeping missions,[9] (see A/60/346 and Corr.1), the Office of Internal Oversight Services conducted a subsequent audit of rations management at UNMIS (AP2005/632/04). OIOS found that the Mission had been receiving rations supplies from a vendor since May 2005, based on a letter of award for a proposed $201 million contract, even though a formal contract had not been signed at the time the audit ended in December 2005. In the opinion of OIOS, the absence of a formal contract exposed the Organization to significant risks of possible disputes and disagreements, with the resultant financial implications.

43. The audit also identified a number of issues that required follow-up by the Department of Management at the Headquarters level and by UNMIS at the Mission level. They include the following:

- An incorrect projection of the cost of water to be supplied under the rations contract was issued. More specifically, the Procurement Service's presentation to the Headquarters Committee on Contracts understated the commitment arising from the proposed rations contract by $17 million.
- UNMIS had agreed to allow a contractor to use UNMIS aircraft to deliver rations to the Mission. In turn, the contractor would charge the Mission a lower rate for the cost of the rations. However, the OIOS audit showed that the cost of the flights which took place between September and October when there were fuel shortages in Sudan, was greater than the revised cost of the rations by $297,000.
- The delay of four months in testing and certifying the suitability of water produced by a contingent's water purification plant resulted in avoidable expenditures amounting to $963,000 paid to a contractor. The Department of

[9] MONUC, the United Nations Mission in Sierra Leone (UNAMSIL), UNMEE, UNMIL, the United Nations Mission of Support in East Timor (UNMISET).

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Peacekeeping Operations commented that an UNMIS inquiry into this matter concluded that the troop-contributing country should reimburse the cost incurred by the Mission.

- The Mission paid $839,000 to the vendor for warehouse operations even though the warehouses were neither complete nor operational.
- Poor storage of composite rations packs obtained from UNMEE and the United Nations Logistics Base (UNLB) resulted in a loss of $105,000. Overpayments of $34,000 were also made to the supplier owing to computation errors.

44. UNMIS accepted most of the OIOS recommendations and initiated action to implement them. However, a number of critical recommendations were not accepted by the Mission and by the Department of Management. OIOS has reiterated those recommendations and continues to pursue them.

45. The OIOS audit of procurement in MINUSTAH (AP2004/683/02) identified 12 procurement actions involving a total expenditure of $9.1 million, including six cases for leasing premises to accommodate troops, office space and warehouse facilities at a cost of $6.35 million, that were not carried out in accordance with established procurement procedures. Requisitioning officers performed purchasing activities without involving the MINUSTAH Procurement Section, in breach of the delegation of authority for procurement which is based on the segregation of requisitioning and purchasing functions. The preceding cases were also characterized by the lack of competitive bidding, which increased the risk of uneconomical purchases and fraudulent activities. MINUSTAH subsequently took a number of steps to strengthen internal controls and ensure that procurement actions were undertaken in conformity with the provisions of the Procurement Manual.

46. In UNOCI (AP2005/640/03), the lack of a formal acquisition plan for the Mission contributed to a number of problems such as ex post facto submission of procurement actions for review by the Local Committee on Contracts, excessive use of "immediate operational requirement" requests and direct purchases without competitive bidding. Contract awards were split with a view to keeping the dollar amount below the level that would require submission to the Committee, which not only violated the delegation of procurement authority but also compromised the Committee's oversight role. Internal controls in the area of contract management need to be strengthened to ensure that the contract ceiling is not exceeded without prior authorization. Many of the above problems were attributable to the difficulties experienced in filling critical posts. UNOCI subsequently initiated remedial measures to address the weaknesses identified by the audit.

47. An audit of procurement at UNAMI (AP2005/812/01), showed that the Mission failed to exercise due care while developing solicitation documents and evaluating the technical and financial proposals, and in dealing with the best and final offers. OIOS attributed those problems to the lack of qualified procurement staff in the Mission and to limited support provided by the United Nations Procurement Service, in this case due to resource constraints. The Mission also failed to seek the prior clearance of the Assistant Secretary-General for Central Support Services as the authorized official through the Committee on Contracts before entering into the contract. In addition, major violations of established procurement procedures in the procurement of T-wall barriers for the Mission's

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premises in Baghdad, involving a $793,000 contract with a vendor whose credentials were subsequently found to be questionable. OIOS made a number of recommendations to strengthen the procurement process, which were accepted by UNAMI and are being implemented.

48. In ONUB (AP2005/648/09), OIOS found that an external consultant had been assigned the regular functions of a Chief Procurement Officer. That individual had been representing the Mission on procurement-related matters, supervising staff members, and signing contracts, in contravention of rule Nos. 105.4 and 105.5 of the Financial Regulations and Rules of the United Nations as well as of ST/AI/1999/7 governing the use of individual contractors and consultants. The Mission subsequently appointed a United Nations staff member as its Chief Procurement Officer and implemented necessary measures to address the other problems identified by the audit, such as the following: (a) establishing a vendor review committee; (b) preparing annual procurement plans; (c) using generic specifications instead of brand names in requisitions; and (d) strengthening internal controls to ensure that the use of expedited procurement procedures was restricted to exigencies.

Compliance with bid-opening procedures

49. OIOS quick-impact audits in 10 field missions (AP2006/683/12, AP2006/620/16, AP2006/648/12, AP2006/812/07, AP2006/654/04, AP2006/624/11, AP2006/650/12, AP2006/626/19, AP2006/632/12 and AP2006/640/16)[10] showed a low level of compliance with the established bid-opening procedures as set out in the Procurement Manual. Such non-compliance increases the risk of irregularities and compromises the integrity of the bidding process. Common weaknesses found among the 10 missions included the following: (a) the lack of an adequately secured area for the receipt of bids; (b) failure to consistently establish tender opening committees; (c) the date and time of the receipt of bids were not always retained on file; and (d) the inconsistent use of the solicitation abstract sheet for recording the bids. The audits also indicated the need for improved filing systems to enable easy retrieval of procurement files. All missions covered by the audits have already started implementing measures to rectify the deficiencies noted in the bid-opening process.

C. Asset management

50. Asset management is an important support function that enables peacekeeping activities to be carried out effectively and efficiently. Audits in logistics and property management issued several recommendations to make improvements in the use of the Organization's assets.

Strategic deployment stocks

51. The audit of the strategic deployment stocks (AP2004/600/02) in the Department of Peacekeeping Operations highlighted several programme weaknesses, including the following:

[10] The 10 field missions were MINUSTAH, MONUC, ONUB, UNAMI, the United Nations Peacekeeping Force in Cyprus (UNFICYP), UNMEE, UNMIK, UNMIL, UNMIS and UNOCI.

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- Policies and procedures for managing strategic deployment stocks were not updated and adjusted in a timely manner. For example, the accounting guidelines for the stocks were issued two years after the concept's launch, resulting in the incomplete recording of transactions and an additional workload for maintaining, updating and reconciling the records of the stocks.
- Galileo, a $3.4 million automated inventory system, did not track the deployment, replenishment and reconfiguration of the strategic deployment stocks and was not integrated with the accounting and procurement systems. The Department noted that the Galileo system tracked the movements and physical status of the stocks and that an interim tracking tool had been developed to monitor their replenishment. Based on the experience gained with that tool, user requirements had been drawn up and presented to the Galileo Development Group to assist in developing a new Galileo module to centrally monitor and account for strategic deployment stocks.
- Neither performance indicators nor evaluation tools were developed to measure the effectiveness of the deployment of strategic deployment stocks.

The Department accepted the OIOS recommendations and initiated action to implement them.

Property management

52. An audit of property management at the United Nations Peacekeeping Force in Cyprus (UNFICYP) (AP2006/645/01) found that the Mission needed to strengthen the existing systems and procedures to ensure accountability for assets and the reliability of data in Galileo. In the absence of an established mechanism to coordinate the accounting of assets held at various user locations, there were discrepancies between asset records and the results of annual physical verifications. Furthermore, the disposal module of the Galileo system had not yet been implemented, and the field assets control system (which was a precursor to Galileo) was being used for processing asset disposals. UNFICYP indicated that the deficiencies in Galileo were being addressed in consultation with the Department of Peacekeeping Operations and the United Nations Logistics Base in Brindisi. According to the Department, the Galileo write-off disposal module was subsequently implemented in UNFICYP, in November 2006.

D. Human resources management

53. The Office of Internal Oversight Services considers human resources management to be an important area as it directly affects the lives and interests of staff members. Past oversight activities have identified a number of risks in this area. For example, staff rules and regulations can be subject to misinterpretation; staff entitlements have proved vulnerable to fraud; and recruitment practices have, in a number of cases, been deemed by OIOS to be biased and even mismanaged. The Department of Peacekeeping Operations stated that it shared the views of OIOS regarding the importance of and the risks inherent in human resources management. To help mitigate those risks, the Department has taken such steps as introducing a section for quality assurance and information management.

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Mission appointments through the Department of Peacekeeping Operations Succession Planning Panel

54. The audit of mission appointments (AP2006/600/09) found that the Succession Planning Panel, which was established by the Department of Peacekeeping Operations in 2004 to review the skills, competencies and experience of each candidate for key administrative positions in field missions, could be used as an effective mechanism for the technical clearance of senior mission support staff appointments. However, the Panel does not appear to be as effective as it could be. For example, documentation has been insufficient, and the Panel recommended only one candidate for mission selection in 84 of the 104 cases processed in 2004 and 2005. According to the Department, its ability to present more than one candidate for senior support positions was severely hampered by the lack of qualified and experienced expert staff within the Organization to fill such positions. The Department of Management and the Department of Peacekeeping Operations have not ensured the consistency, timeliness and adequate documentation of the required designation of staff with significant fiduciary responsibilities for new posts. The Department of Peacekeeping Operations indicated that the lack of documentation does not signify the presence of bias or mismanagement in the selection of candidates. Nevertheless, both departments are in the process of implementing OIOS recommendations related to the Succession Planning Panel.

Mission subsistence allowance rates

55. Pursuant to General Assembly resolution 59/296, which requested the Secretary-General to ensure that OIOS continues to audit mission subsistence allowance rates to ensure their reasonableness in comparison with the actual subsistence costs in the various mission areas and with the daily subsistence allowance set by the International Civil Service Commission in the same areas, OIOS conducted an audit of mission subsistence allowance rates (AP2006/600/10). The audit found that there was no clear policy or set of procedures identifying Department of Management and Department of Peacekeeping Operations responsibilities or mechanisms for monitoring the mission subsistence allowance process. In the opinion of OIOS, the Department of Peacekeeping Operations should be responsible for monitoring the use of established mission subsistence allowance rates to ensure compliance with applicable policies and procedures, as it provides the administrative support to all peacekeeping and special political missions. The Department of Management and the Department of Peacekeeping Operations accepted all recommendations.

Recruitment of field staff

56. OIOS audits of vacancy rates in MONUC, ONUB and UNMIL found that delays in the recruitment of international staff were mainly attributable to the time taken by the Department of Peacekeeping Operations' Personnel Management and Support Service to identify suitable candidates and deploy them to missions. In MONUC, for example (AP2005/620/04), the vacancy rate of international staff was consistently above 30 per cent, and the average time taken for filling a vacancy was approximately 200 days. In ONUB (AP2005/648/10), six critical posts (including the posts of Chief Security Officer, Chief Public Information Officer and Chief Procurement Officer) had remained vacant since the Mission's inception in 2004

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and had not yet been filled as of June 2005. The Mission also had difficulties in filling the posts of national professional officers.

57. In UNMIL (AP2005/626/08), there were considerable delays at the Mission level in acting upon the shortlists of candidates received from the Personnel Management and Support Service, and requests for filling 10 critical vacancies were initiated by the Mission only in January 2005 even though the Mission was established in September 2003. In the absence of documentation concerning the comparative analysis of the candidates' qualifications, there was insufficient evidence of transparency and objectivity in the selection decisions made by programme managers. The Mission agreed to implement appropriate remedial measures. The Department of Peacekeeping Operations also commented that it had undertaken a number of initiatives to better manage the recruitment and staffing processes.

Casual daily workers

58. Casual daily workers in MONUC (AP2005/620/18) assisted the Mission in meeting their operational requirements for unskilled and semi-skilled labour on a regular basis. However, the employment of casual daily workers for prolonged periods violated the applicable local labour laws as well as United Nations guidelines. The Mission is in the process of reviewing a number of options for outsourcing labour services and minimizing the use of casual daily workers.

E. Programme and project management

59. In recent years the range of peacekeeping activities has expanded from military operations to other substantive areas, including civil and political affairs, rule of law, human rights and humanitarian activities. Inspections and audits in programme and project management highlighted areas to help programme managers to plan and deliver programmes in the most effective way.

Disarmament and demobilization programmes

60. During the period, OIOS conducted audits of disarmament and demobilization programmes in UNMIL and MONUC. In UNMIL (AP2005/626/07), the audit revealed weaknesses in internal controls, such as inadequate control over programme assets and payments of transitional safety allowances, and in monitoring and evaluation systems. UNMIL has agreed to implement the recommended measures to strengthen identified weaknesses. In MONUC (AP2005/620/08), OIOS identified additional weaknesses, including the following: (a) the ad hoc manner in which the Mission developed its plans (which had never been approved by the Head of Mission); (b) the lack of a systematic and structured approach to coordinating disarmament and demobilization activities with other sections and components within the Mission; (c) the lack of plans and resources for the public information component of the programme; and (d) the need for an evaluation of the programme which had been in operation for more than three years. MONUC did not accept most of the OIOS recommendations, generally asserting that existing practices were adequate and that the OIOS proposed oversight structure for disarmament and demobilization was not effective. OIOS has reiterated the recommendations and continues to pursue them.

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Trust funds

61. Trust funds in UNAMA (AP2005/630/08) had received contributions totalling $35 million from various donors for implementing projects relating to emergency relief, recovery and reconstruction in Afghanistan. By the end of June 2005, the Mission had spent $22 million on 150 projects, of which 78 were completed and 69 were ongoing, while three projects had been terminated. The audit made recommendations for improving the administration of the trust funds, as follows: (a) refining the roles and responsibilities of the trust fund committee, the programme support unit and the trust fund unit; (b) ensuring that implementing agencies were accountable for the funds disbursed by the Mission; and (c) streamlining the process for the release of funds to implementing agencies. The audit also identified improper payment of allowances totalling $150,000 to staff of the Office for the Coordination of Humanitarian Affairs. OIOS has not received proof of recovery of payments from the concerned persons. The Mission is in the process of implementing the OIOS recommendations.

Quick-impact projects

62. OIOS conducted audits of quick-impact projects implemented by UNMEE, UNMIL, UNOCI and MONUC. At UNMEE (AP2005/624/03), OIOS found that most of the recommendations made in its previous audit report of July 2002 had not been implemented. The lack of standard operating procedures, combined with inadequate management attention and involvement, had resulted in questionable disbursements, delays in project implementation and lack of accountability. OIOS continues to follow up with UNMEE on the implementation of its outstanding recommendations.

63. In UNMIL (AP2005/626/10), there were control weaknesses that led to non-compliance with the guidelines for quick-impact projects, particularly with regard to the review of project proposals prior to the approval and release of funds. The Mission needed to intensify its efforts to clear the backlog of advances paid to implementing agencies and ensure the recovery of funds, wherever necessary. In addition, the creation of a database showing the performance of the various implementing agencies would enable the Mission to ensure that non-performing or poorly performing agencies did not receive additional funding. UNMIL has initiated the necessary steps to implement OIOS recommendations. The Department of Peacekeeping Operations further commented that it is developing a comprehensive policy on quick-impact projects, which will cover resource allocation, project selection and duration and the roles of missions and other participants in managing and implementing those projects. The policy will also consider the recommendations of the oversight bodies relating to quick-impact projects.

Rule of law

64. An audit of the rule of law programme at MONUC (AP2005/620/12) found that the Mission's Rule of Law Unit needed to define its role, develop a workplan that included goals and time frames for implementation and adopt a concept of operations that was consistent with its mandated responsibilities. Furthermore, there was a need to develop terms of reference for ensuring coordination with other entities involved in the programme, including procedures for defining goals, assigning responsibility and tracking and reporting on the progress made. MONUC

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has undertaken the implementation of OIOS recommendations in this regard. According to the Department of Peacekeeping Operations a concept of operation was developed, which was superseded by a three-year strategic plan. A workplan has been developed consistent with the plan that identifies time frames and officers responsible for completion of tasks.

Integrated peacekeeping training

65. In an inspection to assess the effectiveness of integrated training for military, police and civilian personnel of peacekeeping operations (MECD-2006-001), OIOS noted a sound and current training strategy with policies and supporting guidance. To enhance peacekeeper training, OIOS recommended greater cooperation among civilian, military and police components and career development planning. The inspection further stressed the importance of the following:

- Improved coordination with the international training community at large.
- Building closer partnerships between the Department of Peacekeeping Operations, Member States and peacekeeping training institutions.
- Formal recognition and/or accreditation of training courses and institutions.

The Department has accepted the preceding recommendations.

Military involvement in civil assistance in peacekeeping operations

66. A review of military involvement in civil assistance in peacekeeping operations (A/60/588) found that the quality and effectiveness of military support to civil assistance varied greatly and in some instances was counterproductive. The report underscored the need for coherent planning, strategy development and thorough consultation and coordination with the humanitarian organizations and agencies in theatres of operation to avoid duplication and/or conflicting activities. The report also noted the need for adequate resources, including qualified personnel, to make military involvement more effective and efficient. The Department of Peacekeeping Operations accepted and is in the process of implementing OIOS recommendations.

Information management in peacekeeping operations

67. In a review of the effectiveness of information management in peacekeeping operations (A/60/596), OIOS underscored the need for comprehensive and effective information management for informed decision-making and for ensuring security and success in peacekeeping operations. The review noted that the assets for effective information management required focused configuration and that more coordination was required between the peacekeeping force and civilian elements in public information and information security. A formal institutional mechanism should be set up for passing information from Member States to peacekeeping operations, including inter-mission information sharing, and a new technology should be introduced for information collection and analysis. The Department of Peacekeeping Operations is in the process of implementing OIOS recommendations.

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Review of the results-based budgeting framework

68. At the request of the Controller, OIOS is currently undertaking a review aimed at assessing the effectiveness and efficiency of the results-based budgeting framework for the achievement of results in peacekeeping operations. The review stems from the Department of Peacekeeping Operations' application of the United Nations approach of managing processes and resources for results as the basis of assessing performance, establishing a framework with clear objectives linked with a set of activities (outputs) and performance indicators with which it assesses programme performance at the end of each year. The review aims to assess the extent to which the results-based budgeting framework is effective and efficient in measuring the achievement of results and will cover all phases of the framework as applied to peacekeeping operations.

III. Management consulting activities

Benchmarking organizational integration and process improvements

69. At the request of the Department of Peacekeeping Operations, the internal Management Consulting Service of the Monitoring, Evaluation and Consulting Division, OIOS, prepared a comprehensive benchmarking study on organizational integration. Showing that integration is not achieved through structural measures alone, the study highlighted the need to focus on people, processes and systems in order to realize performance improvement. Effecting organizational change requires dedicated change management support, and improving business processes is the key organizational enabler to enhance performance. Lean Six Sigma is the current industry standard for process improvement designed to reduce waste and enhance output quality. The Management Consulting Section organized a Lean Six Sigma executive overview workshop for the Department and related entities, and conducted a demonstration project to test Lean Six Sigma in the peacekeeping environment. The project resulted in a significant reduction of process lead time, and further support for process improvement is in preparation.

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Annex

Review of methodology for the allocation of resident auditors to peacekeeping missions

1. In recent years there has been a major increase in the number of missions where resident auditors are deployed, growing from 3 missions in 1998 to 11 currently. Mission budgets have also increased to the point where they are the major expenditure of the Organization. The increasing number of missions has resulted in a corresponding increase in the number of resident auditors deployed to those missions to provide adequate oversight coverage. The General Assembly, by its resolution 60/268, requested that the Office of Internal Oversight Services undertake the task of refining its methodology for allocating resident auditors to peacekeeping missions, taking into account the risk and complexity of the operations of individual peacekeeping missions, and to report thereon to the Assembly.

2. The present formula for allocating resident auditors to peacekeeping and special political missions was proposed in the Secretary-General's report on the experiences gained from the use of resident auditors at peacekeeping missions (A/55/735) and endorsed by the Advisory Committee on Administrative and Budgetary Questions in its report on the financing of the United Nations Observer Mission in Sierra Leone (UNOMSIL) and the United Nations Mission in Sierra Leone (UNAMSIL) (A/54/647). Under this formula, OIOS can request the establishment or addition of a resident auditor post at the P-3 or P-4 level in peacekeeping missions for each $100 million of annual budgeted expenditure, as well as the assignment of an auditing assistant at the GS-6 or GS-7 level at those missions with annual budgets exceeding $200 million. It has also been the practice within the formula endorsed by the Committee that for large missions, the chief resident auditor is appointed at the P-5 level. Currently, there are a total of eight OIOS resident audit offices headed by a chief resident auditor at the P-5 level.[a]

A. Experience in applying the formula for the allocation of resident auditors

3. The Office of Internal Oversight Services has reviewed its experience in applying the formula in the context of the risk and complexity of the individual peacekeeping missions. The formula has provided simplicity in the guidance for allocating resident audit resources to missions, and in practice it has enabled the resident auditors to cover most high-risk areas at peacekeeping and special political missions. OIOS has used the formula together with detailed risk assessments conducted annually at each peacekeeping mission, as described in the section below, to determine its continuing requirements for resident auditors. The current deployment of resident auditors based on applying the formula is shown in the table. In addition, resident audit offices will be added at the United Nations Integrated Mission in Timor-Leste (UNMIT) and UNIFIL in 2007.

[a] In MINUSTAH, MONUC, ONUB, UNMIK, UNMIL, UNMIS, UNOCI and the Middle East audit office.

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Table
Resident auditor deployment in field missions
(as of 30 June 2006)

Mission	*Professional staff*	*General Service staff*	*Local staff*	*Total*
MONUC	6	2	1	9
UNMEE	1		1	2
ONUB	3	1		4
UNMIL	6	1	1	8
UNAMA	1		2	3
UNAMI	1	1	1	3
UNOCI	3	1	1	5
UNMIK	3		1	4
Middle East	2	1		3
UNMIS	8	1	1	10
MINUSTAH	3	1	1	5
Total	**37**	**9**	**10**	**56**

4. A recent study by the Joint Inspection Unit of oversight lacunae in the United Nations system (JIU/REP/2006/2) reported, inter alia, that for 19 United Nations entities included in the study, the annual resources overseen per auditor ranged from $28 million to $272 million, as compared with a suggested range of from $60 to $110 million per auditor. OIOS notes that the present formula for allocating resident auditors is within the upper range of budgeted expenditures per auditor as proposed by the Unit. OIOS also believes that further refinement of the formula would not be practical, as the modalities already exist for adjusting the formula for risk and complexity considerations at individual peacekeeping missions.

Risk assessment approach for audit planning

5. In principle, OIOS deploys the resident auditors in line with the formula, but may from time to time request an adjustment of the formula where there are significant high-risk activities and mission complexities. For example, when the mandate of a mission encompasses large and complex substantive activities or a large trust fund is managed by a mission, it may be appropriate to deploy one or more additional resident auditors. Conversely, when there are factors in a mission that represent a lower-risk environment, OIOS may request fewer resident auditors than would be called for by the formula.

6. In accordance with the International Standards for the Professional Practice of Internal Auditing (Institute of Internal Auditors) that OIOS follows, audit plans should be based on assessment of risks. OIOS has adopted a common risk-assessment methodology in the audit planning process. The methodology draws on leading practices from international accounting firms and other methodologies to ensure that risks identified can be assessed consistently between and within organizations. Key elements of the methodology include identifying strategic and operational risks (the threat that an event or action will adversely affect the United

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Nations ability to achieve its organizational objectives and execute its strategies successfully); the Office of Internal Oversight Services understanding of the organization's objectives, strategies, processes, risks and controls; an evaluation of the controls already in place; and the professional judgement of the auditors concerned.

7. The risk assessment determines, for each auditable activity: (a) the likelihood or probability that an event or risk could occur *without* considering the effect of risk mitigation actions and the strength of internal control; (b) the impact or the exposure to the entity from a reputation, financial or mandate perspective should the event or risk occur; and (c) the residual strategic and operational risk, that is, the risk remaining after considering the mitigating influence of the control environment and risk-management techniques. A high residual business risk indicates that the identified risk usually has a high likelihood of having a significantly adverse impact on the United Nations ability to attain its goals. A low residual strategic and operational risk that is the result of a large shift in probability or impact or both indicates that management has a high degree of reliance on controls or risk-management techniques.

8. On the basis of the risks identified and rated in the risk assessment exercise, including the risk of fraud and misappropriation, threats to the physical security of United Nations staff and facilities, and the like, the audit plan is prepared, allocating resident audit resources to high risks first, then to medium risks for the second year of the plan and continuing thereafter until all significant risks are covered.

9. The risk-assessment process has been designed to be dynamic, and resident auditors update their plans on an ongoing basis to reflect the changing risk environment of the missions. Mission management has also been very receptive to the risk-assessment methodology. For example, in UNOCI and UNMIL, the risk assessment was widely distributed to all section chiefs and has become a cornerstone of their internal control assessment and risk management.

B. Achievements resulting from the deployment of resident auditors

Adding value to the Organization

10. Recently, peacekeeping mission budgets have increased significantly, with a total budget for the 2005/06 financial year of approximately $5 billion. Resident auditors are responsible for providing internal audit for most of those expenditures, and there have been significant changes in the resident audit function. While resident auditors previously had a relatively low profile, OIOS has sought to increase both their visibility and value, which has been achieved in a number of ways, as explained below.

11. Firstly, the resident auditors' profile has increased significantly through their participation in the senior management groups of most large missions. In most missions, the Chief Resident Auditor is now considered a valuable resource for the head of mission and is increasingly called on by management for ad hoc reviews and advice. This represents a major change in the culture of missions. For example, in ONUB, the Chief Resident Auditor played a vital role in assisting senior management of the Mission with the implementation of a strategic management process. Similarly, in UNMIL, the Chief Resident Auditor assisted mission

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management with the implementation of a risk-management programme. It should be emphasized, however, that such activities are not carried out at the expense of the independence of the resident auditors, who are part of OIOS.

12. Another benefit of the resident auditor network is that it provides a structure of auditors at missions. That structure is available to conduct horizontal audits of systemic areas of mission operations, such as discipline, security, rations and fuel management, and also serves as a pool of talent that can be called upon at times when there is a surge requirement, such as the comprehensive management audit of the Department of Peacekeeping Operations requested by the General Assembly (A/60/717).

More effective use of peacekeeping audit staff at United Nations Headquarters

13. Prior to the development of the formula for deploying resident auditors to missions, teams from United Nations Headquarters were sent to audit missions with no resident auditors and to supplement coverage at missions where very few resident auditors were assigned. Now, auditors at Headquarters are in a better position to take responsibility for audits of the activities of the Department of Peacekeeping Operations at Headquarters.

14. As a result, it is now possible to increase audit coverage of the Department and other entities at Headquarters involved in peacekeeping operations, such as the Office of Human Resources Management and the Procurement Service. In the view of the Office of Internal Oversight Services, that coverage is vitally important since many of the high-risk areas in field operations stem from the policies and practices at Headquarters. For example, OIOS coverage has recently included a follow-up review of the use of letters of assist, which are used to procure specialized goods and services from Governments, and an audit of the Department's policies and procedures for recruiting international civilian staff for field missions (A/59/152). In particular, OIOS views procurement activities at Headquarters, such as systems contracts, as being high-risk areas worthy of additional audit coverage.

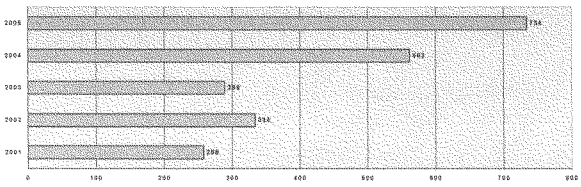
Audit recommendations and their financial implications

15. The figure shows the general increase in the number of audit recommendations issued by resident auditors over the last five years. In the view of the OIOS, the quality and impact of the audit recommendations have also increased.

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Figure
Audit recommendations issued by resident auditors, 2001-2005



16. The financial impact of recommendations issued by resident auditors and implemented during the period also increased, from $361,000 in 2001 to $22.8 million in 2005. The recommendations related to recoveries, expenditure reductions, additional income, budget reductions and loss or waste of resources.

17. The recommendations have also been instrumental in improving the effectiveness of peacekeeping operations. For example, the global audit of field security management (A/59/702) made a number of recommendations aimed at improving the security of the Organization's personnel in the areas of security structures, both at Headquarters and in the field; security plans and policies and their implementation; coordination with the host Government and the external military force and between United Nations agencies; and physical security. OIOS plans to conduct a horizontal follow-up audit of security in 2007 to determine the status and impact of those important recommendations.

C. Conclusions

18. The Office of Internal Oversight Services believes that the present formula for allocating resident auditors has been an effective mechanism for determining the auditing requirements of peacekeeping and special political missions, and that together with the Office of Internal Oversight Services annual in-depth risk assessments, it serves as a benchmark for the cost, risk and complexity of individual peacekeeping and special political missions. OIOS proposes therefore to continue to use the formula as guidance in allocating resources. The primary determinants of resource levels for the Office will be as proposed in the report on proposals for strengthening OIOS.[b] However, OIOS will take into account the risk profile of the individual missions when determining the number and level of resident auditors required at each mission. That may result in an increase or decrease in the resident auditor resources requested in future OIOS budget submissions for the support account.

[b] A/60/901.

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Review of the efficiency of the administrative and financial functioning of the United Nations

Report on the activities of the Office of Internal Oversight Services

Report of the Office of Internal Oversight Services on the activities of the Procurement Task Force for the 18-month period ended 30 June 2007

Summary

The Procurement Task Force was established in January 2006 within the Office of Internal Oversight Services to address fraud and corruption in the procurement function in the United Nations, both at Headquarters and in the various peacekeeping missions. During the 18-month period ending 30 June 2007, the Task Force completed 63 investigations and issued 22 reports. The Task Force has identified and reported on more than 10 significant fraud and corruption schemes in cases with an aggregate contract value in excess of approximately $610 million, which resulted in an approximate misappropriation of resources in excess of $25 million.[1] This figure does not include the intangible cost to the Organization for the compromise of the integrity to the contract selection and execution processes, which might be considered legal damages in courts of law in certain jurisdictions.

At the initial stage, the Task Force focused on the investigations of the eight staff members placed upon special leave with pay following the decision by the administration. During the course of these investigations, the Task Force concluded a case of an elaborate scheme by one of the eight staff members, former procurement official Sanjaya Bahel, and the representatives of the vendor Telecommunications Consultants of India Ltd. (TCIL), to steer approximately $100 million in contracts to the company. The case of Mr. Bahel was referred for criminal prosecution and Mr. Bahel was found guilty of bribery, wire fraud, and mail fraud in the United States District Court, Southern District of New York.

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While six of the eight staff members were charged with misconduct, five cases remain under active consideration at the time of this writing. Some of the investigations of these cases are discussed in general terms in the present report for the purpose of providing the General Assembly with an overview of the work of the Task Force. The intention in these summaries is not to report on the cases of these individuals, but to provide an overview of the nature of the investigation and the efforts of the Task Force in the reporting period. In that regard, in these active matters the findings of the Task Force should be regarded as those of the Task Force, and not a final determination by the administration or the Organization. In the matters which involve the staff members whose cases are pending consideration, misconduct on the part of the staff member concerned should not be presumed. Rather, it is the duty of the Administration to prove any violation of the Organization's rules and regulations by a preponderance of the evidence in the administrative disciplinary process.

The Task Force investigations also concerned numerous procurement exercises and the award and execution of a large number of valuable contracts concerning six of the seven peacekeeping missions examined, including the United Nations Mission in the Sudan, the United Nations Organization Mission in the Democratic Republic of the Congo and the United Nations Stabilization Mission in Haiti. The Task Force reports highlighted significant findings of corruption, fraud, waste, abuse, negligence and mismanagement in a number of high value contracts, which reflect in part a deficiency in the internal control systems in the Organization. OIOS addressed this issue on numerous occasions and again urges the Organization to establish a robust internal control framework.

A number of cases have been referred to national authorities for criminal prosecution or to the Organization for consideration of subsequent legal action. The Task Force has also recommended civil recovery of monetary damages.

The Task Force has faced a number of challenges related to difficulties in obtaining and reconstructing relevant data, the lack of compulsory process outside the United Nations system, limited cooperation from some parties, including staff, vendors and their representatives, and the fact that several key witnesses could not be located or would not agree to an interview or production of relevant documents. These challenges must be addressed urgently for more effective investigation. These are also important in establishing more rigorous control over the procurement process in the future.

The Task Force continues to examine cases at United Nations Headquarters and the remaining peacekeeping missions. However, the Task Force is funded for the period until 31 December 2007 and it is unlikely that these cases will be finalized by the end of this year under the current arrangement. OIOS will propose for the consideration of the General Assembly that the competence of the Task Force be incorporated into the overall capacity of OIOS.

[1] These figures are approximate as in many cases precise calculation is not possible. The calculation involving misappropriation of resources is based on a calculation of either the amount of loss to the Organization or the amount by which the outside vendor, agent or individual was unjustly enriched.

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I. Introduction

1. The Procurement Task Force of the Office of Internal Oversight Services (OIOS) was established on 12 January 2006 in response to the perceived problems in procurement identified by the Independent Inquiry Committee into the oil-for-food programme and the arrest and conviction of Alexander Yakovlev, a former procurement officer. The establishment of the Task Force also supports the Organization's ambition to address and fight corruption in the Organization. The Task Force operates as part of OIOS and reports directly to the Under-Secretary-General for Internal Oversight Services. The mandate of the Task Force is to investigate all procurement-related cases involving procurement bidding exercises, procurement staff and vendors doing business with the United Nations.

2. The Task Force began as a small, ad hoc group with a complement of six investigators. However, a review of existing cases referred by the Investigations Division of OIOS and initial interviews with procurement staff at United Nations Headquarters in New York clearly indicated that the number of cases far exceeded what had originally been envisaged. It was agreed that the Task Force should be expanded with 20 investigator posts and some additional support staff.

3. In January 2006 the United Nations administration decided to place eight staff members on special administrative leave with pay. They were the staff identified in an audit report issued by OIOS on 19 January 2006 (AP2005/600/20). The audit report identified a number of fraud indicators and suspected instances of mismanagement resulting in financial loss to the Organization and the Task Force was asked to address the allegations in the audit report as a priority. Each of the individuals was the subject of multiple allegations, including new allegations that arose during the course of the investigation, involving different contracts and missions. In addition to those eight staff placed on administrative leave, the Task Force has also focused on several cases involving procurement irregularities in the United Nations Mission in the Sudan (UNMIS), the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the United Nations Stabilization Mission in Haiti (MINUSTAH).

4. In the course of its investigations, the Task Force identified multiple instances of fraud, corruption, waste and mismanagement at United Nations Headquarters and peacekeeping missions, including 10 significant instances of fraud and corruption in cases with an aggregate value in excess of $610 million, which resulted in misappropriation of resources or the unjust enrichment of vendors and their agents in excess of $25 million.

II. Summary of investigation activities

A. Task Force caseload

5. The Task Force has received and accepted 319 procurement-related cases from the Investigations Division of OIOS for investigation. In addition, the Task Force identified 22 additional significant cases based on its review of the procurement matters at Headquarters and various United Nations missions.

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6. The Task Force has completed 63 investigations. The aggregate contract value for the cases investigated by the Task Force during the reporting period exceeds $1.4 billion. More than 82 per cent of these Task Force cases dealt with procurement in various United Nations peacekeeping missions, while approximately 18 per cent addressed procurement-related matters at United Nations Headquarters and various agencies.

B. Summary of investigation activities

7. The Task Force initially focused its resources on investigating the eight staff members placed on administrative leave in January 2006. There were numerous allegations concerning these staff, arising from the audit report, the existing inventory of Investigations Division cases, and the preliminary interviews conducted by the Task Force. Many of the matters spanned several years, and many were premised upon activity in a number of separate cases.

8. The Task Force has issued nine reports pertaining to these eight staff members. Each of these reports has examined multiple procurement exercises in which these staff members were involved, or matters in which they authorized expenditures of funds and in so doing were alleged to have breached procurement and financial rules. In some cases, the investigation identified fraud, misconduct and breaches of the United Nations Staff Regulations, as well as financial and procurement rules. In other cases, the investigations have determined that the staff members did not act improperly, unlawfully, or in violation of the rules and regulations of the Organization, and that they should be exonerated. In that regard, OIOS has recommended that three of the eight staff members be cleared of allegations of wrongdoing, that one be referred for criminal prosecution, and that the Organization address the issue of accountability for the other four staff members for either breaches of the Staff Regulations and Rules or deficiencies in their management responsibilities. The staff member whose case was referred for criminal prosecution — Sanjaya Bahel — has since been dismissed by the Organization and was found guilty of bribery, wire fraud and mail fraud in the United States District Court, Southern District of New York. In addition, the Organization has charged two of the staff members with misconduct.

9. The Task Force investigations also concerned numerous procurement exercises and the award and execution of a large number of highly valuable contracts. The Task Force issued 13 reports, which highlighted significant findings of waste, abuse, negligence, and other forms of mismanagement, as well as of multiple instances of fraud and corruption in these contracts. A number of cases were referred to national authorities for criminal prosecution or to the Organization for consideration of subsequent legal action, including civil recovery of monetary damages.

C. Challenges in conducting investigations

10. The Task Force has faced a number of challenges related to difficulties in obtaining and reconstructing relevant data, including the lack of compulsory process outside the United Nations system, limited cooperation from some parties, including United Nations staff and vendors, and the fact that several key witnesses could not be located or would not agree to an interview or production of relevant documents.

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These challenges are explained further below and need to be addressed urgently for more effective investigation. These are also important in establishing more rigorous control over the procurement process in the future.

1. Procurement records

11. The Task Force noted that the procurement records were often incomplete and poorly maintained. The Task Force made significant efforts to locate and obtain all relevant files in many cases. In some missions, such as MONUC, there was essentially no organized document collection in a number of the procurement exercises and numerous documents were missing. Payments did not tally with the supporting invoices and there was no explanation evident in the file. In addition, it was not always possible to determine who was responsible for a file's management, who had accessed it, or who had removed documents from it.

2. Mutual legal assistance

12. The Task Force has a significant number of cases in which evidence must be obtained abroad. The Task Force has no coercive power over any third party. To obtain overseas evidence, the Task Force needs to engage a relevant law enforcement agency or national authority that can assist with certain investigative matters. However, with regard to certain types of evidence, the Task Force requires assistance in the framework of mutual legal assistance using legal powers in a foreign jurisdiction. In these situations, the Task Force requests a Member State for assistance in acting on its behalf. Such requests often take many months to process. Consideration should be given to whether OIOS on behalf of the United Nations can become a party to mutual legal assistance instruments as it would certainly expedite the investigations. No such possibility currently exists but that fact should not preclude consideration of whether it is desirable and achievable.

3. Vendor cooperation

13. Any vendor which succeeds in a bid will enter into a contract with the United Nations with a number of standard provisions, including provisions concerning vendor assistance to any duly authorized investigation. However, when asked to cooperate with the Task Force, many vendors engaged in delay, refusal and strategic manoeuvring. For instance, one of the vendors asserted to the Task Force that it is under no obligation to cooperate with the investigations carried out by the Task Force into their clandestine involvement in a United Nations contract, on the ground that they were not a direct party to the United Nations contract under review. On the other hand, the vendor claimed that it was entitled to copies of the Task Force documents despite its refusal to fully cooperate with the Task Force.

14. Effective oversight cannot be accomplished to any meaningful degree without an absolute and unequivocal obligation on the part of vendors, vendor intermediaries and principals to cooperate with investigations. Therefore, the cooperation by vendors with the investigations must be made mandatory and enforced. In this regard, OIOS believes that the United Nations General Conditions of Contract and vendor registration forms should be amended to make absolutely clear that vendors, their subsidiaries, agents, intermediaries, and principals are required to meaningfully cooperate with the investigations of OIOS. Such cooperation shall include, but not be limited to, access to all employees,

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representatives, agents and assignees of the company, as well as production of all documents requested, including financial records.

15. Failure to fully cooperate with investigations must constitute sufficient grounds allowing the Organization to repudiate and terminate the contract and debar and remove the vendor from the Organization's list of registered vendors. Although OIOS has a right to request vendors to reasonably cooperate, it has become a practice only very recently that a vendor will be suspended from the vendor database for such non-compliance.

16. One of the most time-consuming and difficult investigative tasks has been to establish whether a vendor and its principals have any connection with other bidders. The Task Force has investigated at least three cases in which a principal of a company separated from a suspended vendor and then later joined or established another entity to carry out business with the Organization. Any bidder, as a part of its requirement for cooperation, should be obliged to submit to full scrutiny by OIOS in order to allow for verification that it is not connected to other bidders.

17. On the other hand, OIOS believes that there must be a mechanism by which investigators can solicit and reward a company for cooperating with investigations and by divulging fraudulent and corrupt behaviour as well as employees who have engaged in such malfeasance. Together with a compliance programme to guard against recurring offences, the Organization should have a mechanism to allow for a reduction in punishment for full cooperation and the institution of measures, including ethics training. Numerous vendors have asked the Task Force for reasons to cooperate and admit corrupt activities when they are going to be barred permanently, in any case.

III. Major investigations: results and recommendations

A. Reports relating to eight staff members placed on administrative leave

1. Investigation report on Sanjaya Bahel, including the companies Thunderbird, PCP and TCIL

18. The Task Force investigation identified an extensive scheme by agents and representatives of a large telecommunications company to defraud the Organization (PTF-R003/06). It also concluded that Mr. Bahel had engaged in a series of unauthorized acts in an effort to provide the company with an advantage in the procurement process and deflect criticism on the company when allegations of corruption and mismanagement surfaced.

19. Mr. Bahel had favoured the company in at least eight contracts with an aggregate value of approximately $100 million, including a $27 million contract to provide manpower support in the Organization's various missions. Furthermore, Mr. Bahel advanced the company's interests when complaints were lodged against the company for its failure to remit significant sums of money paid by the Organization intended for the company's contract staff. In return, the representatives of the company provided Mr. Bahel with two valuable Manhattan apartments worth in excess of $1.5 million at a price below market rate, and by bestowing other gifts upon him. The Task Force also found that Mr. Bahel conspired with a principal of

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another large United Nations vendor and received gifts and benefits from the company official in consideration of favourable action taken by Mr. Bahel on the company's behalf in various large contracts.

20. In response to the Task Force report, the Organization charged Mr. Bahel with misconduct and subsequently dismissed him. Several vendors identified by the Task Force as engaging in misconduct and fraud were removed from the United Nations vendor roster.

21. The Organization also referred the matter to the United States Attorney's Office for the Southern District of New York for criminal prosecution, which has charged Mr. Bahel and Nishan Kohli, the company's principal agent, with conspiracy and illegally accepting bribes concerning programmes receiving United States federal funds. Mr. Kohli pleaded guilty to the conspiracy as charged. The company official acknowledged, as was identified in the Task Force investigation, that he had provided Mr. Bahel with cash and real estate in return for favourable treatment in the bidding and procurement process. On 7 June 2007, Mr. Bahel was convicted of all six charges contained in the indictment, which was based almost exclusively on the Task Force report. At trial, Mr. Bahel's defence admitted that the fraud he had committed against the Organization exceeded $20 million for the manpower contract alone.

2. Report on two United Nations vendors and a United Nations staff member

22. This report (PTF-R010/06) focused on the procurement exercise and execution of the food rations contracts for the United Nations Mission in Liberia (UNMIL) ("the Liberia contract") and the United Nations Mission in Ethiopia and Eritrea (UNMEE) ("the Eritrea contract"), worth in excess of $86 million. The investigation revealed that the integrity of the procurement process was undermined by the nefarious actions of a procurement officer and representatives from two United Nations vendors.

23. The Task Force established that a procurement officer helped a vendor fraudulently obtain confidential United Nations documents and information including bids from competing companies. At the time of the bid, the company officials established a base of operations at a hotel room near United Nations Headquarters. After the deadline for submission of financial and technical proposals, a procurement official provided company officials with the bid submissions of its competitors and the company officials redrafted the company's submission in the hotel room. This information allowed the vendor to reduce its prices, and then replace the bid pages and submit a more competitive offer. The procurement official resubmitted the company's redrafted proposal surreptitiously. As a result, the vendor secured the Liberia and Eritrea contracts. The company was also assisted by a representative of a vendor who frequented the United Nations procurement offices and "lifted" documents from copy machines located in the office. The procurement official also provided the representative with confidential United Nations documents. The vendor-intermediary was paid approximately $2.8 million for its efforts.

24. The Task Force found that the vendor continued to defraud the Organization through subsequent amendments to the contract to compensate for the losses incurred when the company fraudulently lowered its initial proposal to secure the contract. The procurement officer facilitated this process to the detriment of the

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Organization. As a result of these fraudulent acts, the Task Force estimated that the Organization suffered financial losses of approximately $860,000 in the case of the Liberia contract alone. On the other hand, the Task Force learned that a civil lawsuit brought by the competitors in the United States was settled out of court for approximately 40 million pounds sterling — over $74 million. The United Nations was not a party to the settlement, and did not receive any sums under the settlement agreement. In certain jurisdictions, damages in public corruption litigation are calculated as the entire amount of the contract value.

25. The Task Force also concluded that while still employed by the United Nations, the procurement officer engaged in a joint business pursuit with a second vendor, who provided temporary employment to the procurement officer's son. As a result of the Task Force recommendations, both vendors were removed from the list of the United Nations vendors and the Organization is currently considering legal action against the vendors to compensate for the damages and loss caused by their nefarious acts.

3. Interim report on a concerned United Nations staff member

26. This report (PTF-R011/06) addressed the role of a senior staff member in several procurement exercises, including a contract for electrical services for United Nations Headquarters (valued at over $57 million) and a staffing support contract (valued at over $33 million). The Task Force determined that:

(a) The staff member improperly endorsed the continuation of a major electrical services contract, despite having been informed of the significant failings of the contractor in the contract execution and the extreme work performance deficiencies of the contractor's agents and employees and thereby exposing the Organization to the continued risk of financial loss. The vendor repeatedly overcharged the Organization and failed to adequately correct numerous work performance issues;

(b) The Task Force found that the manpower contract was tainted by the fraudulent conduct of a vendor and the principal supervising procurement officer within the Procurement Service (Mr. Bahel). The staff member was repeatedly made aware of the issues arising under the manpower contract and of the complaints that workers employed by the vendor were not receiving subsistence sums rightfully due to them. Nevertheless, the staff member failed to address these issues.

27. The Task Force further found that the staff member omitted critical financial information from his submissions to the Organization for the years 2003, 2004 and 2005, including information concerning his bank accounts, real property and financial information concerning the staff member's spouse, contrary to the Organization's rules on financial disclosure. When the Task Force requested that the staff member disclose certain financial information and answer further questions about his assets, he declined to fully produce such material. Only after a subsequent direction from the Secretary-General did the staff member partially disclose information, and the disclosure was made under specific conditions. As a result, the staff member did not produce all of the information he had been directed to disclose and, therefore, did not fully comply with the Secretary-General's instruction.

28. The staff member was subsequently charged with misconduct in connection with his refusal to provide full and complete information to the Task Force; his

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refusal to comply with a specific direction from the Secretary-General; and his inaccurate and incomplete disclosures in the financial disclosure form. At the time of this writing, the case of the staff member was still pending in the Joint Disciplinary Committee.

4. Amended report on a concerned United Nations staff member — Interim Report on UNMIS and investigation report on a United Nations staff member

29. These reports (PTF-R005/06 and PTF-R006/06) addressed several procurement exercises undertaken by two senior staff members. These procurement exercises included: a contract for over $1 million to support the deployment of military troops in 2005; the procurement by UNMIS of equipment for an airport and the procurement of a fuel contract in excess of $86 million and a food rations contract in excess of $200 million. The Task Force recommended appropriate action to commence against the two staff members, as well as the removal of a vendor and its principal from the vendor roster. However, this case remains pending at the time of this report, and therefore the summary below should be considered preliminary.

(a) During the deployment of the troops, UNMIS improperly utilized an existing but unrelated aircraft and fuel services contract with a financial limit of $45,000 for expenditures, which ultimately exceeded over $1 million. As a result, the Mission accumulated an unapproved debt of more than $1.3 million. A senior staff member failed to identify and correct this irregularity. Similarly, another senior staff member approved payment of these debts of approximately $1 million without following proper procedures. That individual also failed to address whether the debt had been properly incurred;

(b) The Task Force concluded that the Mission procured equipment for an airport worth in excess of $589,000, which, however, failed to meet the safety specifications of the United Nations and the International Civil Aviation Organization also procured other equipment which was unnecessary. Furthermore, the Task Force concluded that a senior staff member, after being informed of the procurement exercise in question, failed to address the question that the suggested technology did not meet relevant specifications;

(c) The Task Force did not identify evidence that the staff member was involved in steering the short-term fuel supplies contract to any particular vendor. However, the Task Force established that the not-to-exceed amount for the short-term fuel contract was in fact unjustifiably increased by approximately $22.5 million with the approval of this individual, who failed to ensure appropriate review of the fuel figures, which proved to be erroneously calculated.

30. In a separate report (PTF-R007/06), the Task Force established that a former staff member had acted improperly by purposely favouring the vendor throughout the process; participating in the bidding exercise despite the existence of a personal relationship with the vendor's Executive Director; and improperly accepting assistance from the Executive Director in order to further a visa application for the former staff member's wife for entry into the country in which the vendor was based.

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5. Report on a concerned United Nations staff member and interim report on two United Nations staff members

31. The Task Force examined whether a procurement officer improperly provided advanced notification of a contract award to a United Nations vendor prior to completion of the contract award procedures. The Task Force also investigated whether the staff member attempted to steer a United Nations contract towards a particular vendor by cancelling the contract bid results and seeking a rebidding exercise. The review of the evidence available at the time and the interview with those individuals involved did not identify sufficient basis to make adverse findings against the staff member.

32. However, after the issuance of its report (PTF-R001/06), the Task Force discovered new evidence in relation to the staff member concerned. Specifically, as discussed in the interim report on two staff members (PTF-R005/07), the Task Force established that the staff member as well as another staff member willingly and improperly socialized with a representative of a United Nations vendor and accepted gifts in violation of the Staff Regulations and relevant procurement rules. Both staff members had been interviewed by the Task Force about this specific vendor as part of several ongoing investigations. Significantly, both staff members failed to inform the Organization about their involvement with the vendor and failed to reveal the above incident to the Task Force. The staff members were subsequently charged with misconduct based upon the Task Force's report, and have been suspended with pay. Their cases remain pending. Thus, this summary should be considered preliminary.

6. Investigation concerning a United Nations staff member

33. This report (PTF-R004/06) addressed a number of allegations with regard to contracts for short-term fuel supplies and food rations for UNMIS. The Task Force examined whether the staff member concerned was involved in any efforts to inflate the fuel requirements for and steer the contracts to a particular vendor. Further, the Task Force examined whether the staff member exercised any improper influence in favour of another vendor during the bidding process for the food rations contract.

34. The Task Force did not identify evidence of the staff member's involvement in inflating the fuel requirements or steering the short-term fuel supplies contract to any vendor. Furthermore, the Task Force did not identify any improper actions or influence on the part of the staff member with regard to the food rations contract for UNMIS.

7. Report on a concerned United Nations staff member

35. This report (PTF-R009/06) addressed several procurement exercises undertaken during the course of the senior staff member's term in UNMIL.

36. The OIOS audit report on the Department of Peacekeeping Operations procurement (AP2005/600/20) found that the Engineering and Procurement Sections at UNMIL intentionally "split" requisitions in order to keep the value of the contracts below a monetary limit and thus bypass review by the Local Committee on Contracts and the Headquarters Committee on Contracts, which was confirmed by the Task Force investigation. The Task Force concluded that the staff member, acting in his role as a senior official in the Mission, did, on occasion, improperly

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approve requisitions which were split. However, the circumstances were few and outweighed by instances in which the staff member intercepted such efforts by requisitioners. Therefore, the Task Force did not find that the staff member concerned violated any Staff Regulations or financial or procurement rules.

37. The Task Force also examined this staff member's approval of a vendor registration when he had previously been serving in the Procurement Service in New York. That company had been permitted to register as a United Nations vendor even though it failed to submit audited financial statements and income tax returns. While the Task Force found that the staff member's decision was improper, and demonstrated a lapse in supervision, it did not find any evidence that the staff member had acted purposefully or recklessly in connection with this decision. The Task Force recommended that the staff member be cleared of any allegation of wrongdoing with regard to the matters addressed in the report.

B. Interim report on MONUC procurement and five United Nations procurement officials

38. The Task Force received more than 40 complaints and cases involving corruption and procurement irregularities in MONUC. Between February and June 2007, the Task Force focused its efforts (see PTF-R011/07) on 18 of these cases involving procurement exercises with contract values exceeding $25 million. Several more investigations regarding procurement activities in the mission are ongoing.

39. The Task Force found numerous cases in which vendors and companies doing business with the Mission were required to pay sums of money to staff in order to be awarded contracts with the Organization, or offered to pay sums of money in exchange for assistance in the procurement. Despite repeated complaints from vendors and United Nations staff, and although these facts were well known throughout the business community in Kinshasa, this fraudulent conduct continued uninterrupted.

40. In particular, the Task Force identified an extensive effort by a procurement staff member, over an almost 20-year period, to solicit payments and bribes from several vendors in exchange for preferential treatment and various benefits. The Task Force also identified four other instances in which staff members had received sums of money from vendors. In one of these cases, the vendor provided a payment "schedule" detailing what he described as payments to MONUC staff members. Only two of the staff members admitted the receipt of payments, which they characterized as "loans". Yet, the "loans" were made interest free, and were not memorialized by any written agreement and in some cases were not paid back at all or were repaid only years later. The Task Force further found that these and other staff members engaged in corrupt acts in these matters, and compromised the integrity of the procurement and contract selection processes. As a result of the Task Force investigations, five staff members were placed on special administrative leave, and were charged with misconduct.

41. The Task Force further found that the MONUC Procurement Section lacked a comprehensive and organized filing system. In a number of cases investigators were provided with loose papers and miscellaneous documents that did not allow for a

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comprehensive analysis of the events under investigation. Furthermore, critical documents were often missing from the files.

42. The Task Force considered this a result of collapse of ethical culture and extensive corruption in procurement in the Mission which has existed for years. The Task Force found that a lack of continuity at the managerial level on the one hand, improper ethics and procurement training, and little rotation within the Professional and General Service staff level on the other, contributed to this development. The Task Force thus concluded that the Mission should overhaul its procurement operations, provide extensive ethics training, or divest responsibility for procurement to Headquarters or to an independent third party.

C. Report on the ground fuel procurement at MINUSTAH

43. The Task Force examined the MINUSTAH procurement exercise (see PTF-R010/07) for the long-term supply of ground fuel in excess of $27 million and identified a scheme involving participation of five mission staff knowingly involved in the corrupt effort. These staff members severely compromised the integrity of the procurement process and committed corrupt acts throughout the process.

44. Upon discovering that the current supplier (the favoured vendor) was not technically qualified to win the contract and did not offer the lowest cost proposal, these staff members conspired to allow the vendor to correct its proposal and submit additional missing information. After a second call for bids (through the use of a best and final offer), the technical evaluators were instructed to rank the preferred vendor as the highest technically qualified bidder. However, the company still did not offer the lowest cost proposal. Senior staff members then instructed junior staff to change the fuel estimates to ensure that the vendor offered the lowest prices. As a result of this manipulation, the preferred vendor was deemed most technically qualified and presenting the lowest cost proposal, and therefore was awarded the contract. Fortunately, the Headquarters Committee on Contracts found a number of procurement irregularities and rejected the Mission's recommendation to award the contract to the favoured vendor. Despite this decision, the Mission was unable to reach an agreement with the second vendor; hence, the favoured vendor continues to supply fuel to the Mission.

45. Additionally, the Task Force identified an effort by one procurement official to solicit a bribe from one of the competing vendors in exchange for a promise to assist the vendor in the contract selection process. Furthermore, during the course of the investigation of the staff member, after learning that the Task Force was investigating the matter and intended to issue a report on him, the staff member contacted a representative of a vendor who had been cooperating with the Task Force and berated the vendor for its cooperation with the Task Force. The Task Force considers these actions to be serious matters constituting obstruction of justice.

46. In connection with the investigation into the matter, some of the senior managers made material misrepresentations to the Task Force, the Local Committee on Contracts, and the Headquarters Committee on Contracts to conceal their manipulation of the procurement exercise. The Task Force recommended that appropriate action be taken against those five staff members and that the matter be

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referred to prosecutorial authorities. This case remains under active consideration and these findings should be considered preliminary.

D. Interim report on matters concerning former United Nations staff member Alexander Yakovlev and associated vendors, report on two United Nations vendors, report on a United Nations vendor and report on two United Nations vendors

47. In these reports (PTF-R002/07, PTF-R006/07, PTF-R008/07), the Task Force addressed the procurement actions tainted by the criminal behaviour of Alexander Yakovlev, who in 2005 was found by the Independent Inquiry Committee into the oil-for-food programme to have accepted monies for valuable treatment on behalf of several contractors serving peacekeeping missions. Following his arrest by the United States federal prosecutors, the staff member pleaded guilty to fraud, conspiracy and money-laundering. The Task Force has since identified further procurement exercises tainted by him and a number of additional vendors with whom he was closely associated.

48. The Task Force established that beginning in or about 1993 and continuing until his arrest in 2005, Mr. Yakovlev engaged in a corrupt scheme to solicit and accept sums of money and items of value from a number of United Nations vendors seeking to obtain United Nations contracts. The Task Force established that the staff member and entities and individuals associated with him cumulatively received over $3.5 million from at least five United Nations vendors in exchange for confidential United Nations documents and information, as well as the staff member's assistance in steering the contracts towards those vendors.

49. Most of the proceeds of the staff member's illegal activities were disbursed into a number of bank accounts associated with the staff member. The Task Force identified 14 accounts used as part of the scheme, including accounts in Antigua, Austria, the United States of America, the Russian Federation, Cyprus, Liechtenstein and Switzerland, some of which still contain substantial assets. For instance, at the time of the present report, the staff member's account in one jurisdiction contained over $1 million.

50. The Task Force recommended that the Organization seek recovery of the illegal proceeds of the staff member's schemes and consider taking legal action against the vendors involved. Efforts have begun to recover the money corruptly obtained by the staff member and entities and individuals associated with him.

E. Report on a United Nations vendor and the United Nations Pouch Unit

51. The Task Force conducted an investigation and concluded (see PTF-R001/07) that a vendor improperly used the United Nations diplomatic pouch services to transport goods to the Organization's missions in violation of the privileges granted to the United Nations under the Convention on the Privileges and Immunities of the United Nations. The Task Force further found that the vendor defrauded the Organization by charging freight costs for the shipments while he shipped the items at no cost through the use of the diplomatic pouch services.

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52. The Task Force investigations established that a senior staff member failed to appropriately respond to the abuse of the pouch system once the scheme was identified. The Task Force further found that another senior official failed in his duty to implement and enforce procedures to protect the integrity of the diplomatic privileges granted to the Organization.

53. The Task Force established that the scheme existed and continued in part owing to the negligence by United Nations staff members at the Headquarters Pouch Unit, a lack of proper communication between Headquarters and the missions, and insufficient instructions by the Organization to staff in the missions regarding the appropriate use of the pouch system.

54. As a result, the Task Force determined that the Organization suffered financial losses in the amount of approximately $61,000 ($33,707 of which was recovered). However, the exact loss is very likely higher since the Task Force investigation focused on only 13 missions in which at least some records were available. Owing to limited record retention policies, several missions did not have records that could be examined by the Task Force.

F. Interim report on a United Nations staff member and UNOPS procurement

55. This report (PTF-R003/07) focused on allegations that a staff member of the United Nations Office for Project Services (UNOPS) had been systematically corrupting the procurement process in the UNOPS Eastern and Southern Africa Regional Office, located in Nairobi.

56. The Task Force found that the UNOPS staff member, together with the staff member's spouse and other individuals, participated in a fraudulent scheme to steer several UNOPS contracts to a company owned by the staff member's spouse. The scheme was accomplished through the submission of purportedly independent bids from companies which appeared to be legitimate competitors. In fact, the bids were organized by the staff member's spouse and associates and included a proposal from the company of the staff member's spouse. The staff member vouched for the spouse's company and assisted the spouse's efforts to secure the contracts and obtain payment from the Organization. The staff member instructed a subordinate to assist the staff member's spouse in the scheme, who directed the staff member's spouse to submit competing bids from purportedly independent companies, and accepted submissions which he knew were fraudulent and intentionally designed to create an appearance of legitimate competition. The staff member further facilitated the scheme by processing documents submitted by the spouse's company and pressuring finance staff to expedite payment to the company. The Task Force recommended that appropriate action be taken against the staff member and the matter be referred to national prosecutorial authorities in Kenya.

57. The investigation led to the discovery of a much larger scheme to systematically defraud UNOPS and the United Nations, involving the staff member, the spouse and companies associated with the spouse for contracts with an aggregate value exceeding $350,000. The final report of the Task Force on the scheme (PTF-R012/07), issued in August 2007, described further instances of fraud and corruption and recommended that appropriate action be taken against a number of staff members and vendors.

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G. Report PTF-R004/07 Final report on the sale of the United Nations Postal Administration philatelic materials

58. In May 2003, the United Nations Postal Administration auctioned a collection of its philatelic material through a private auction house in Geneva. The sale netted the Organization approximately $2.5 million. The Task Force did not identify evidence of criminal activities by either United Nations staff members or the representatives of the auction houses involved in the disposal process. However, it found that certain individuals did not follow the appropriate procedures and internal controls concerning the disposition of United Nations property.

59. The Task Force investigation revealed that a senior official failed in his responsibility to report the intended sale to the United Nations Property Survey Board, as was required by the United Nations procurement rules. The Task Force further found that another senior official exceeded his authority when he recommended potential auction houses to the Procurement Service. The Task Force further established that the a senior staff member of the Property Survey Board — although aware of the imminent sale — failed to comply with the United Nations Financial Rules by not submitting the Property Survey Board's recommendations to the appropriate United Nations sections for their approval of the sale.

H. Summary of misappropriation and recovery actions

60. During its reporting period, the Task Force identified over 10 significant instances of fraud and corruption involving a number of valuable contracts with an aggregate contract value exceeding $610 million, which resulted in misappropriation of resources in excess of $25 million, a very conservative estimate. The ascertainment of an accurate dollar amount of actual out-of-pocket losses to the Organization requires additional analysis by qualified experts and should include sums not only converted to others but used for purposes not originally intended through management errors and misappropriations. Some courts typically assess damages in corruption cases not on the actual and direct loss figure, but the entire value of the contract at issue. An example (see PTF-R010/006) is provided in the matter discussed above in paragraphs 22 to 25. Under many statutes, and under many court decisions, it has been determined that actual monetary "loss" is not the appropriate measure of harm in a corruption case. Such calculations do not include the intangible cost to the victim of the presence of corruption in its procurement function and the compromise to the integrity of the process. Further, prices of contracts infused with corruption are typically inflated to account for the percentage paid to secure the contract. In other cases, the perpetrators make up for lowering their proposed costs through subsequent charges and amendments to the contract, and other acts.

61. The Task Force has recommended that the Organization recover losses resulted from fraud and corruption as discussed herein through a variety of means. For instance, one former procurement officer received over $3.5 million from his corrupt conduct and has been found criminally liable. The Task Force advised and recommended that the United Nations seek recovery from the staff member in the form of restitution as part of the criminal sentencing proceeding in the United States District Court, Southern District of New York. After requests by the Task Force to pursue restitution, the Office of Legal Affairs referred the matter to its outside

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counsel and sought counsel's advice. Outside counsel agreed with the Task Force that recovery was possible and that the United Nations was a victim of the staff member's scheme and therefore had rights at sentencing. The United Nations has since made such a claim for restitution from the staff member and the request has been favourably received by the United States authorities. It is expected that a restitution order will be issued in the amount of at least $900,000, and that prosecutors in the case have agreed to recognize the United Nations as a victim of the offence.

62. Similarly, the Task Force contacted the national authority of one Member State regarding a bank account the same staff member controlled in that Member State and which he used as a repository for funds of his scheme. The amount of funds currently held in the account exceeds $1 million. The Task Force, on behalf of the United Nations, asserted an interest in recovering that money with the Member State. The national authorities of the Member State recognized the United Nations interest in those assets. The Task Force expects the Organization can recover at least $2 million — and as much as $3.5 million — from various accounts associated with the staff member if the matters are properly pursued.

IV. Task Force resources

A. Human resources

63. As noted above, the Task Force began in the late fall of 2005 as a small, ad hoc group, with a complement of six investigators. The Task Force was not fully operational until late spring of 2006 with the arrival of additional investigative staff with specialized experience in economic crime and large-scale commercial investigations. The Task Force currently retains 16 investigators but faces the challenge of keeping highly skilled investigators who are offered only temporary short-term contracts of a few months because of budget allotments.

B. Financial resources

64. For the calendar years 2006 and 2007, the Task Force was allocated approximately $10.8 million. The total expenditures of the Task Force are approximately $6.5 million as of 30 June 2007, as summarized in the table below.

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Total allotments and expenditures of the Task Force as at 30 June 2007
(United States dollars)

Allotments		*Expenditures*	
OIOS		OIOS	
Allotment[a]	9 744 357	Obligations	988 321
		Disbursements	4 852 929
Department of Management		Department of Management	
Allotment[b]	1 049 888	Obligations	124
		Disbursements	697 580
Total	**10 794 245**		**6 538 954**
		Allotment balance	**4 255 291**

[a] Designated to cover staffing costs, such as salaries, consultants and travel.
[b] Designated to cover the costs of premises, communications, supplies, etc.

65. The funding arrangements for the Task Force were facilitated by the Controller's Office at the request of the Under-Secretary-General for Internal Oversight Services and the former Under-Secretary-General for Management. Although forecasts were prepared by the Task Force on likely expenditure, it took no part in identifying necessary funds.

66. The Task Force expenditures in 2006 and first half of 2007 accounted for approximately 61 per cent of its allotment, which included staff cost, rental of premises, costs of office materials and equipment, forensic analysis and other investigative expenses.

V. Overall observations based on the Task Force investigations

67. The Task Force experience of the last 18 months has enabled OIOS to determine that there is a pressing need to bring sweeping changes into the United Nations procurement system. OIOS had paid particular attention to the procurement area owing to its budget materiality, inherent business and reputation risks, as well as the unsatisfactory state of internal controls, which OIOS audits and investigations have consistently noted and reported upon. Moreover, the revelations by the investigations of the Task Force concerning serious procurement irregularities indicate that there is a need to overhaul the manner in which procurement is handled in the Secretariat and to strengthen oversight and investigative capabilities. It is also important to take into account that corruption in procurement in a number of instances stems from vendors and their intermediaries and agents to identify and exploit weaknesses in the system and staff. In a number of cases, the schemes emanate from those companies and their principals.

68. It should be stressed that the numerous cases of mismanagement, waste of resources, fraud and corruption found by the Task Force reflect the absence of a robust internal control system in the Organization. OIOS addressed that issue on numerous occasions and again urges the Organization to establish a robust internal control framework, clarifying and stressing management's inherent responsibility

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for the different elements in such a framework, including the responsibilities for the overall control environment based on ethical culture and the core value of the Organization, once eloquently established and expressed in the Charter of the United Nations.

69. OIOS considers procurement as the highest risk area and in accordance with its mandate, OIOS intends to submit to management and legislative bodies a comprehensive report on the management of procurement systems and reform. Notwithstanding the final outcome of the present review, the Task Force identified several areas where improvements in the United Nations regulatory framework should be made as a matter of urgency.

A. United Nations vendors

70. While recognizing its critical importance in providing a mechanism to screen vendors, the Task Force identified a number of deficiencies in the vendor screening process. The case discussed in the interim report (PTF-R003/06), set forth above, is a prime example concerning the weaknesses in the process and the importance of screening companies in the critical phases of the procurement process. The Task Force also found examples where vendors and, importantly, their principals provided inaccurate, incomplete and false information in the contract selection process, information which, if identified, could have prevented subsequent losses and irregularities in the process:

(a) *Verification of information*: The verification procedure of the information asserted by vendors should be more systematic and comprehensive. Furthermore, the coordination between the several vendor registration bodies throughout the United Nations system should be strengthened. The Task Force has identified cases in which vendors have routinely supplied false and incomplete information but nonetheless have been awarded contracts;

(b) *Requirement from vendors*: The current registration forms do not require the would-be registered vendor to disclose the identity of its principals, any former corporate incarnation or to declare that it has no connection with any United Nations staff member, directly or indirectly. This last point is particularly important because of the number of instances in which companies change their corporate identity and affiliations. For example, in one case a company against which adverse findings had been made was struck off by the Organization only to be re-registered shortly thereafter under a new name with the same principals. The registration documents should include additional questions, for example, regarding the use of any intermediaries, agents and consultants in relation to the United Nations contracts or contract bids; the applicant's financial status and the identities and roles of the company's principal officers;

(c) *Accountability by vendors*: There should be strict liability imposed upon vendors who supply insufficient, misleading or false information. For example, it should be made clear in the registration documents that false, incomplete or defective vendor registration application may result in the rejection of the application or cancellation of an already existing registration. Further, it should be made clear that the United Nations reserves the right to cancel the vendor registration status of any company found to be in violation of the rules or contractual provisions of the Organization;

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(d) *Requirement on intermediary agent or sub-contractor*: There should be a requirement for the same level of disclosure as the vendor with regard to the intermediary agent or sub-contractor and their agreements with the vendor. It should be made clear that the acts and declarations of the agent should be deemed to be those of the principal.

B. Removal and suspension of vendors and dissemination of information

71. The Task Force found and OIOS considers that there is a conspicuous need for improved information-sharing between different parts of the United Nations and a more robust response to vendors when their malfeasance is identified. When an adverse finding is made in relation to a company, it is essential that such a finding be disseminated to all concerned parties. For example, the Task Force has conducted an investigation where a company was found to be acting corruptly in one peacekeeping mission. Thereafter, this company was found to be conducting its affairs in the same illegal manner in another mission. The first mission did not inform the second mission of the company's prior conduct. In another example, the Task Force made a strong adverse finding against a company. Notwithstanding this, two months after the Task Force report, the company was awarded a new multi-million-dollar contract. This situation occurred, seemingly, because of a lack of communication between departments within the Organization. A further example is that until early 2007, the Organization contracted a company which paid funds into a secret offshore bank account of a staff member who had been arrested on charges of money-laundering and fraud in August 2005.

72. Furthermore, there is a need for a vendor removal and suspension system which entitles the Organization, after due process, to publish its decision and in particular to inform other institutions such as the World Bank and the European Commission when adverse findings against a company are made. Equally, the Organization needs to act promptly in response to such received information. This would be beneficial in the fight against procurement fraud and corruption within the United Nations system and analogous institutions. Recently, the Inter-American Development Bank published on its website a list of barred companies. The Task Force suggests that this model should be closely studied as a possible way forward for the Organization.

C. Financial disclosure

73. The rules of the Organization — including staff regulation 1.2 (n) and ST/SGB/2006/6 — direct certain staff members to file financial disclosure forms with the Ethics Office, which is not part of the OIOS investigative function. Disclosure of personal information to the Ethics Office can provide information about a potential conflict of interest and any unexplained wealth. However, in corruption investigations in which prima facie evidence has shown that the staff member may have engaged in misconduct or corrupt activity, this routine disclosure is often insufficient and more detailed information is required. Currently, the staff members are required to cooperate with investigations and produce relevant information (staff regulation 1.2 (r)). However, the Task Force investigations of fraud and corruption have been slowed in part as a result of the refusal of some staff

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members to disclose financial information to OIOS because of a belief that their obligations have been satisfied by making the annual disclosure to the Ethics Office. The current rules on financial disclosures pursuant to OIOS requests need to be clarified, and if necessary, strengthened.

(a) *Scope of the disclosure in investigations*: Financial disclosure to OIOS is required in certain investigations in more exhaustive detail regarding transactions, assets and persons covered in appropriate cases. OIOS, with the mandatory cooperation of the staff member, must be able to expand the scope of the disclosure to address all relevant issues under investigation when prima facie evidence of corruption and fraud exists. Furthermore, the Organization's rules should be clarified to require all staff members who are under investigation to make financial disclosures and assist in the verification process at the behest of OIOS. OIOS is of the view that such an obligation currently exists under the staff regulations identified above.

(b) *Accountability of staff*: The rules governing financial disclosure should be amended to make incomplete or inaccurate disclosure a prima facie ground to bring a charge of misconduct. The Ethics Office should refer such cases to OIOS for investigation.

(c) *Verification of information*: It is essential that financial disclosures be subject to comprehensive verification. Staff members should be required to provide such assistance as may be necessary to help in the verification process. For example, staff members should be required to give such direction to their bankers, lawyers, accountants or other third parties who may hold information under conditions of confidentiality, to release such documentation and information needed to establish the legitimacy of the assets and completeness of the information supplied.

D. Recovery action

74. The Organization needs to consider and vigorously pursue recovery actions against the staff members and companies when adverse findings have been made against them and it finds that the Organization is the victim of fraud or corruption by either a staff member or one of its contractors. Currently, those recovery provisions have rarely been used. A recent case investigated by the Task Force brought to light significant fraud and corruption which prompted civil litigation between the company and two competing bidders allegedly deprived of the contract by the acts of the respondent company. The three companies are reported to have settled the litigation for approximately $80 million. The United Nations has only recently started to consider — based on the recommendation of the Task Force — whether it has any right to initiate legal action for recovery.

E. Consistency in actions against staff

75. Proportionality and consistency are applied in determining whether disciplinary action is warranted. The difficulty is that application of these concepts appears to vary depending on the programme manager's perception of the gravity of the matter, the extenuating circumstances at the time of the conduct in question, and the staff member's position. In that regard, the Task Force has found that its reports

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have received contradictory responses from different departments with regard to similar cases.

76. While every case should be assessed on its merits, it must be the fundamental right of every staff member to know what is acceptable and what is not in terms of his or her conduct. There are objective criteria available to apply to these considerations, including the number of instances, the amount of the financial loss, the extent of the disrepute brought to the Organization, and the grade of the staff member. Whatever the yardstick used, it must be transparent, rational, defensible and consistent. The absence of an Organization-wide standard is evident in the way some of the Task Force reports have been assessed. The legal grounds for determining what misconduct is are elaborated in several instruments. Regrettably, those instruments continue to be applied and interpreted inconsistently.

F. Due process

77. It has been a common feature of the Task Force investigations that staff members have asserted that their due process rights have been violated. This arises as a result of staff members' misunderstanding of how due process rights apply in the context of administrative fact-finding investigations. In other cases, claims of a violation of due process are used as a shield to investigations and as a tactical or strategic ploy. There are numerous legal opinions, bulletins, regulations, directives, guidelines, and administrative notices which address on a general level the issue of due process rights in an administrative investigation. Nevertheless, the Task Force has encountered differing views on the scope and applicability of due process rights. The Task Force believes that the Organization should ensure that all staff members are fully informed of their due process rights during an investigation.

78. It is accepted that the Task Force has an obligation to act fairly and ensure that the interviewee is given ample opportunity to respond to allegations. The Task Force has been advised by the Office of Legal Affairs that fairness does not entail the right of the staff member to have counsel's assistance during the interview. Furthermore, staff members are not entitled to disclosure of questions or documents in advance of the interview and are not entitled to know who made statements and allegations to the Task Force about them. All these demands have been raised in the course of the Task Force investigations with the assertion that not to accede to them would constitute a breach of due process. These demands show that there is a clear misunderstanding of how due process applies in the context of an administrative fact-finding investigation.

79. Fairness in an administrative fact-finding investigation dictates that prior to issuance of a final report, the subject be provided with a notice of the fact of the investigation, made aware of the allegations, and provided with an opportunity to reply to the allegations and present information, witnesses and documents. It should be noted that additional due process rights, which one would normally observe in the context of a judicial proceeding — such as the right to depose, confront or cross-examine persons who may have been asked to contribute to the investigation — are not present in an administrative fact-finding investigation. This is a reflection of the administrative, not adjudicatory, nature of fact-finding investigations.

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VI. Plan for completion of the work of the Task Force

80. The Task Force was intended as an interim and ad hoc entity established to address a particular problem and therefore the current mandate is set to expire on 31 December 2007. However, at the time of the present report the Task Force has entered into a critical phase. The momentum and the skills and competencies of its staff should be maintained within the Organization in pursuing the completion of the investigation of remaining cases so as to achieve the ambition to unconditionally root out corruption in the Organization.

81. The Task Force has now turned its full attention to large contracts in the peacekeeping missions and other large-scale matters at Headquarters. It is important to note that investigations of large and complex procurement contracts are time-consuming. The cases which have been investigated and closed are illustrative. For example, the investigation of matters concerning the large food rations vendor mentioned above required one year to complete; the investigation of matters related to Mr. Bahel required four and a half months (with one third of the Task Force team dedicated to the case); the investigation into a United Nations vendor, six months; the investigation of Mr. Yakovlev and all related companies, 18 months; and the investigation on another vendor, one year (but requiring more work before completion owing to the lack of cooperation from several sources). The recently finalized investigations into fraud and corruption in MONUC and MINUSTAH needed seven months and one year, respectively.

82. Further, the investigation of such cases requires investigators with special skills, background, and experience with investigations of fraud, corruption and economic crimes. OIOS has been selective of the staff skills and competencies and has managed to assemble a highly specialized team that has proven itself, as evidenced by the activities described in the present report.

83. The Task Force is funded for the period until 31 December 2007 but it is unlikely that its pending investigations will be completed by the end of this year under the current arrangement. OIOS is considering proposing for the consideration of the General Assembly that the competence of the Task Force be incorporated into the overall OIOS capacity. This will be proposed in detail in the revised estimate for the OIOS 2008-2009 proposed regular budget as part of the actions for strengthening the investigations function within OIOS, taking into consideration the recommendations of the comprehensive review of the Investigations Division. The proposal recognizes the high risks in the procurement function, the existing caseload relating to procurement and the specialist skills required to successfully investigate these complex procurement contracts.

84. OIOS will also present its audit results on comprehensive procurement management and implementation of related reform at its sixty-second session.

(*Signed*) Inga-Britt **Ahlenius**
Under-Secretary-General for Internal Oversight Services

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Annex

List of final reports completed during reporting period

Serial no	*Report reference no.*	*Date issued*	*Report title*
1	PTF-R001/06	19 July 2006	Report on a Concerned United Nations Staff Member
2	PTF-R002/06	20 July 2006	Report on a Concerned United Nations Staff Member
3	PTF-R003/06	27 July 2006	TCIL/Thunderbird/PCP Investigation Report — Interim Report on Mr. Sanjaya Bahel
4	PTF-R004/06	23 August 2006	Investigation Concerning a United Nations Staff Member
5	PTF-R005/06	6 September 2006	Amended Report on a Concerned United Nations Staff Member — Interim Report on UNMIS
6	PTF-R006/06	13 September 2006	Investigation Report on a United Nations Staff Member
7	PTF-R007/06	2 October 2006	Investigation Report Concerning the Purchase of Runway Lights in UNMIS, a Concerned United Nations Staff Member, and a Former United Nations Staff Member
8	PTF-R008/06	14 November 2006	Interim Report on a Concerned United Nations Staff Member
9	PTF-R009/06	15 November 2006	Report on a Concerned United Nations Staff Member
10	PTF-R010/06	7 December 2006	Report on Two United Nations Vendors and a United Nations Staff Member
11	PTF-R011/06	19 December 2006	Interim Report on a Concerned United Nations Staff Member
12	PTF-R001/07	2 February 2007	Report on a United Nations Vendor and the United Nations Pouch Unit
13	PTF-R002/07	2 May 2007	Interim Report on Matters Concerning Former United Nations Staff Member Mr. Alexander Yakovlev and Associated Vendors
14	PTF-R003/07	6 June 2007	Interim Report on a United Nations Staff Member and UNOPS Procurement
15	PTF-R004/07	7 June 2007	Final Report on the Sale of the United Nations Postal Administration Philatelic Materials

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Serial no	*Report reference no*	*Date issued*	*Report title*
16	PTF-R005/07	20 June 2007	Interim Report on Two United Nations Staff Members
17	PTF-R006/07	28 June 2007	Report on Two United Nations Vendors
18	PTF-R007/07	28 June 2007	Report on a United Nations Vendor
19	PTF-R008/07	28 June 2007	Report on Two United Nations Vendors
20	PTF-R009/07	28 June 2007	Interim Report on Matters Concerning a Staff Member
21	PTF-R010/07	16 July 2007	Report on the Ground Fuel Procurements at MINUSTAH
22	PTF-R011/07	5 July 2007	Interim Report on MONUC Procurement and Five United Nations Procurement Officials

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United Nations A/62/281 (Part II)

General Assembly

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Sixty-second session
Agenda items 136 and 140

Report on the activities of the Office of Internal Oversight Services

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Report on the activities of the Office of Internal Oversight Services for the period from 1 January to 31 December 2007*

Summary

The present report is submitted in conformity with General Assembly resolutions 48/218 B (para. 5 (e)), 54/244 (paras. 4 and 5), and 59/272 (paras. 1-3). It covers peace operations oversight activities of the Office of Internal Oversight Services (OIOS) during the 12-month period from 1 January to 31 December 2007.

The Office of Internal Oversight Services issued 154 oversight reports related to peace operations, which accounted for 54 per cent of all recommendations put forward during that period. In particular, the recommendations highlighted four risk areas: governance, compliance, and financial and operational risks.

While overall resources dedicated to peace operations remained at a similar level in 2007, a new OIOS presence was established in the United Nations Interim Force in Lebanon (UNIFIL) and the United Nations Integrated Mission in Timor-Leste (UNMIT), while the Office's presence in the United Nations Operation in Burundi (ONUB) was phased out. OIOS also expanded its presence in the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).

* The report on activities other than peacekeeping oversight activities is contained in documents A/62/281 (Part I) and Add 1 and 2

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Preface

I am pleased to submit to the General Assembly a report on the activities of the Office of Internal Oversight Services (OIOS) covering the Office's major findings in peace operations for the 12-month period ending 31 December 2007.

In aggregate, many of the findings indicate deficiencies in the internal control. As I have stated previously, proper internal controls are a core responsibility of management. A formal and structured internal control framework is urgently needed — such a framework outlines management's responsibility over the control environment, risk assessment and control activities, among other things. In the conduct of peace operations, the importance of an internal control framework is in particular underscored. As mission environments present unique environments that may make the Organization more vulnerable to risks, thus necessitating even stronger controls. The present report highlights areas where attention is particularly needed to address shortcomings before they manifest as reputational or financial losses to the Organization. Unfortunately, in some cases, it is too late as reported in the report on the activities of the OIOS Procurement Task Force (A/62/272), which covered the activities of the Task Force for the first half of 2007, and as reported in section IV of the present report.

Many of the allegations that have been substantiated following OIOS investigations had been reported in 2006. However, there was a significant decrease in the number of allegations reported in 2007. It is important to note that some of the Office's activities in 2007 will not be reported until early 2008 when reports are issued. For instance, the Procurement Task Force has been reviewing over 20 procurement exercises related to the United Nations Mission in the Sudan, and the Investigations Division is reviewing allegations of major procurement irregularities in the United Nations Interim Administration Mission in Kosovo.

The Office of Internal Oversight Services remains fully engaged in assisting the Secretary-General in fulfilling his oversight responsibilities in respect of the resources and staff of the Organization. The Office wishes to thank the Department of Peacekeeping Operations, Department of Field Support, Department of Political Affairs and mission staff for the support they lend to the Office in the conduct of its duties.

(*Signed*) Inga-Britt **Ahlenius**
Under-Secretary-General for Internal Oversight Services
25 February 2008

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I. Introduction

1. During the reporting period from 1 January to 31 December 2007, the Office of Internal Oversight Services (OIOS) issued 154 oversight reports related to peace operations. The recommendations issued in those reports represent 54 per cent of all OIOS recommendations issued during the reporting period. The present report provides an overview of OIOS work in these areas.

2. As compared to part I, the present report pertains exclusively to oversight of the peace operations of the Organization. That includes the Department of Peacekeeping Operations, the recently created Department of Field Support, and the 17 peacekeeping missions that fall under those Departments, as well as 14 special political and peacebuilding missions led by the Department of Political Affairs or the Department of Peacekeeping Operations, supported by the Department of Field Support. It does not include the activities of the Procurement Task Force completed in the first six months of 2007, as they were reported to the General Assembly (A/62/272) and, pursuant to resolution 62/234, will be reviewed by the General Assembly at the first part of the resumed sixty-second session.

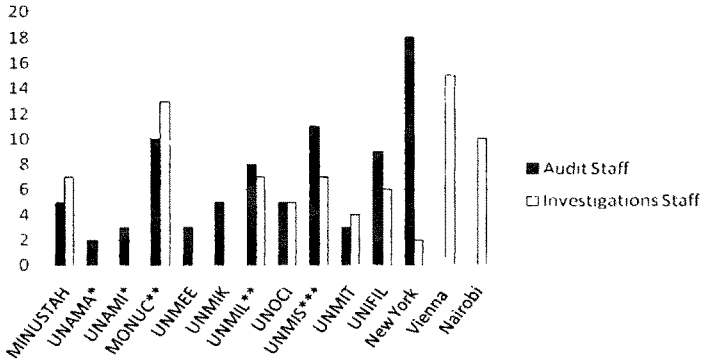
3. In the previous reporting period, OIOS reported a significant increase in the scope of its activities, as well as resources, to assist the Secretary-General and Member States in their oversight of burgeoning peace operations. While overall resources dedicated to peace operations remained at a similar level in 2007, a new OIOS presence was established in the United Nations Interim Force in Lebanon (UNIFIL) and the United Nations Integrated Mission in Timor-Leste (UNMIT), while the presence of the Office in the United Nations Operation in Burundi (ONUB) was phased out. The Office also expanded its presence in United Nations Organization Mission in the Democratic Republic of the Congo (MONUC). Figure 1 below denotes the number of OIOS posts dedicated to peace operations as at 31 December 2007,[1] and the regional/mission distribution of these posts between the Internal Audit and Investigations Divisions.

[1] The data chart is based on the funding source of a post. Given the special funding arrangement for the Procurement Task Force, Procurement Task Force staff are not included in this data.

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Figure 1
OIOS peace operations oversight staff
(as of 31 December 2007)



* UNAMA and UNAMI are staffed by non-OIOS post resources
** MONUC and UNMIL include 2 non-OIOS posts for investigations
***UNMIS includes 1 non-OIOS post for investigations

II. Overview

A. Internal audit

4. The audit staff of OIOS focused on peace operations comprise nearly 55 per cent of all Internal Audit Division staff. The Peacekeeping Audit Service of Internal Audit Division operates through New York, and via resident auditor staff based in 11 missions. Staff in New York cover the audit activities of the Department of Peacekeeping Operations, Department of Field Support and Department of Political Affairs headquarters as well as smaller peacekeeping and special political missions. Resident Internal Audit Division staff audit a full range of activities at their respective peacekeeping and special political missions.

5. The scope of audits varies widely from relatively routine to complex global or horizontal audits in areas such as fuel management, procurement and management, and direction of special political missions. During the reporting period, the resident audit offices conducted comprehensive risk assessments of mission activities, which will serve as the basis for the 2008 Internal Audit Division audit workplan. As discussed in the previous report (A/61/264 (Part II)), OIOS relies on a formula for identifying resources to be allocated to a particular mission based on the size of the mission's budget. This formula may be adjusted where there are significant high-risk activities and mission complexities; therefore this approach is consistent with the adoption of a risk-based work planning approach.

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6. Also in 2007, OIOS began preparations for staffing two new peacekeeping missions: the African Union/United Nations Hybrid Operation in Darfur (UNAMID) and the United Nations Mission in the Central African Republic of Chad (MINURCAT), both of which will be fully operational in January 2008.

B. Inspection and evaluation

7. The Inspection and Evaluation Division reassessed its approach and methodology for peacekeeping evaluations and inspections, shifting its focus to broader thematic and cross-cutting dimensions of United Nations peace operations systems. With only one Programme Officer dedicated to the inspection and evaluation of peace operations, the Division's major effort during the reporting period was on reviewing results-based budgeting in peacekeeping, based on a request of the Controller. The review sought to assess the extent to which the budget framework is effective and efficient in measuring the achievement of results in peacekeeping operations. The review of results-based budgeting was also in alignment with the Division's results-based management theme of inspections for non-peacekeeping programmes. Those parallel exercises provided useful synergy between the reviews of results-based initiatives in both peacekeeping and non-peacekeeping programmes.

C. Investigation

1. Investigations Division

8. The Office conducts investigations of peace operations through investigators based in New York, Nairobi and Vienna and via resident investigators based in five peacekeeping missions. Overall, staff focused on investigations in this area make up 68 per cent of all Investigations Division staff.

9. Between 1 January and 31 December 2007, a total of 469 allegations were received by OIOS[2] Investigations Division pertaining to staff involved in peace operations. The allegations comprise nearly two thirds (65 per cent) of all allegations received by the Investigations Division in 2007. After an evaluation of each allegation by OIOS, 134 (or 29 per cent) were assigned to an OIOS investigator for investigation, 108 (or 23 per cent) were referred to other Departments/Offices for investigation,[3] 65 (or 14 per cent) were filed for information, and other action was taken on the remaining 162 (or 34 per cent).[4] In total, 87 investigation reports were issued in 2007.[5]

10. During the 12-month reporting period, the average open caseload for the Investigations Division was 285, of which 206 (or 73 per cent) were related to peace

[2] Includes some allegations reported to OIOS by Conduct and Discipline Units

[3] General Assembly resolution 59/287, para 8, "OIOS may entrust trained programme managers to conduct investigations on its behalf"

[4] Of the 162, 68 were placed on suspense to gather further information or procurement matters referred to the Procurement Task Force and 94 advisories provided to the United Nations Treasury or Office of Programme Planning, Budget and Accounts

[5] Includes allegations that may have been reported in 2006, but the investigation report was not issued until 2007

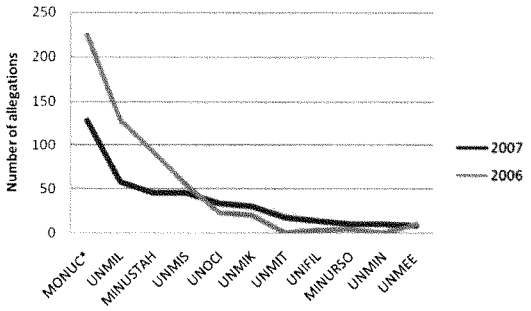
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operations. It should be noted that during the last quarter of 2007, the average open caseload declined to 254 for all cases, and 174 for cases related to peace operations, a decrease of 11 and 16 per cent, respectively.

11. More than 85 per cent of the allegations pertaining to peace operations received in 2006 and 2007 were concentrated in approximately one third of United Nations field missions. Figure 2 compares the number of allegations for those locations in 2006 and 2007. Overall, OIOS received 26 per cent fewer allegations in 2007 than in 2006. In allegations of sexual exploitation and abuse alone, there was a 64 per cent decrease. While existing numbers still underscore the need for strengthening efforts to prevent misconduct, particularly sexual exploitation and abuse, it may be posited that the decline in allegations reflects positively on the concerted efforts of the Organization following the report of the adviser to the Secretary-General on a comprehensive strategy to eliminate future sexual exploitation and abuse in the United Nations peacekeeping operations (Prince Zeid report) (A/59/710). It should be noted that there are many variables that contribute to an environment conducive to behaviour specifically discouraged under Secretary-General's Bulletin ST/SGB/2003/13 and any other form of misconduct; therefore, while progress is being made, because of the complex and constantly evolving nature of the environment in which the Organization operates, there is no guarantee that status quo efforts will lead to a further decline in misconduct. Further, it must be stressed that just one allegation of misconduct, regardless of the type, is one allegation that may adversely impact the credibility and reputation of the Organization and hence its ability to discharge its mandate. For its part, OIOS in its report on strengthening investigations (A/62/582, annex) highlights its proposals for restructuring and strengthening its investigation function to better meet the demand for qualified and timely investigations.

Figure 2
Comparison of 2006 and 2007 allegations in select missions
(as of 31 December 2007)



* The sharp increase in MONUC is due to a large number of allegations reported in Bunia.

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2. Procurement Task Force

12. Approximately 50 per cent of the work of the Procurement Task Force in 2007 dealt with procurement irregularities in United Nations peacekeeping missions. During the period, the Procurement Task Force received 75 referrals of procurement irregularities related to peacekeeping operations, all of which have been assigned for investigation. A total of 66 procurement cases were closed, and 13 reports related to peacekeeping missions were issued in 2007. Those reports concerned multiple vendors, vendor intermediaries and agents, as well as United Nations staff members. Investigations by the Procurement Task Force resulted in suspension and removal of 24 vendors.

3. Investigation findings

13. Investigations conducted by OIOS are administrative in nature and are intended to guide the Secretary-General in deciding on jurisdictional or disciplinary action to be taken. It should be noted that a number of the cases reported in the present report are currently under active consideration within the internal justice system and are being held in strict compliance with the relevant rules and procedures, and that no final determination on whether misconduct can be made until the proceedings in each case have been completed. To respect the individual rights of staff members regarding due process, OIOS has limited the information on cases which are currently pending consideration in the internal justice system. It should be stressed that all staff members are entitled to the presumption of innocence until such time as the allegations against them have been substantiated through established processes; therefore any finding presented in the present report, cannot be regarded as a final determination on the part of the Organization.

D. Cooperation and coordination

14. Aside from ongoing cooperation and coordination with the Board of Auditors and the Joint Inspection Unit, in peacekeeping the Office also works closely with the Department of Peacekeeping Operations/Department of Field Support Conduct and Discipline Units. In late 2005 formal working procedures between Conduct and Discipline Units, OIOS and other relevant actors were finalized and implemented. Those procedures have continuously evolved to ensure optimal cooperation. Additional information on cooperation and coordination among Conduct and Discipline Units, OIOS and other entities in the United Nations system, both at Headquarters and in the field, will be provided to the General Assembly at the present session in a report of the Secretary-General as requested in section XVI, paragraph 6 of its resolution 61/276.

15. Also in 2007, the Investigations Division continued its role as one of three entities conducting fraud and corruption investigations as part of the Investigation Task Force in Kosovo. The other members of the Investigation Task Force include the European Union Anti-Fraud Office and the Italian financial crime police unit, the Guardia di Finanza. The Investigation Task Force operates on the basis of the individual mandates of each entity and with additional legal support from UNMIK Executive Decision 2003/16. Investigation Task Force activities in 2007 focused heavily on "Korporata Energjetike E Kosoves".

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16. It should be emphasized that in all areas of its work, OIOS works to foster relationships with its stakeholders. To that end, Inspection and Evaluation Division sought to build broader partnerships with internal and external stakeholders, particularly with Department of Peacekeeping Operations, by organizing an internal in-house forum in August 2007. The forum provided an opportunity for OIOS to discuss peacekeeping evaluation with the Department as well as a chance to discuss future focus in peacekeeping evaluation.

E. Challenges

17. OIOS confronts some of the same challenges faced by other Departments/Offices in recruiting and retaining highly qualified staff willing to work in the peacekeeping mission environment. In fact, in most cases understaffing represents the single largest impediment facing OIOS in the conduct of peacekeeping audits. OIOS is seeking to address that issue through an intensive recruiting effort.

18. While all actors working in peace operations confront new and challenging circumstances every day, the risks are compounded when far-reaching exceptions are made to the very policies/controls in place that are meant to safeguard the assets of the Organization. With regard to Darfur, for example, the Secretary-General has informed the President of the General Assembly of his decision under his authority to approve a wide range of exceptions from the application of financial rules and administrative policies and procedures to facilitate establishment of UNAMID. They include the extension of existing system contracts scheduled to expire before 31 December 2007 and an increase in the not-to-exceed amounts of contracts subject to review by the Headquarters Committee on Contracts; ability to enter into non-competitive, single source contracts in the short-term subject to approval by the Headquarters Committee on Contracts, and the exemption of UNAMID requirements from review by the Local Committee on Contracts for a period of eight months. The measures in human resources management include, among others, the immediate reassignment of civilian personnel for key administration positions without advertisement of posts, and the temporary assignment of the civilian personnel enabling the releasing office to recruit a temporary replacement. At the request of the General Assembly, OIOS is planning an audit of the use of those exceptional measures to assess the adequacy and effectiveness of internal controls put in place to mitigate the risks associated with their use and to determine whether the expected results had been achieved.

19. OIOS auditors will be challenged to identify new ways to audit the substantial UNAMID procurement and other activities without applying the traditional policies and rules as criteria for assessing performance. OIOS will also have to determine how to audit a wide range of activities and expenditures to safeguard the interests of the Organization without negatively impacting the ongoing efforts to establish and support the Mission.

20. In that regard, in a 23 November 2007 note to the Secretary-General on the exemptions granted to UNAMID, OIOS emphasized that delegating officials will still remain accountable for any irregularities, misuse of resources or excessive expenditures. OIOS also expressed its concerns based on prior audits and investigations that the Organization will face a higher-risk exposure to

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mismanagement, fraud and corruption as a result of the waiver granted to UNAMID. The note contains an annex outlining the major high-risk areas related to each exemption.

III. Holistic approach to misconduct

21. OIOS has previously reported on the need for a holistic approach to misconduct, with respect to sexual exploitation and abuse matters, in order to further reduce the instances of such serious misconduct. In general, a holistic approach includes awareness-raising and a training programme for all staff as to the standards of conduct expected under the Charter of the United Nations and Staff Regulations and Rules, a system that emphasizes accountability when misconduct is substantiated, and effective command and control by the various troop-contributing countries. Department of Peacekeeping Operations/Department of Field Support, Department of Management, troop-contributing countries, OIOS and others all play critical and unique roles in that context.

22. With regard to command and control, there is often the perception that effective command and control equates tighter controls and harsher discipline; however, that is only part of the equation. Command and control must also encompass "soft" components that do not impinge on an individual, such as welfare activities that allow for troops to exercise and engage their time and minds. The continual revision and strengthening of all command and control issues are absolutely essential. With the support of the troop-contributing countries, and the respective Contingent Commanders, it should be possible for Conduct and Discipline Unit and troop-contributing country staff to identify and implement a range of command and control activities that can make a positive difference.

IV. Oversight findings by risk area

23. The present section of the report summarizes select findings from the period under review. As noted in part I of the present report, there are seven risk categories which in the opinion of OIOS accurately represent the various types of risk present in the current United Nations work environment. Those risk categories, which also form a central component of the OIOS risk assessment methodology, are strategy, governance, compliance, financial resources, operational, human resources and information resources. In 2007, OIOS assignments found the following four risk areas particularly prevalent: governance, compliance, financial and operational. It should be emphasized that findings in general are often a confluence of many factors that may stem from more than one risk area. Therefore, the absence of other risk categories in no way signifies that those risks are not present.

A. Governance risk

24. OIOS defines governance risk in the context of the United Nations as the impact on the mandate, operations or reputation of the Organization arising from:

(a) Failure to establish appropriate processes and structures to inform, direct, manage and monitor the activities of the Organization;

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(b) Insufficient leadership within senior management;

(c) Failure to promote an ethical culture in the Organization.

25. An audit of occupational safety and health in UNMIL found that Department of Peacekeeping Operations needed to work with the Department of Safety and Security to develop guidelines for the occupational safety and health of civilian personnel in the Mission. The lack of direction provided to the Mission resulted in the fragmentation of safety and health programmes. Overall, Mission programmes did not meet international standards nor did they adequately mitigate occupational safety and health risks. As a result, personnel were being exposed to an unacceptably high risk of accidents and/or health problems that could have been prevented by meeting minimum standards. The Mission accepted the OIOS recommendations. The Department of Peacekeeping Operations/Department of Field Support commented that UNMIL has established an Occupational Health and Safety Council, which reports directly to the Director of Administration. However, the Liberia health and safety regulations do not yet meet the required standard and/or are not being enforced, thereby making it difficult for contractors to comply with them.

26. An audit of the HIV/AIDS programme in the United Nations Mission in Ethiopia and Eritrea (UNMEE) showed that strengthened efforts were needed to make civilian and military personnel more aware of HIV/AIDS. The lack of adequate information or programmes concerning HIV/AIDS can increase the risk of contracting and spreading the disease or failing to seek proper medical attention when infected. Specifically, a survey conducted as part of the audit revealed that the HIV/AIDS awareness[6] rating across the Mission's various staffing components averaged 72 per cent with national and international staff averaging 78 per cent, while military respondents averaged only 60 per cent. The audit also identified the need for the HIV/AIDS Policy Adviser to enhance the monitoring and evaluation of the impact of the HIV/AIDS programme in the Mission area. The HIV/AIDS Policy Adviser noted that although certain aspects of the programme's success can be evaluated, some key areas such as HIV prevention among peacekeepers cannot be evaluated because the Mission does not maintain a database on the activities conducted. The Mission accepted most of OIOS recommendations.

27. In an audit of UNIFIL, OIOS found that the Mission needed to formulate indicators of achievement and performance measures for the political and civilian affairs components of its operations. Indicators and performance measures are critical to evaluating the effectiveness of operations. The Mission agreed to formulate such indicators. OIOS also found that the roles and responsibilities of the expanded UNIFIL organizational units were not formally described in an information circular that would specifically define their reporting lines and accountability. Based on an OIOS recommendation, the Mission agreed to issue information circulars describing specific roles and responsibilities.

[6] Calculations on awareness are based on the responses to the following questions: (a) whether staff had attended an awareness workshop on HIV/AIDS in their home country, (b) had attended an awareness session on HIV/AIDS in UNMEE, (c) whether staff are familiar with voluntary counselling and testing, and (d) whether staff are aware that voluntary counselling and testing is available in UNMEE

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28. An audit of UNIFIL security mechanisms found that national staff were not included in the staff warden system and other security mechanisms as required by the Department of Safety and Security in the United Nations Field Security Handbook. Those shortcomings directly affected the security and safety of UNIFIL national staff during the security crisis in Lebanon in July-August 2006. Local staff were not aware of any efforts by UNIFIL to contact them or their families during the crisis. The Office recommended that UNIFIL comply with the Department of Safety and Security policies on the inclusion of national staff in the Mission zone warden system and other security mechanisms to ensure that all staff are kept abreast of the latest information in the event of an emergency. UNIFIL has implemented the OIOS recommendations. The Department of Peacekeeping Operations/Department of Field Support commented that prior to the crisis in Lebanon in July-August 2006, the Department of Safety and Security had not been tasked with the lead on safety and security of personnel in the Mission. Moreover, the above shortcomings, combined with the intensity of hostilities that ensued and resulted in the complete immobilization of all means of communication and total movement restriction, not only affected the security and safety of all UNIFIL staff, but ultimately cost the life of one international staff member and his dependant. Since all international staff in the area of operations are obliged to take up residence in the same town that is situated on the edge of the area of operations, they could be reached more easily than the national staff and their families, who are naturally dispersed throughout the country.

29. As reported in one preceding report (A/61/264 (Part II)), at the request of the Controller, in 2007 the Inspection and Evaluation Division undertook a review of results-based budgeting in peacekeeping operations to assess the extent to which the budget framework is effective and efficient in supporting the achievement of results in peacekeeping operation. The review focused on the congruence and alignment of the results-based budgeting framework in regard to the mission mandate, its relevant processes, policy guidelines and standard operating procedures for peacekeeping operations. Particular emphasis was on the practical application of the results-based budgeting, including the presence of time-bound performance indicator baselines and targets, documentation of performance indicator methodologies, observed change in indicators of achievement, and whether the elements of the framework provide an adequate measurement of results achieved. The review involved field work to four peacekeeping operations, UNMIK, UNMIL, the United Nations Mission in Sudan (UNMIS) and the United Nations Integrated Mission in Timor-Leste (UNMIT) resulting in reports on each mission. OIOS will produce a summary report on results-based budgeting in peacekeeping operations that provides an overall assessment of results-based budgeting trends and highlights the areas of results-based budgeting that need more focus and strengthening.

30. Overall, the reviews of the four missions noted that, while the practice of results-based budgeting continues to evolve, there are several areas that need improvement to further enhance its utility in peacekeeping missions. With regard to the preparation of the results-based budgeting frameworks, there are three main issues that were highlighted: first, the results-based budgeting instructions from the Controller and the Strategic Guidance instructions issued from the Department of Peacekeeping Operations would be more useful in providing guidance to the missions if the two sets of instructions were issued as a single consolidated results-based budgeting guidance. That would enhance the relevance and utility of the

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guidance while also clarifying the context in which the guidance is set for preparing their respective results-based budgeting frameworks (OIOS maintains this consideration while noting that Office of Programme Planning, Budget and Accounts has stated that the two sets of instruction serve different purposes in the peacekeeping budgeting process); secondly, the missions are uncertain about how to deal with adjustments necessitated by the fact that the budget proposals are prepared a considerable time before the implementation period; and thirdly, of the missions reviewed, their respective results-based budgeting frameworks were lacking in areas of measurability regarding baselines and targets for their respective indicators of achievement. OIOS noted the request by the Department of Management to delete references to measurability issues but declines to do so for several reasons: (a) Office of Programme Planning, Budget and Accounts stresses the importance of measurability in its guidance on results-based budgeting frameworks, e.g., stating that all elements of the logical frameworks are formulated according to SMART (specific, measurable, achievable, realistic, time-bound) principles; (b) OIOS finds that baselines and targets are an important part of the results-based budgeting framework and provide a basis to assess progress in a particular area over time; and (c) the Board of Auditors also recently highlighted the importance of baselines and targets, noting that "in the absence of baseline and/or target data as well as specific, measurable, and time-bound outputs, any improvement or decline in accomplishments could not be properly determined".[7]

31. With regard to the full utilization of results-based budgeting at missions, two main issues hindered the process: (a) results-based budgeting was not being fully utilized as a management tool in most missions because it was not linked to or integrated into the mission implementation plans. It was further noted that in missions where there was sufficient integration and linkage, such as UNMIL, results-based budgeting was better utilized as a management and planning tool; and (b) there was a lack of results-based budgeting capacity at the missions due to staff turnover and a lack of useful results-based budgeting guidance. While the Department of Field Support maintains that current training materials are sufficient, OIOS reiterates that such guidance and materials have not recently been updated and revised and encourages the Department of Peacekeeping Operations/Department of Field Support to develop current standardized training materials on results-based budgeting, based on available materials, for the use of Integrated Training Mission Centres. In regard to monitoring and evaluation of results-based budgeting frameworks, it was noted that monitoring of such frameworks was best undertaken via an automated Lotus-based monitoring tool, such as UNMIS, but that that tool is not yet available and used at all missions. OIOS made a total of 33 recommendations to the Controller, Department of Peacekeeping Operations and Department of Field Support towards improving the utilization of results-based budgeting in peacekeeping missions.

B. Compliance risk

32. OIOS defines compliance risk in the context of the United Nations as the impact on the mandate, operations or reputation of the Organization arising from

[7] See *Official Records of the General Assembly, Sixty-second Session, Supplement No 5* (A/62/5), vol II, para 76

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violations of, or the failure or inability to comply with laws, rules, regulations, prescribed practices, policies, procedures or ethical standards.

33. Based on its comprehensive audit of the United Nations Mission in Nepal (UNMIN), OIOS concluded that policies and procedures on human resources, procurement and logistical support that are specific to launch short-term political missions needed to be developed, considering the limited duration of their mandates and the associated political and reputational risks to the Organization. The absence of such policy adversely affects the deployment of political missions and their mandate implementation. There were also serious internal control shortcomings in the Mission's operational areas, particularly administrative and logistical planning, procurement and asset management. For example, goods and services valued at more than $500,000 were delivered without purchase orders or other contractual documents. UNMIN requisitioners also communicated directly with vendors in violation of established procurement procedures. According to UNMIN, those cases were later presented to and reviewed by the Local Committee on Contracts, which noted that the actions of the staff involved were not found to indicate intentional or wilful disregard of rules nor was there any financial loss to the Organization. However, OIOS believes that the cases represented a high operational risk and should have been avoided by setting proper internal controls at the start of the Mission, considering the high value of procurement operations. The audit also identified internal control deficiencies in asset management where property records were unreliable and did not reflect the actual quantity of assets held in warehouses or issued to users. Those violations of established policies might result in losses to the Organization. While most of OIOS recommendations issued to address those matters were accepted by the Mission, UNMIN underlined the fact that it was critically understaffed during its start-up phase.

34. In UNMIL OIOS substantiated allegations that a military contingent member assaulted three women. In the course of its investigation, OIOS interviewed a number of officers and enlisted members of the military contingent and found that they deliberately misrepresented facts in an effort to protect their colleague. OIOS recommended that the Department of Field Support refer the case to the national authorities of the concerned troop-contributing country for appropriate action against the relevant contingent members. The Department referred the case accordingly; however, to date, no response from the troop-contributing country has been received.

35. In UNMEE OIOS substantiated allegations that two United Nations Volunteers smuggled Eritrean nationals into Ethiopia for personal and financial gain. OIOS found that in December 2005 and January 2006, one United Nations Volunteer smuggled 6 Eritrean nationals into Ethiopia and from April to August 2006, smuggled 25 Eritrean nationals into Ethiopia. From June to August 2006, the United Nations Volunteer and others were also involved in the smuggling of domestic luxury goods and foodstuffs to and from Eritrea and Ethiopia. OIOS further substantiated that a national staff member conspired to smuggle Eritrean nationals to Ethiopia. OIOS recommended that the Organization take appropriate action against the two United Nations Volunteers and the national staff member involved in the scheme. All recommendations issued in this report have been implemented.

36. In the former ONUB OIOS substantiated allegations that members of a military contingent sexually exploited local women. Their conduct was aided by lax

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security at the military contingent's camp which facilitated unauthorized access by members of the local population into and out of the camp. OIOS also found that though allegations had been brought to the attention of the military contingent commander and the poor security situation was known, little or no action was taken by the commander to address the issue. OIOS recommended to the Department of Field Support that the case be referred to the concerned troop-contributing country for appropriate action; however, to date, no response from the troop-contributing country has been received.

37. In UNMIL OIOS substantiated allegations that up to five employees of a United Nations contractor raped two local women and then subsequently assaulted local police officers investigating the rape allegations. The local police sought to initiate criminal proceedings against a number of the contractor's employees; however, during this process the subjects fled the jurisdiction under the shadow of allegations of bribery and attempted bribery of local officials. OIOS recommended, inter alia, that the case be reported to the home country of the contractor for appropriate action to be considered against the contractor's employees; that the United Nations consider pecuniary penalty clauses in service contracts relating to substantiated cases of sexual exploitation and abuse by the employees of contractors.

38. In MONUC OIOS substantiated an allegation that a military contingent member had sexually abused a 9-year-old boy. OIOS also found that the commanders of the national contingent made the offending peacekeeper pay compensation to the child's mother, local authorities and others; that the commanders did not report the alleged incident to the Head of Mission as required; and that the contingent's commanding officers attempted to cover up the abuse through payments to the child's mother, a witness and to local authorities. OIOS recommended, through the Department of Field Support, that appropriate action be considered by the concerned troop-contributing country for appropriate action against the peacekeeper and contingent commanders. The Department of Field Support has implemented this recommendation.

39. In UNMIL OIOS substantiated allegations that a staff member disseminated threatening and defamatory letters and posters against another staff member to United Nations Headquarters in New York and to UNMIL headquarters. A recommendation to the Department of Field Support that appropriate action be taken against the concerned staff member has been implemented; while another recommendation to refer the matter to New York judicial authorities for criminal action has been declined.

40. In MONUC OIOS investigated allegations that national contingent members engaged in the exploitation of natural resources and the trafficking of weapons and ammunition to the Front des Nationalistes et Intégrationnistes. Although OIOS found no evidence in support of the allegation of weapons smuggling, OIOS established that from 12 to 17 November 2005 and on 1 December 2005, some national contingent members provided logistical support to certain businessmen who had purchased significant quantities of unwrought gold without possessing the appropriate government authorizations. OIOS was unable to identify the involved military contingent members, but found that it was impossible for the contingent members to provide logistical support to the businessmen without the knowledge of the contingent commander. The Department of Field Support has implemented an

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OIOS recommendation to refer the case to the concerned troop-contributing country for appropriate action against the contingent commander.

41. In UNMIL OIOS received allegations of sexual exploitation of local women by members of a national contingent. Some of the allegations were subject to previous investigations by OIOS and others date back to the deployment of the national contingent in the region in October 2004. OIOS found that some of the national contingent members were engaged in conduct that was specifically discouraged under Secretary-General's Bulletin ST/SGB/2003/13. In particular, OIOS found that members of the concerned national contingent routinely disobeyed their military curfew and stayed off base with local women in towns that are in close proximity to the military bases. Although OIOS found no evidence to support allegations that national contingent members were engaged in sexual activity with children, anecdotal evidence strongly suggested that such conduct has occurred. OIOS considered that the conduct could be attributed to failures of command and control; accordingly, OIOS recommended, through the Department of Field Support, that officials of the concerned troop-contributing country address such command and control failures. The Department of Field Support has implemented the recommendation.

42. In UNMIS OIOS substantiated an allegation that a military observer attempted to rape a local woman. The Department of Field Support has implemented an OIOS recommendation to refer the case to the concerned troop-contributing country for appropriate action.

43. In UNMIL OIOS substantiated allegations that a senior staff member and assistant conducted themselves in a way not befitting United Nations staff members. Pursuant to the Office's recommendations, the Department of Field Support referred the case to the Office of Human Resource Management for disciplinary action against them for failing to uphold the highest standards of efficiency and competency in the discharge of their functions as required by United Nations Staff Regulations. The matter is pending the outcome of the internal disciplinary process.

44. In UNMIS OIOS substantiated an allegation that a military observer indecently assaulted a member of an international non-governmental organization. OIOS found that the assault was of such character and circumstances that a reasonable inference could be drawn that the military observer assaulted the woman with intent to have sexual relations with her with or without her consent. The Department of Field Support has implemented an OIOS recommendation to refer the case to the concerned troop-contributing country for appropriate action.

45. In the United Nations Operation in Côte d'Ivoire (UNOCI), OIOS received allegations of the sexual exploitation of local girls and women by members of a national contingent. An initial verification of the allegations was undertaken by OIOS and the UNOCI Conduct and Discipline Unit. During that assessment, OIOS interviewed 12 alleged victims, relevant UNOCI military and civilian personnel, UNICEF representatives, members of the local community and representatives of local non-governmental organizations and conducted site visits. As a result of the assessment, OIOS found sufficient grounds to identify that members of the national contingent had engaged in sexual exploitation and abuse of both minors and adults in the area. Subsequent to the assessment, meetings were held by OIOS with officials of the Department of Field Support and the concerned troop-contributing country. OIOS agreed to provide investigative support to the troop-contributing

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country; however, the investigation was initially unable to proceed owing to restrictions from national authorities. Some two months later, that impasse was resolved and a combined investigation team of OIOS and personnel from the troop-contributing country commenced field inquiries. The matter is ongoing.

46. In UNMIL OIOS substantiated allegations that a staff member engaged in a series of sexual relationships that were of the type strongly discouraged under Secretary-General's Bulletin ST/SGB/2003/13 and the UNMIL Code of Conduct on Sexual Exploitation and Abuse. Moreover, during the course of the investigation the staff member failed to be forthright and truthful to investigators and in doing so, failed to maintain the high professional and ethical standards required of him by virtue of his position. Accordingly, OIOS has referred the case to the Office of Human Resource Management for appropriate action with respect to violations of relevant United Nations Staff Regulations. The matter is pending the outcome of the internal disciplinary process.

47. In UNMIL OIOS substantiated allegations that a staff member sexually abused a 12-year-old local girl. The investigation also found that in the lead-up to the abuse, the officer commissioned a local security guard to entice the girl to the Officer's private accommodation, where she was locked in the premises and unable to leave. The Department of Field Support has implemented OIOS recommendations to refer the case to the police-contributing country for appropriate action and to Liberian judicial authorities for possible criminal action against the security guard.

48. In the United Nations Disengagement Observer Force (UNDOF), OIOS investigated allegations of irregularities and corruption. OIOS found serious mismanagement resulting in misconduct and corruption by certain UNDOF staff and UNDOF engineering contractors, including payment of kickbacks to UNDOF civilian staff in exchange for the awarding of engineering contracts. Furthermore, OIOS found serious mismanagement causing a loss to the Organization, estimated at $463,000 (extrapolated at 40 per cent of the total contract volume). OIOS submitted recommendations for appropriate action concerning five civilian staff members and three contractors and recommended recovery action against one staff member in the amount of $143,629. The Department of Field Support has sought assistance from the Office of Human Resources Management relating to matters requiring disciplinary actions against the implicated staff. The Department of Field Support has also sought advice as to the national authorities undertaking a judicial review of activities engaged in by several local vendors as identified in the report.

49. In UNMIK OIOS investigated allegations referring to irregularities involving a conflict of interest between UNMIK staff and a company regarding the refurbishing, use and rental of a fuel storage facility in Kosovo. OIOS found that the procedures to obtain the necessary licenses at the Ministry of Trade and Industry (Provisional Institutions of Self-Government) are tainted by corruption. OIOS found that licenses are issued in exchange for kickbacks without regard to established procedures. Given that the allegation relates to potential criminal actions by Provisional Institutions of Self-Government staff and others, the matter was referred to the Special Representative of the Secretary-General, UNMIK, recommending that he approve the onward referral of the case to the UNMIK Department of Justice for criminal investigation. To date, OIOS has not received a response from the Special Representative of the Secretary-General as to the disposition of the case.

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50. In the United Nations Stabilization Mission in Haiti (MINUSTAH), OIOS investigated reports of alleged sexual exploitation and abuse of children by military members of several contingents of one troop-contributing country deployed in the mission. OIOS found that the acts of sexual exploitation and abuse were frequent, occurred usually at night, and at virtually every location where the contingent personnel were deployed. In exchange for sex, the children received small amounts of money, food and sometimes mobile phones. A report of investigation was submitted to the Department of Field Support with recommendations for appropriate action. In total, 114 members of the current contingent, including one Lt.-Colonel and two Majors, were repatriated on disciplinary grounds in close cooperation with the troop-contributing country authorities. OIOS is assisting in the pending legal proceedings initiated by the troop-contributing country, to ensure that all military members found guilty according to the relevant laws of that country are held accountable for their actions.

51. In MINUSTAH OIOS investigated reports of alleged misconduct, mismanagement and corruption. OIOS found that a staff member improperly collaborated with two members of the Formed Police Unit to falsify the employment of two casual daily workers. Two members of the Formed Police Unit also extorted money from the daily workers, by threats and physical abuse, and thereafter paid bribes to the staff member to ensure the continuation of the illegitimate scheme. OIOS recommended the recovery of all financial loss to the Organization from the two staff members responsible. The matter is pending the outcome of the internal disciplinary process.

C. Financial risk

52. OIOS defines financial risk in the context of the United Nations as the impact on the mandate, operations or reputation of the Organization arising from:

(a) Failure to obtain sufficient funding;

(b) Inappropriate use of funds;

(c) Inadequate management of financial performance below expectations;

(d) Inappropriate reporting and disclosure of financial performance.

53. During the reporting period, the OIOS Procurement Task Force examined approximately 40 complaints and cases involving corruption and procurement irregularities in MONUC. The Task Force found numerous cases in which vendors and companies doing business with the Mission were required to pay sums of money to staff as a prerequisite for the award of contracts by the Organization, or offered to pay sums of money in exchange for assistance in the procurement. The Task Force identified extensive efforts by several procurement staff members to solicit payments and bribes from several vendors in exchange for preferential treatment and various benefits. The Task Force identified extensive corruption in procurement in the Mission and an overall collapse of ethical culture. The Task Force found that a lack of continuity at the managerial level on the one hand, improper ethics and procurement training, and little rotation within the Professional and General Service categories of staff on the other, contributed to this development. The Task Force thus concluded that the Mission should overhaul its procurement operations, provide extensive ethics training, or divest responsibility for procurement to Headquarters or

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to an independent third party. OIOS recommendations are in the process of implementation by the Mission. As a result of the Task Force investigation, five staff members were charged with misconduct and their cases are pending the outcome of the disciplinary processes.

54. The Task Force also examined the MINUSTAH procurement exercise for the long-term supply of ground fuel in excess of $27 million and identified a corrupt scheme involving five Mission staff. These staff members severely compromised the integrity of the procurement process and committed corrupt acts throughout the process. Additionally, the Task Force identified an effort by one procurement official to solicit a bribe from one of the competing vendors in exchange for a promise to assist the vendor in the contract selection process. In connection with the investigation into the matter, some of the senior managers made material misrepresentations to the Task Force, the Local Committee on Contracts, and the Headquarters Committee on Contracts to conceal their manipulation of the procurement exercise. The Task Force recommended that appropriate action be taken against those five staff members and that the matter be referred to prosecutorial authorities. As a result of the Task Force investigation, five staff members were charged with misconduct and their cases are pending the outcome of the internal disciplinary process.

55. An audit of the management of systems contracts[8] for peacekeeping operations identified various internal control weaknesses in the procurement process from the planning stage to vendor performance evaluation and payments, which represent high risk of inefficiency and ineffectiveness in operations. In one contract, the original not-to-exceed amount was increased from $32 million to $95 million within a five-year period through various amendments without re-bidding, which increased the risk that the Organization may not be receiving the most favourable contractual terms and value for money. The case has been submitted to the Procurement Task Force for investigation. In another case, the vendor increased the prices before contract expiration, resulting in additional costs of $1.4 million to the Organization. Frequent delays in the delivery of goods under these two contracts were attributed to the failure of the peacekeeping mission to evaluate vendors' production capacity. Vendor performance reports were not found in any of the case files reviewed at the Procurement Service. Furthermore, there were delays in invoice payments, which posed risks to the reputation of the Organization. The OIOS recommendations to improve systems contract management were generally accepted by the Department of Field Support and the Department of Management. Addressing the OIOS concerns relative to systems contracts, the Department of Management commented that the Procurement Division had issued an official reminder to all procurement staff at Headquarters, field missions and offices away from Headquarters, bringing attention to the need for: (a) timely preparation and submission of vendor performance reports; (b) proper planning to limit the frequency and number of amendments to systems contracts; and (c) due diligence in conducting extensive market research to ensure fairness and competition in the procurement process.

56. In an audit of the construction of UNMIS headquarters complex, OIOS found that there were major delays in the bidding process and award of contracts valued at $2.9 million for the construction of seven two-storey office buildings. When the

[8] Contracts used to procure goods and services on a recurring basis for extended periods, intended to facilitate prompt processing of procurement requirements

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contract was awarded in January 2007, its cost was $138,136 higher than the amount originally recommended because of the depreciation of the United States dollar. The delay in completing the project also resulted in extra costs, such as renting space. The Mission attributed the delay in the bidding process to the understaffing in the Procurement Section. OIOS is of the view that the delays were also caused by the lack of a detailed project document showing estimated costs and timelines for all segments of work. The Mission, however, noted that in view of the increased security threats against the previous buildings, it was critical to complete the new headquarters complex urgently and it focused on completing the construction work. The turnover of project managers, four in a period of nine months, also contributed to the delays. OIOS recommended, inter alia, that the Mission ensure that: (a) all contracts are awarded within the original bid validity period, by following up diligently on the cases submitted to the Headquarters Committee on Contracts to avoid any extension or renegotiation of prices with bidders; (b) future construction projects are adequately planned to ensure that they are monitored effectively and that measures are taken to complete the project without further delay. The Mission accepted the OIOS recommendations and has taken action to implement them.

57. In an audit of procurement management at UNAMI, OIOS found that UNAMI staff members had engaged in unauthorized procurement of goods and services thereby committing the Mission to financial liabilities totalling $60,034 in violation of United Nations financial rule 101.2 and section 12.1.8 (4) of the Procurement Manual. OIOS recommended that the circumstances leading to these ex post facto procurement cases be investigated and accountability established. UNAMI issued a reprimand letter to a staff member in one of the cases of unauthorized procurement. An investigation into the circumstances leading to the ex post facto procurement cases is pending.

58. In the same audit discussed in paragraph 57 above, OIOS found that the Department of Peacekeeping Operations procured five armoured personnel carriers for UNAMI through a systems contract, which were dispatched along with five trailers (Safari/Oryx caravans) and additional equipment not required by UNAMI involving an extra cost of $234,790. It is unclear how the Department of Peacekeeping Operations overlooked the specific request of UNAMI for mine protected vehicles and ordered trailers that were not needed. As the trailers were grounded in Kuwait and lying idle, OIOS recommended that the Mission make efforts to relocate them to the United Nations Logistics Base (UNLB) or other missions that could use them. The Department of Field Support disagreed with the OIOS assessment of the purchase of the armoured personnel carriers, stating that the five armoured vehicles and their caravan attachments were procured as part of strategic deployment stocks. However, with the deteriorating security situation in UNAMI, and the immediate need for these assets, they were shipped directly to the Mission instead of UNLB. While the deteriorating security situation may have inhibited the use of the caravan component immediately, it would not have been prudent nor cost effective to separate the caravans from the prime-movers. As the caravans have a long life-cycle and the Mission has adequate infrastructure and the technical ability to store and maintain these assets, the Department of Field Support has recommended that the Mission retain the assets until the operating environment permits their effective use in the manner intended. As of December 2007, two of the eight years of the expected useful life of the caravans had expired. These assets are still lying idle in Kuwait and the prospect of their use in Iraq appears to be remote

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as the security situation does not permit them to be deployed. Furthermore, UNAMI had not intended to use the caravans in Iraq as the Mission's requisition specifically called for armoured personnel carriers. OIOS continues to believe that the Safari/Oryx caravans could be used in other missions where the security conditions would allow their deployment

D. Operational risk

59. OIOS defines operational risk in the context of the United Nations as the impact on the mandate, operations or reputation of the Organization arising from (a) inadequate, inefficient or failed internal processes; and (b) failure to carry out operations economically, efficiently or effectively.

60. In a procurement audit in UNDOF, OIOS found that there was little rotation of staff in the Procurement Section. As a result, 69 per cent of these staff were in the Section for three years or longer. Good management practice calls for the periodic rotation of procurement staff to minimize the risk of collusion with vendors. UNDOF accepted all of the OIOS recommendations to address the issues, and is taking action to implement them. The Department of Management stated that the Procurement Division has implemented a staff rotation programme.

61. In an audit of deployment of United Nations police and military observers in UNMIS, OIOS found that the number of authorized military observers exceeded UNMIS operational requirements. For example, OIOS found, and the Mission agreed, that a total of 640 observers could implement the Mission's mandate, as opposed to the maximum authorized level of 750. OIOS recommended that UNMIS management request the Department of Peacekeeping Operations to reduce the authorized number of military observers from 750 to 640. The Mission accepted this recommendation and noted that it had actually requested a reduction to 625. This reduction in the number of military observers will save the Mission approximately $5 million per year in mission subsistence allowance payments by reducing idle capacity, thereby increasing the Mission operational efficiency.

62. In an audit of UNMIS air operations, OIOS found that the Mission air assets, comprising 42 aircraft, were significantly underutilized. Aircraft were not needed for operational requirements 58 per cent of the time. Analysis of aircraft occupancy showed that empty seats on aircraft flown on selected days in 2006 ranged between 42 and 94 per cent. During the month of January 2006, there were 44 flights with only one passenger, 32 flights with only 2 passengers, and 37 flights with only 3 passengers. The Mission explained that many flights carried a small number of passengers as the flights were carrying VIPs or technicians to address urgent requirements, providing medical evacuations, or delivering cash to the sectors. OIOS recommended that the Mission conduct a comprehensive review of its air asset requirements and actual utilization to adjust its air fleet to ensure that air operations are conducted in a cost-effective, optimal manner. UNMIS accepted the recommendation, but noted that the Mission's Chief, Aviation Section, had conducted a comprehensive review of the appropriate mix of aircraft types in May 2006. The Mission also stated that the mix of air assets will continue to evolve as airlift requirements change, and that it now has the optimum number of aircraft in place. The Department of Field Support stated that its continuous review of the utilization of the UNMIS air fleet has resulted in a number of actions affecting the

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composition of the air assets. First, two aircraft have been decommissioned and four others have been released to UNAMID. In addition, four aircraft and two helicopters have been committed to time- and cost-sharing arrangements between UNMIS and UNAMID.

63. In accordance with General Assembly resolution 60/259, OIOS conducted a comprehensive audit of fuel management in 10 peacekeeping missions. As discussed in its related report to the General Assembly (A/61/760 and Corr.1), internal controls over fuel management needed significant improvement. Specifically, the audit found, inter alia, that: (a) in all missions audited, mechanisms to monitor fuel consumption were either lacking or inadequate; and (b) 5 of the 10 missions audited had no contingency plans to ensure the continuity of fuel supply. Those weaknesses were caused primarily by the inconsistent and limited application of the Department of Peacekeeping Operations Fuel Operations Manual. OIOS issued a total of 182 recommendations, including 83 considered critical, in the audit reports issued to managers in the 10 missions audited. Of the 182 recommendations issued, 174 were accepted. Of those, 87 have already been implemented while 76 were in the process of being implemented as of December 2007. The recommendations issued by OIOS are intended to mitigate the risks arising from: (a) the large expenditures for fuel to support peacekeeping operations and the ease with which such products can be converted into cash; and (b) the lack of contingency plans to ensure an adequate fuel supply.

64. In an audit of property control and inventory management at UNAMA OIOS identified deficiencies in several areas, including warehouse maintenance, inventory recordkeeping, and issuance and handover of assets. With regard to warehouse maintenance, for example, OIOS observed that stock in some warehouses was exposed to risk of damage and theft. OIOS recommended that stock be transferred to fixed structure warehouses. The Mission is taking steps to address the deficiencies identified in the audit.

65. An audit of the provision of drinking water in MONUC showed that there were no clear administrative guidelines or policies for the distribution of drinking water to military personnel, and as a result, distribution practices were inconsistent. For example, in some locations military contingents were issued one bottle of water and three litres in bulk, while in other locations military contingents received only the bulk provision. Distribution of water among casual daily workers on Mission premises was also inconsistent. While those working outdoors or in airports received water, others did not. Although MONUC has prepared draft guidelines regarding the provision of water, the guidelines had not been finalized at the time of the OIOS audit. As such guidelines are critical in ensuring clarity with regard to entitlements, OIOS recommended that MONUC promptly finalize and issue them. The Mission agreed to issue the guidelines.

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Additional Reports Submitted for the Record
by Senator Tom Coburn
March 26, 2009

1. United Nations, Report of the Special Committee on Peacekeeping Operations and Its Working Group, Supplement No. 19 (A/59/19/Rev. 1), 2005;

2. United Nations, Office of Internal Oversight Services, Internal Audit Division I, Management Audit of Department of Peacekeeping Operations: Human Resources Management, Audit No. AP2005/600/18, 23 December 2005;

3. United Nations, Office of Internal Oversight Services, Internal Audit Division I, Management Audit of DPKO: Financial Management and Budgeting, Audit No. AP2005/600/19, 29 December 2005;

4. United Nations, Office of Internal Oversight Services, Procurement Task Force, Interim Report of MONUC Procurement and Five United Nations Procurement Officials, Report No. PTF-R011/07, 05 July 2007;

5. United Nations, Office of Internal Oversight Services, Procurement Task Force, Report on the Ground Fuel Procurements at MINUSTAH, Report No. PTF/11/06, 16 July 2007.

Note:

These reports and other documents submitted for the record by Senator Coburn are on file with the Chief Clerk in the Offices of the Committee on Homeland Security and Governmental Affairs.