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INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

INTERNAL AUDIT DIVISION I  
OFFICE OF INTERNAL OVERSIGHT SERVICES

TO: Mr. Juan Gabriel Valdes  
A: Special Representative of the Secretary-General  
MINUSTAH

DATE: 28 July 2005

REFERENCE: AUD-7-5-10  
(05-00031)

FROM: Patricia Azarias  
DE: Director  
Internal Audit Division I, OIOS



SUBJECT:  
OBJET: **OIOS Audit No. AP2005/683/10: Review of the state of discipline in MINUSTAH**

1. I am pleased to present herewith our final report on the review of the above subject, which was conducted in April 2005.
2. Based on your response, we have closed recommendations 2, 3, 4, 5, 6, 7, 8, 11 and 12 in the OIOS recommendations database. In order to close recommendations 1, 9 and 10, we request that you provide us with the additional information as discussed in the text of the report and a time schedule for their implementation. Please note that OIOS will report on the progress made to implement its recommendations in its annual report to the General Assembly and semi-annual report to the Secretary-General.
3. IAD is assessing the overall quality of its audit process and kindly requests that you consult with your managers who dealt directly with the auditors and complete the attached client satisfaction survey form.

#### I. INTRODUCTION

4. OIOS conducted a review of the state of discipline in MINUSTAH. The audit was conducted in accordance with the standards for the professional practice of internal auditing in United Nations organizations.
5. This review was requested by the Department of Peacekeeping Operations (DPKO) and its overall objective was to determine the state of discipline in peacekeeping operations worldwide. A series of meetings were held between OIOS, and DPKO and the Office of Human Resources

(OHRM), which resulted in establishing the terms of reference for the review and the development of an agreed on audit programme.

6. MINUSTAH was established on 1 June 2004 to provide a secure and stable environment for the constitutional and political process in Haiti to take place. The approved budget for the period from July 2004 to June 2005 is \$379 million, and covers the deployment of 6,700 military contingents from 15 Troop Contributing Countries (TCC), 1,622 Civilian Police, 482 international civilian staff, 549 national staff and 153 UN Volunteers.

7. The comments made by the Management of MINUSTAH on the draft audit report have been included in the report as appropriate and are shown in italics.

## **II. AUDIT OBJECTIVES**

8. The major objectives of the review were to:

- a) Assess the state of discipline in the mission;
- b) Identify gaps in existing policies and procedures on discipline; and
- c) Identify tools that the Mission requires to maintain an environment of good order and adherence to the UN standards of conduct.

## **III. AUDIT SCOPE AND METHODOLOGY**

9. The review included an analysis of the data and statistics on cases of misconduct since the inception of the Mission. The audit covered the review of all relevant policies and guidelines on discipline and selected case files on misconduct.

10. Interviews were also conducted with management and relevant personnel – civilian staff members, military troops, military observers and civilian police – who are involved in the Mission’s disciplinary mechanism and enforcement. The review also included a confidential survey on the state of discipline in the Mission covering all categories of mission personnel.

## **IV. OVERALL ASSESSMENT**

11. Overall, the number of complaints recorded and disciplinary actions taken against the Mission personnel were relatively low and, in response to the OIOS survey, 87 percent of staff members expressed the view that generally the state of discipline was good. However, a significant number of staff members (61 percent) stated that misconduct is occurring but is going undetected and unpunished. The Mission management has stressed the importance of maintaining a good state of discipline and circulated the related policies, but these policies were not clearly translated into the roles and responsibilities of the Mission officials. Further, the lack of a centralized procedure to receive and record complaints created a risk that complaints may not have been recorded, adequately investigated and followed up on. The misconduct prevention programme was scanty and was not based on a thorough risk assessment. The Mission needed to institutionalize a performance measure mechanism in order to make its misconduct prevention programme meaningful.

## V. AUDIT FINDINGS AND RECOMMENDATIONS

### A. The state of discipline in the mission

#### Reported cases of misconduct

12. 145 allegations/complaints related to discipline were recorded in MINUSTAH for the period from June 2004 to April 2005, as shown in Table 1. The table indicates that the majority of such cases were categorized as others, representing minor discipline issues such as breaking driving rules, vehicle accidents, and damages to UN properties.

Table 1: Nature of allegations/complaints

Nature of allegations/complaints	2004	2005	Total	%
Theft	0	1	1	1%
Fraud	1	3	4	3%
Harassment and sexual harassment	0	1	1	1%
Physical assault	1	1	2	1%
Sexual exploitation and abuse	4	1	5	3%
Abuse of power	0	0	0	0%
Misuse of UN resources	8	0	8	6%
Others (minor cases)	69	55	124	86%
<b>Total</b>	<b>83</b>	<b>62</b>	<b>145</b>	<b>100%</b>

13. Table 2 shows how the Mission handled the 145 allegations per category of personnel.

Table 2: Status of allegations/complaints

	Complaints received	Under investigation	Closed without referral to HQ	Dismissed	Referred to HQ	OHRM sanctions imposed or repatriation
Military	40	6	31	2	1	0
CivPol(FPU)	41	8	22	9	2	2
Staff	54	5	45	2	2	1
UNVs	10	0	8	2	0	0
<b>TOTALS</b>	<b>145</b>	<b>13%</b>	<b>74%</b>	<b>10%</b>	<b>3%</b>	<b>2%</b>

14. A total of three Mission personnel have been disciplined by the New York Headquarters: one civilian staff was disciplined due to abandonment of the post and two members of the Formed Police Unit (FPU) who were involved in sexual exploitation and abuse (SEA) cases and were repatriated. Another five cases of alleged SEA were recorded, of which, one case is currently under investigation and four cases were reported to DPKO NY after review by the Mission's Board of Inquiry (BOI).

### Mixed results of perception survey

15. OIOS conducted a survey of Mission personnel to obtain their perception of the state of discipline in the Mission. 612 responses from all categories of the Mission personnel were received. It was noted that the responses from UNVs and national staff did not show significant differences from the international staff and that, likewise, the responses from female respondents (84) did not show significant differences from the male respondents.

16. Eighty-seven percent of the respondents to the survey rated the overall state of discipline of the Mission as average or above average. Eighty-five percent rated the Mission's attitude on dealing with misconduct/disciplinary issues as average or above average. Eighty-two percent responded that misconduct cases are handled fairly well in the Mission.

17. However, such positive perceptions were contradicted by the following responses: 50 percent said that the disciplinary measures are not fair; and only 39 percent said that misconduct is not occurring and not going undetected and unpunished. One of the respondents commented that the disciplinary process took a long time and the outcome or penalty was not known.

18. In addition, 47 percent responded that they did not know how to file a complaint. Further analysis showed that, while 75 percent of respondents from the military and Civilian Police officers (CIVPOL) responded that they know how to file a complaint, only 39 percent of civilian staff and UNVs replied that they know how to file a complaint. Although the Staff Rules and Regulations provide a general guideline, the Mission has not appointed a focal point for all types of misconduct, except for the focal points for SEA. Twenty-six percent said that they did not receive any briefing or information on UN standards of conduct. OIOS further addressed these issues in performance measure of section chiefs and managers in misconduct prevention below. Finally, only 62 percent think that the mission is implementing measures to prevent SEA. For this question, 58 percent of the female respondents think that the mission is implementing measures to prevent SEA.

19. UN agency officials of the Country Team were interviewed. They stated that discipline at the Mission was acceptable, largely based on their observation on the Mission vehicles' driving etiquette. However, it was pointed out that the local population may perceive that the Mission was not paying attention to some SEA allegations widely broadcasted by the local radio stations because the progress and outcome of disciplinary process was not known to them.

### **Recommendations 1 and 2**

MINUSTAH Management should:

- (i) Provide information to the Mission personnel on procedures on filing complaints (AP2005/683/10/01); and
- (ii) Consider informing the local population about misconduct cases reported, under investigation, the outcome of investigations and the final decision (AP2005/683/10/02).

20. *MINUSTAH accepted recommendation 1 and provided OIOS with a list of administrative instructions and circulars, which have been placed on the Mission's Bulletin Board. MINUSTAH also commented that it will discuss the issue further upon the arrival of the Personnel Conduct Officer in the first week of July and that the establishment of a reporting hotline is under discussion. OIOS will leave this recommendation open in its database until it can be confirmed that it has been implemented.*

21. *MINUSTAH accepted recommendation 2 and stated that information should be provided to the local population on a case-by-case basis, definitely to those directly affected by the misconduct. However, there should be no blanket order to inform the public about cases. An open letter by the SRSG, in French and Creole, was sent to local radio stations to inform the public on MINUSTAH's SEA policy. An In-country Network on SEA has also been established. In view of the Mission's comments, OIOS closes recommendation 2 in its database.*

## **B. Implementation of policies and procedures on discipline**

### Policies and guidelines on discipline

22. The Head of Mission has circulated the Mission's policies on discipline: UN standards of conduct, applicable staff rules and regulations, zero tolerance policy on SEA, strict prohibition of consorting with prostitutes, the Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13), among others. The Force Commander has also issued a guideline to contingent commanders on disciplinary matters based on the directives provided by DPKO. CIVPOL was in the process of promulgating its Standard Operating Procedure based on the directives provided by DPKO.

23. The Mission was obliged to report all disciplinary matters to DPKO NY which takes disciplinary action in consultation with the Department of Management. One exception was that the Police Commissioner could impose removal of mission subsistence assistance (MSA) payments or suspension from work with or without pay on CIVPOL officers whose legal status is considered as individual expert aids to the Mission. Reprimands in writing or orally were not considered as disciplinary actions. Misconduct by UNVs normally results in non-extension of contract or termination, which are implemented through their Headquarters. The Mission had three UNVs whose contract was not extended due to misconduct (two abandoned posts and one misused telephone).

24. Currently, the Formed Police Units (FPUs) are regarded as part of the CIVPOL personnel. However, the DPKO directive for disciplinary matters involving CIVPOL does not make distinction for FPU. The FPU members are not entitled to MSA and suspension would not make sense because they report to their national unit commander like military contingents. In OIOS' opinion, the Mission needs a separate directive for disciplinary matters involving FPU.

### **Recommendation 3**

MINUSTAH Management should request DPKO to provide the Mission with a specific directive on disciplinary matters involving the Formed Police Units (AP2005/683/10/03).

25. *MINUSTAH accepted recommendation 3 and stated that the MINUSTAH Evaluation Report (Baril Report) of 10 March 2005 ordered DPKO to prepare a proper administrative arrangement that would provide the basis for formed police units, to clarify their legal status and to develop procedures on disciplinary issues relevant to them. The Baril Report also requested DPKO to provide clarifications in matters of sexual exploitation and abuse, as well as other instances of misconduct, applicable to disciplinary cases involving members of the FPU.* In view of the Mission's comments, OIOS closes recommendation 3 in its database.

#### Roles and responsibilities of officials responsible for discipline in the Mission

26. Mission policies needed to be clearly translated into roles and responsibilities of MINUSTAH officials in receiving, recording and investigating allegations and complaints on misconduct. OIOS welcomes the decision of the Mission to recruit the Personnel Conduct Officer who would report to the SRSB for all discipline matters for all categories of personnel. According to the Mission, the recruitment of the individual to fill the position is near completion.

#### Need to implement centralized complaints handling mechanism

27. The Mission needed to implement a centralized procedure under one office, preferably the Personnel Conduct Officer, to receive, record, investigate and follow up allegations/complaints involving all categories of Mission personnel.

##### a. Receiving and recording of complaints

28. The risk that complaints were not attended and were not followed up was high. Complaints were addressed to many different offices and officers such as the Security Section, the military Provost Marshall, the Internal Investigation Unit of the CIVPOL, and the contingent commanders. Although the Security Section, the Provost Marshall and the Internal Investigation Unit of the CIVPOL had their own database to record complaints received, these databases were incomplete and were not shared by each other. Most of the contingent commanders did not keep the records. There were 40 cases of misconduct reported involving 6,700 strong military contingents, of which, 10 cases were voluntarily reported to the Provost Marshall by the contingents.

29. In the case of the 750 FPU members under the CIVPOL, only three complaints (SEA cases) were recorded, while 38 complaints were recorded against 647 CIVPOL officers. All of the three complaints were SEA related. Of these, one complaint resulted in the repatriation of two FPU members. In another case (BOI-001/05), the deputy FPU commander offered money to an alleged SEA victim in an attempt to persuade her not to pursue the allegation. It was possible that other complaints remained unreported to the Mission. OIOS believes that the Mission management should direct the contingent commanders and the FPU commanders to report all complaints received and all of their disciplinary matters to the Mission through the Provost Marshall and the Police Commissioner, respectively.

30. For SEA cases, the Mission has appointed the Senior Gender Advisor and the Provost Marshall as the internal focal points to receive complaints since July 2004. However, the Mission

has not established the focal points for the local population to file complaints against the Mission personnel. Particularly, it would be extremely difficult for the local population in the regions to file complaints. OIOS is of the opinion that the regional administrative officers may be appointed as the focal points and that their contact information should be made available to the local population.

b. Need for mandatory joint investigation

31. The Mission needed to establish a mandatory joint investigation mechanism consisting of the Security Section, military, and CIVPOL in order to maximize investigation capacity and to avoid conflict of interest. OIOS found that two major misconduct cases (BOI-003-05 for SEA and SUI/PAP/040/05 for other misconduct) involving staff members of the Security Section were investigated by its own and were concluded without being submitted to the BOI. After a substantial delay, the Security Section reopened the two cases: one was submitted to the BOI and another was still under investigation.

c. Board of Inquiry

32. The Mission had constituted 14 Board of Inquiry (BOI) as of 11 May 2005. The BOI process was the main management tool for the Head of the Mission to oversee misconduct cases. However, as discussed above, recording of complaints was incomplete and investigations of some complaints were concluded without being submitted to the BOI, which meant that the Head of the Mission would not have been informed. In addition, one CIVPOL officer was repatriated by a member state without a BOI, which was against the UN procedure. OIOS also notes that convening of the BOI for the BOI-002-05 and BOI-003-05 cases were delayed up to five months. The Mission should ensure that all major cases are submitted to the BOI without delay by assigning this function to the Personnel Conduct Officer or one office, in consultation with the Legal Affairs of the Mission.

**Recommendations 4 to 8**

MINUSTAH management should:

- (i) Designate one office or officer, possibly the Personnel Conduct Officer under the Office of the SRSG, to receive and consolidate complaints involving all categories of the Mission personnel (AP2005/683/10/04);
- (ii) Issue a directive to all contingent commanders and the FPU commanders to report all disciplinary matters to the Personnel Conduct Officer through the Provost Marshall and the Police Commissioner, respectively (AP2005/683/10/05);
- (iii) Appoint and publicize the focal points, especially in the region, for the local population to be able to file complaints of misconduct against the Mission personnel (AP2005/683/10/06);
- (iv) Ensure that investigations are conducted jointly by the Security Section, CIVPOL and the military (AP2005/683/10/07); and

(v) Ensure, by tasking the Personnel Conduct Officer and the Legal Advisor, that the Board of Inquiry is convened when required without exception and delay (AP2005/683/10/08).

33. *MINUSTAH accepted recommendation 4 and stated that, currently, the Chief of Staff of the Office of the SRSG receives and consolidates misconduct complaints. The PCO will then assume this task and take relevant action, in cooperation with the BOI Unit and the focal points.* In view of the Mission's comments, OIOS closes recommendation 4 in its database.

34. *MINUSTAH accepted recommendation 5 and stated the, on 2 June 2005, the Force Commander issued an order to contingent commanders to inform the Force Provost Marshall of all investigations on SEA and follow-up action.* In view of the Mission's comments, OIOS closes recommendation 5 in its database.

35. *MINUSTAH accepted recommendation 6 and stated that, in July 2004, the Senior Gender Adviser and the Force Provost Marshall were appointed Focal Point and Alternate Focal Point for SEA, respectively, and that regional Gender and SEA focal points were also appointed. This set-up will be reviewed by the PCO.* In view of the Mission's comments, OIOS closes recommendation 6 in its database.

36. *MINUSTAH accepted recommendation 7 and stated that, under the guidance of the Chief of Staff of the Office of the SRSG, investigation panels will be constituted in accordance with the recommended composition and that the leader of the investigation will not be selected from the same component or section of those being investigated. The BOI Unit will be responsible for the implementation of this recommendation.* In view of the Mission's comments, OIOS closes recommendation 7 in its database.

37. *MINUSTAH accepted recommendation 8 and stated that pending the arrival of the PCO, this has been attempted by the Chief of Staff of the Office of the SRSG and the Legal Adviser and that delays occurred due to the absence of eligible staff for BOIs. With the arrival of the PCO on 15 July 2005, delays should be a thing of the past.* In view of the Mission's comments, OIOS closes recommendation 8 in its database.

### **C. Staff awareness and misconduct prevention programmes**

#### **Risk assessment and misconduct prevention programmes**

38. The current misconduct and SEA prevention programmes were not based on a thorough risk assessment but existed in different components of the Mission in a scanty and incomplete manner. Conducting a risk assessment per component of personnel (international civilian staff, national, CIVPOL, FPU, and military) and per deployment site, based on factors such as proximity of the camps to the local community, curfew and off-limits rules of each camp and civilian staff, would allow the Mission to identify the high risk areas that it needs to focus on and to develop effective prevention programmes by mitigating the identified risks. OIOS is of the opinion that a team, consisting of the Chiefs of Staff (of OSRSG, military and CIVPOL), Personnel Conduct Officer, Staff Counselor and Medical Officer, should be assigned to carry out a risk assessment.



### Need to link prevention programme with managers' performance

39. The UN standards of conduct and the Mission's policies on SEA and misconduct were addressed to the Mission personnel at an induction course upon their arrival in the Mission. Also, it has been planned that Mission officials visit and train each military contingent on the subject matter. However, the survey results showed that ongoing reminders are necessary to promote awareness of the Mission personnel that may help prevent misconduct. In this regard, OIOS is of the opinion that the managers should be required to continue to remind their staff, which would be reflected in the managers' job performance evaluation mechanism (PAS). For example, section chiefs could perform monthly briefings to their staff on UN ethical standards, more specific issues that are likely to crop up in their sections, channels to file complaints, etc.

40. In the case of the military component, although the Force Commander had overall responsibilities in the prevention of SEA and misconduct cases, the contingent commanders were in fact responsible for maintaining discipline in their respective national contingents. Therefore, in order to enable the Force Commander and the Mission Management to establish effective prevention programmes, DPKO should have the TCCs agree that their commanders be evaluated against the Mission's performance criteria on SEA and other types of misconduct. This should include an obligation to report all of their disciplinary matters to the Mission.

### Annual report on the status of discipline

41. Finally, to institutionalize the Mission's effort on discipline and misconduct prevention, OIOS believes that the Mission needs to publish an annual report on the status of discipline. This should be one of the tasks of the Personnel Conduct Officer. The annual report may include, among other things, the Mission's policies and procedures on discipline and misconduct prevention, related statistics including timeliness, summary of disciplinary actions taken or in progress without specifying the alleged offenders' personal information and lessons learned.

### **Recommendations 9 to 12**

MINUSTAH Management should:

- (i) Conduct a risk assessment to identify the high risk areas in SEA and misconduct issues and to develop effective prevention programme (AP2005/683/10/9);
- (ii) Require the section chiefs to perform periodic briefings of the Mission's policies on discipline and other issues related to discipline and include this responsibility in their performance appraisal (AP2005/683/10/10);
- (iii) Consider publishing an annual report on status of discipline to institutionalize the Mission's effort in prevention of SEA and misconduct (AP2005/683/10/11);

(iv) Request DPKO to institute a policy requiring commanders of Troop Contributing Countries to be evaluated against the Mission's performance criteria on SEA and other types of misconduct, including obligation to report all of their disciplinary matters to the Mission (AP2005/683/10/12).

42. *MINUSTAH accepted recommendation 9 and commented that based on recommendations in Prince Zeid Ra'ad Al-Hussein's report of 24 March 2005 (A/59/710), MINUSTAH's Focal Point for SEA prepared a proposal for measures to strengthen the Mission's prevention strategy on SEA, which was sent to DPKO for approval on 11 April 2005. OIOS will leave these recommendations open in its database until it can be confirmed that they have been implemented.*

43. *MINUSTAH accepted recommendation 10 and commented that all new staff has received a briefing on the UN standards of conduct as well as training on the prohibition of SEA in induction courses. A poster campaign has been carried out in the Mission area (French, Spanish, English). A SEA roll out training is under preparation to commence in August 2005. OIOS will leave this recommendation open in its database until it can be confirmed that it has been implemented.*

44. *MINUSTAH accepted recommendation 11 and stated that the new PCO, in cooperation with the SEA Focal Point and BOI Unit, will be responsible for the publishing of an annual report on the state of discipline in the Mission. In view of the Mission's comments, OIOS closes recommendation 11 in its database.*

45. *MINUSTAH accepted recommendation 12 and stated that the recommendation will be referred to DPKO. OIOS closes recommendation 12 in its database.*

## **VI. ACKNOWLEDGEMENT**

46. We wish to express our appreciation to the Management and staff of MINUSTAH for the assistance and cooperation extended to the auditors during this assignment.

Copy to: Mr. Jean-Marie Guéhenno, Under-Secretary-General for Peacekeeping Operations  
Ms. Hazel Scott, Director, ASD/DPKO  
Mr. Willi Scholl, Chief Administrative Officer, MINUSTAH  
UN Board of Auditors  
Programme Officer, OIOS  
Roland Bill, Chief Resident Auditor, MINUSTAH



OIOS/IAD-1 Client Satisfaction Survey

The Internal Audit Division-1 is assessing the overall quality of its audit process. A key element of this assessment involves determining how our clients rate the quality and value added by the audits. As such, I am requesting that you consult with your managers who dealt directly with the auditors, and complete the survey below. I assure you that the information you provide will remain strictly confidential.

Audit Title & Assignment No.: Review of the state of discipline in MINUSTAH  
(AP2005/683/10)

**By checking the appropriate circle please rate:**

1. The extent to which the audit addressed your concerns as a programme manager.
2. The audit staff's understanding of your operations and objectives.
3. The professionalism of the audit staff (communications, integrity, professional knowledge and responsiveness)
4. The quality of the audit report in terms of:
  - accuracy and validity of findings and conclusions
  - clarity and conciseness
  - balance and objectivity
  - timeliness
5. The extent to which the audit recommendations were appropriate and helpful.
6. The extent to which your comments were considered by the auditors
7. Your overall satisfaction with the conduct of the audit and its results.

	1 (poor)	2	3	4(excellent)
1.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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-- accuracy and validity of findings and conclusions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
-- clarity and conciseness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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