



INSPECTION AND EVALUATION DIVISION

EVALUATION REPORT

Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations

15 May 2015*

(*Reissued 12 June 2015 for technical reasons)

Assignment No.: IED-15-001

INSPECTION AND EVALUATION DIVISION

FUNCTION

“The Office shall evaluate the efficiency and effectiveness of the implementation of the programmes and legislative mandates of the Organization. It shall conduct programme evaluations with the purpose of establishing analytical and critical evaluations of the implementation of programmes and legislative mandates, examining whether changes therein require review of the methods of delivery, the continued relevance of administrative procedures and whether the activities correspond to the mandates as they may be reflected in the approved budgets and the medium-term plan of the Organization;”
(General Assembly Resolution 48/218 B).

Project team members include:

RAHUL SUR, CHIEF, PEACEKEEPING EVALUATION

SECTION

EMILY HAMPTON-MANLEY, PROJECT LEADER

CONTACT INFORMATION

OIOS/IED Contact Information:

phone: +1 212-963-8148; fax: +1 212-963-1211; email:
ied@un.org

RAHUL SUR, CHIEF, PEACEKEEPING EVALUATION
SECTION

Tel: +1 212-963-0495, Fax: +1 212-963-1211
e-mail: sur@un.org

(EDDIE) YEE WOO GUO, DIRECTOR,
INSPECTION AND EVALUATION DIVISION
Tel: +1 917-367-3674, Fax: +1 212-963-1211
e-mail: guoy@un.org

Abbreviations

CDT	Conduct and Discipline Team
CDU	Conduct and Discipline Unit
DPKO	Department of Peacekeeping Operations
DFS	Department of Field Support
FPU	Formed Police Unit
IED	Inspection and Evaluation Division
MINUSRSO	UN Mission for the Referendum in Western Sahara
MINUSMA	UN Stabilization Mission in Mali
MINUSTAH	UN Stabilization Mission in Haiti
MONUSCO	UN Organization Stabilization Mission in the DRC
MOU	Memorandum of Understanding
NIO	National Investigation Officer
OIOS	Office of Internal Oversight Services
OIOS-ID	Investigation Division of the Office of Internal Oversight Services
OLA	Office of Legal Affairs
PCCs	Police Contributing Troops
SEA	Sexual Exploitation and Abuse
SIU	Special Investigation Unit
TCCs	Troop Contributing Countries
UNAMID	UN Mission in Darfur
UNIFIL	UN Interim Force in Lebanon
UNMIK	UN Interim Administration Mission in Kosovo
UNMIL	UN Mission in Liberia
UNMISS	UN Mission in the Republic of South Sudan
UNMOGIP	UN Military Observer Group in India and Pakistan
UNOCI	UN Operation in Côte d'Ivoire

Report of the Office of Internal Oversight Services on the evaluation of enforcement and remedial assistance efforts for sexual exploitation and abuse by the United Nations and related personnel in Peacekeeping Operations

“Despite continuing reductions in reported allegations, that are partly explained by underreporting, effectiveness of enforcement against sexual exploitation and abuse is hindered by a complex architecture, prolonged delays, unknown and varying outcomes, and severely deficient victim assistance.”

Executive Summary

Since 2003, the United Nations has developed and implemented a three-pronged strategy of prevention, enforcement and remedial action to address sexual exploitation and abuse (henceforth SEA) by military, police and civilian personnel of peacekeeping missions. This evaluation assessed the results achieved in the enforcement and remedial assistance prongs of the above-mentioned strategy.

Despite an overall downward trend since 2009, SEA allegations persist. In 2013 they increased slightly to 66 from 60 the previous year. SEA allegations involving minors accounted for over one third (36 per cent) of all allegations from 2008-2013. Four missions have accounted for the highest number of allegations: the United Nations Stabilization Mission in Haiti (MINUSTAH), United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), United Nations Mission in Liberia (UNMIL) and United Nations Missions in Sudan and South Sudan (UNMIS and UNMISS). The largest number of allegations involved military personnel, followed by civilians and then the police. While civilians constituted 18 per cent of mission personnel, they accounted for 33 per cent of allegations.

The Organization’s SEA enforcement architecture involves multiple actors having distributed responsibilities, with each considering the other as causing performance deficits. Enforcement delays are common and confusion is often apparent on the ground. The architecture is heavily process-oriented, requiring extensive referrals both within the United Nations and to Member States.

Under the 2007 Memorandum of Understanding (MOU), troop-contributing countries (TCCs) have the primary responsibility to investigate alleged misconduct by their military personnel.¹ Country-specific data shows higher number of substantiated allegations against uniformed personnel from some Member States. While overall response rates of TCCs to requests from the United Nations for information about SEA allegations are improving, some responses remain outstanding, and there have been attempts to weaken enforcement. Missions view TCCs’ investigations as unreliable because of a perceived conflict of interest and concerns about quality in investigative standards. Within missions, senior leadership considers itself excluded and powerless in SEA enforcement.

Excessively long delays in completing investigations by the Investigations Division, Office

¹ A/61/19/Part III endorsed by the General Assembly A/RES/61/26 B.

of Internal Oversight Services (OIOS-ID) (average length 16 months) have severely undermined enforcement. A case study demonstrated that a joint OIOS-led investigation using mission resources successfully reduced the time taken. It also showed the difficulty the United Nations faced in trying to apply the provisions of the Status of Forces Agreement between it and the Host State of a peacekeeping mission.

Wide variations in sanctions weaken the commitment to zero tolerance. Civilian staff against whom allegations of SEA are substantiated are most commonly dismissed from service. Disciplinary repatriation has been the most common action of military and police along with disbarment of individuals involved from future peacekeeping operations. Prison terms are reported almost exclusively as imposed upon military personnel, though their duration is often unknown. The accountability of contingent commanders for SEA violations has been insufficiently emphasised, acknowledged or reported by both the TCCs and by the United Nations.

Evidence from two peacekeeping mission countries demonstrates that transactional sex is quite common but underreported in peacekeeping missions. There is also confusion and resistance to the 2003 bulletin of the Secretary-General with respect to its provision that strongly discourages sexual relations between United Nations personnel and beneficiaries of assistance.

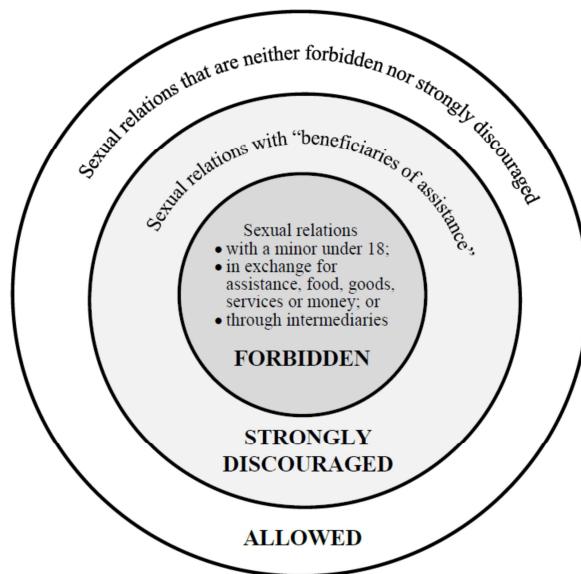
Lastly, remedial assistance to victims is very weak. Very few victims have been assisted due to lack of dedicated funding and the slow enforcement process. Mapping of remedial assistance services has not been undertaken in all missions and informal immediate assistance has been required to partially bridge the gap.

OIOS made six recommendations including: revising the MOU to enhance its effectiveness; proposing a funded Comprehensive Strategy on Assistance and Support to Victims of SEA; analysing differences in discipline across uniformed contingents; strengthening follow-up protocols with TCCs and PCCs; reporting on whether contingent commanders have fulfilled their command responsibilities in preventing and addressing SEA; and clarifying certain provisions within the 2003 Secretary-General's bulletin relating to SEA.

Contents		<i>Paragraph</i>	<i>Page</i>
I.	Introduction.....	1-6	7-8
II.	Results.....	7-65	8-26
	A. Despite an overall decline since 2010, SEA allegations persisted with a slight increase in 2013; four missions in particular have consistently high numbers, and one third of the allegations involve a minor (under 18 years old)	7-8	8-10
	B. Enforcement against SEA involves multiple actors with distributed responsibilities; processes are lengthy, delays common, and confusion often apparent in implementation	9-34	10-19
	C. Wide variations in sanctions imposed in substantiated cases of SEA weaken the commitment to zero tolerance	35-45	19-21
	D. Transactional sex is hidden and under-reported in missions, and the Organization's message on consensual sex is ambiguous and contested	46-56	21-23
	E. The United Nations has assisted very few of the victims of SEA that have entered its victim assistance architecture	57-65	23-26
III.	Conclusion.....	66-72	27-28
IV.	Recommendations.....	73	28
Annex 1	Comments received from the Department of Field Support.....		29-31
	Detailed comments of the Department of Field Support on the report of the Office of Internal Oversight Services, Inspection and Evaluation Division.....		31-37
	Recommendation Action Plan.....		38-50
Annex 2	Comments by OIOS.....		51-52

I. INTRODUCTION

1. Sexual exploitation and abuse (henceforth SEA) by military, police and civilian personnel of peacekeeping missions is one of the most conspicuous and consequential departures from the ideals of the Organization. When it occurs – as it does regularly – it can not only damage and destroy the lives of victims, but also taint the reputations of individuals, even countries. Due to the high risk posed to the Organization's credibility and reputation by repeated incidents of SEA, and the continued focus on results, the Office of Internal Oversight Services, Inspection and Evaluation Division (OIOS-IED) assessed the results achieved and the effectiveness of United Nations in enforcing its rules prohibiting SEA by its peacekeeping personnel and the assistance provided to victims of SEA in 11 peacekeeping operations.²
2. The Organization's rules on addressing sexual exploitation and abuse are set out in a 2003 Secretary-General's bulletin (henceforth 'the 2003 bulletin').³ These prohibit sexual exploitation and abuse, but by implication, also affect all types of sexual relationships in peacekeeping missions. The bulletin's rules can be represented as follows⁴:



3. In addition to the 2003 bulletin, a comprehensive strategy to eradicate SEA by United Nations peacekeeping personnel was developed following the 2005 report of the Secretary-General's Special Advisor on sexual exploitation and abuse by United Nations peacekeeping personnel.⁵

² MINURSO, United Nations Mission for the Referendum in Western Sahara; MINUSMA, United Nations Multidimensional Integrated Stabilization Mission in Mali; MONUSCO, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo; MINUSTAH, United Nations Stabilization Mission in Haiti; UNAMID, African Union-United Nations Hybrid Operation in Darfur; UNIFIL, United Nations Interim Force in Lebanon; UNMIK, United Nations Interim Administration Mission in Kosovo; UNMISS, United Nations Mission in the Republic of South Sudan; UNMOGIP, United Nations Military Observer Group in India and Pakistan; UNOCI, United Nations Operation in Côte d'Ivoire; UNMIL, United Nations Mission in Liberia.

³ ST/SGB/2003/13.

⁴ Graphic adapted from a poster prepared by MINUSTAH and reproduced on the CDU website at <https://cdu.unlb.org>.

⁵ A/59/710, also well known as 'the Zeid report.'

4. Enforcement focuses on ensuring the applicable standards of conduct for all categories of peacekeeping personnel in relation to SEA in receiving and assessing complaints, conducting investigations and taking disciplinary measures for substantiated allegations. Remedial assistance focuses on the victims of SEA that can be referred to immediate material assistance, including medical, legal, psychological, social services, shelter and reintegration, economic and vocational programmes and facilitating paternity and child support claims.⁶ Victim assistance does not include monetary compensation.

Methodology and limitations

5. The evaluation results are based on:

- a) Structured document and literature review of United Nations and mission-specific documents and a thematic impact pathway of the results chain for the strategy on protection from SEA;
- b) Official responses by missions to a questionnaire on their remedial assistance efforts with a 100 per cent response rate;⁷
- c) Review of SEA allegation data maintained by OIOS, Investigations Division (OIOS-ID);
- d) A case study;
- e) Visits to field missions in UNMIL and MINUSTAH;
- f) 103 semi-structured interviews with key stakeholders;
- g) 231 interviews with Haitians (229 women and two men) about their transactional sex relationships with peacekeepers; and
- h) Reports of team of experts engaged by the Department of Field Support (DFS) Conduct and Discipline Unit (CDU) in 2013 (henceforth DFS team of experts).⁸

6. Limitations include that military and police outcome data was not always received from troop-and police-contributing-countries (henceforth TCCs and PCCs). Reconciliation of OIOS-ID and DFS-CDU data was done only for 2010-2013 and reconciled data for 2008-2009 was unavailable. The period of review for this evaluation was from 2008-2014.

II. RESULTS

A. Despite an overall decline since 2010, SEA allegations persisted with a slight increase in 2013; four missions in particular had consistently high numbers, and one third of allegations involved a minor (under 18 years old)

7. The principal result achieved in enforcement is that reported SEA allegations have declined. The Organization received 480 SEA allegations from 2008 to 2013 in field missions, comprising peacekeeping operations and special political missions.⁹ The largest

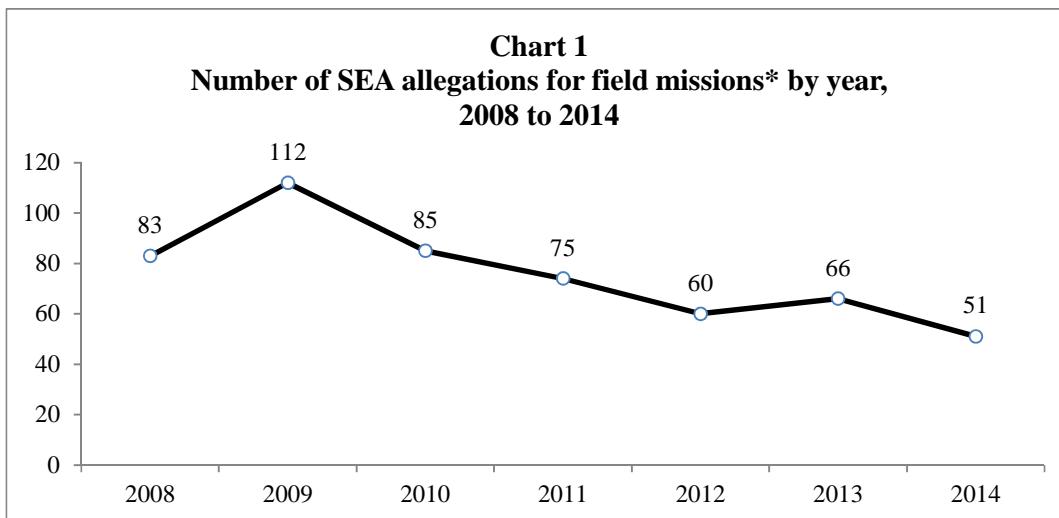
⁶ A/RES/62/214.

⁷ MINURSO, MINUSMA, MONUSCO, MINUSTAH, UNAMID, UNIFIL, UNMIK, UNMISS, UNMOGIP, UNOCI and UNMIL.

⁸ This panel was tasked to address the persistent risks and challenges in the implementation of the Secretary-General's zero tolerance policy on SEA in MONUSCO, UNMIL, UNMISS and MINUSTAH. The reports of the team of experts were considered by an interdepartmental and inter-agency working group (SEA Working Group), which brought on board critical expertise, best practices and lessons learned in relation to SEA. This working group process led to the proposals contained in the 2014 Special measures report of the Secretary-General.

⁹ This evaluation only focused on peacekeeping missions which have the largest amount of SEA allegations of the field missions, 473, compared to 7 from special political missions.

missions - MONUSCO (and its predecessor MONUC), UNMIL, MINUSTAH and UNMIS and UNMISS - accounted for the largest numbers of allegations. The single largest source of SEA allegations has been MONUSCO. Taken cumulatively, the SEA allegations in MONUSCO and its predecessor MONUC (which totalled 214), accounted for 45 per cent of all peacekeeping-related SEA allegations between 2008 and 2013. SEA allegations overall declined each year from 2010 to 2012, with a slight increase in 2013. (Chart 1). In 2013, 33 SEA matters involved non-consensual SEA. Of the 480 reported allegations of SEA in peacekeeping operations, over one third involved a minor as victim (under 18 years old)¹⁰



*Field missions include peacekeeping and special political missions. This evaluation only specifically evaluated peacekeeping missions. Source: OIOS-ID as reproduced at <https://cdu.unlb.org>.

While the largest number of allegations is against military personnel, civilians account for a percentage disproportionate to their numbers

8. The reported allegations involved all categories of peacekeeping personnel – military, police and civilians.¹¹ Civilians contributed a disproportionately large number of allegations. Between 2008 and 2013, civilians accounted for 17 per cent of all peacekeeping personnel, but for almost twice that percentage of SEA allegations (33 per cent).¹² (Table 1) DFS noted that whereas allegations against military personnel, in particular, and civilian personnel, to a lesser extent, have declined over that period, allegations involving police personnel have remained at similar levels.

¹⁰ As at 31 December 2014 as on the CDU website:
<https://cdu.unlb.org/Statistics/SexualExploitationandAbuseAllegationsInvolvingMinors/SexualExploitationandAbuseAllegationsPerYearInvolvingMinors.aspx>.

¹¹ Military personnel: troops and military observers; Police: members of formed police units and UNPOL; Civilians: national and international staff, UN volunteers, vendors and contractors employed missions.

¹² Personnel averages were calculated based on figures provided at the end of each calendar year for 2008-2013 on http://www.un.org/en/peacekeeping/resources/statistics/factsheet_archive.shtml.

Table 1
Relationship between personnel numbers and SEA allegations by peacekeeping personnel category
2008 to 2013

Personnel type	Share of peacekeeping personnel (per cent)	Share of SEA allegations (per cent)*
Military	71	50
Civilian	17	33
Police	11	12

*The remaining 5 per cent come from unknown and unidentified alleged offenders. Source: Averages of categories of personnel as per Fact Sheets of United Nations Peacekeeping Personnel, 2008-2013,
http://www.un.org/en/peacekeeping/resources/statistics/factsheet_archive.shtml.

B. Enforcement against SEA involves multiple actors with distributed responsibilities; processes are lengthy, delays common, and confusion often apparent in implementation

9. The SEA enforcement architecture involves many actors and is heavily process-oriented, requiring extensive, time consuming referrals both within the United Nations, and to Member States. Depending on the category of personnel, a mosaic of entities investigates SEA allegations in peacekeeping missions. These include:

- Investigations conducted under the authority of the Head of Mission by the special investigative units (SIUs) belonging to the mission's security component, UNPOL's internal investigation units and by Military Police personnel;
- Investigations conducted by OIOS-ID mission and Headquarters investigators; and
- Investigations conducted by national investigation officers (NIOs) of the TCCs which can be done exclusively by them or assisted by the United Nations including by OIOS-ID.

10. The first challenge of the enforcement architecture is that decisions about investigations are undertaken at United Nations Headquarters or at the capitals of TCCs, and not at peacekeeping missions. The stipulated procedure for allegations against uniformed personnel requires a code cable to be sent from the Heads of Missions to DFS (with a copy to DPKO and OIOS); DFS communicates the matters formally to the permanent missions involving military contingent personnel (and through them to their capitals) of the concerned TCC. The United Nations must then await a decision for the stipulated period of 10 working days.

11. Interview data demonstrates that each part of the enforcement architecture, with distributed roles and partial responsibility, tends to see the others as responsible for performance shortfalls. Member States view the United Nations Secretariat as delaying notifications in cases to them; Conduct and Discipline Teams (CDTs) based in peacekeeping missions see OIOS-ID as delaying decisions on whether it will investigate SEA cases or delegate them to missions for investigation; and OIOS-ID provided evidence that CDTs in missions or TCCs have either not reported, delayed reporting, or conducted unauthorized investigations.

12. Other examples of the challenges associated with the complexity in the Organization's SEA enforcement architecture were mentioned in an independent review of OIOS-ID in 2012. These challenges have been mentioned in various documents and are generically summarised in Table 2 as follows.

Table 2
Some challenges in the SEA enforcement architecture

Category of personnel	Challenges
Military	<ul style="list-style-type: none"> • Unauthorised investigative activity by missions prior to United Nations Secretariat notifying the TCC • Time consumed by following prescribed referral procedure • Delays in starting TCC investigations • Successive investigations by different investigative bodies • Differing investigative standards used by TCCs • Risk of loss of evidence/witness tampering caused by delay in starting investigation • Departure of personnel from mission against whom allegations have been made • Unclear reporting of outcomes related to sanctions imposed by TCCs
Police Officers and Formed Police Units (FPUs),	
Military Observers but not Military staff officers	<ul style="list-style-type: none"> • Delays in referrals between CDU/Mission and OIOS-ID • Delay in OIOS-ID investigations • Inadequate investigative capacity in missions (primarily SIUs) • Departure of personnel from mission against whom allegations have been made • Unclear reporting of outcomes related to sanctions imposed by TCCs for Military Observers and PCCs
Civilian	<ul style="list-style-type: none"> • Delay in referrals between CDTs and OIOS-ID • Delay in OIOS-ID investigations • Inadequate investigative capacity in missions, (primarily SIUs) • Enhanced standards of proof required by United Nations Dispute Tribunal

Source: OIOS-IED analysis.

13. Confusion arising from the enforcement processes and delays in reporting and investigating SEA allegations was also evident in the instructions that DPKO/DFS issued to missions via a code cable in 2011.¹³ This cable 'noted with grave concern' that a number of missions were not complying with established procedures concerning the handling of allegations of misconduct involving members of military deployed to field missions. Irregularities noted included:

¹³ Code Cable 1156, 9 June 2011.

- a) Mission investigation entities continued to carry out investigative activities prior to notification of TCCs;
- b) Very late reporting by missions of allegations led to TCCs being unable to conduct any investigation because evidence was no longer available or because the memories of material witnesses had faded; and
- c) Mission entities carried out additional investigative activities without including a representative of the military contingent concerned in the investigation team.

14. United Nations Headquarters directed, *inter alia*, that ‘mission entities will not conduct any additional investigative activities, other than the immediate preservation of evidence, or preliminary investigations mandated under the policy and the standard operating procedure on Boards of Inquiry, without the prior approval from mission CDTs or OIOS.’ The code cable noted that one TCC had been severely critical of the United Nations Secretariat for not complying with provisions of the MOU.

15. In this regard, even though a Standard Operating Procedure was issued in 2010 detailing activities that could be undertaken by field missions in order to safeguard evidence (article 12.1 of the SOP), confusion still exists as one large TCC and one important mission highlighted the issues of immediate response to allegations. The TCC was unclear about the division of investigative responsibility with OIOS-ID, seeing “two concurrent processes.” While the MOU allows for preservation of evidence, a senior mission official stated that the mission was still unclear about “the extent to which they can go with their preliminary investigations to preserve the evidence.” OIOS-ID provided two cases of this occurring: once in 2012 and 2013.¹⁴ Mission interviewees also highlighted excessive delay by OIOS-ID in referring cases back to missions for investigation.

Country-specific data shows a higher number of substantiated allegations against uniformed personnel from some Member States

16. Member States have consistently supported the Organization’s Zero-Tolerance Policy. However, in peacekeeping missions, there can be a perceived gap between the promise inherent in this policy and the actions of the United Nations. Local stakeholders, including the press, can often raise questions about how serious the United Nations and Member States are when SEA is committed by uniformed personnel. To strengthen the credibility of the Organization, the Secretary-General decided that with effect from the General Assembly’s sixty-ninth session, he would provide it with, *inter-alia*, country-specific data on credible allegations and information on sanctions imposed.¹⁵ Although this decision has not been implemented, OIOS believes that doing so would make it a timely and powerful accountability tool. Through their actions the United Nations and Member States would unquestionably demonstrate their willingness to hold themselves accountable despite the difficult nature of the issue.

17. DFS provided data from 2010 to 2013 showing substantiated SEA allegations against TCCs (Table 3). While many variables, including contingent size, could affect the numbers of substantiated allegations, it appears that the largest TCCs do not have the highest number of substantiated allegations against their personnel.¹⁶ Further analysis on the issue by CDU, including whether different contingents exhibit higher or lower levels of discipline, may be

¹⁴ 0062/12 (UNOCI), 0340/13 (UNOCI).

¹⁵ A/67/766.

¹⁶ <http://www.un.org/en/peacekeeping/resources/statistics/contributors.shtml>.

necessary and useful in designing more effective preventive measures and pre-deployment training.

Table 3
Substantiated SEA allegations against uniformed personnel, by Member State
2010 to 2013

Country	Number of substantiated allegations*	Country	Number of substantiated allegations*
Algeria	1	Mali	1
Bangladesh	2	Mauritania	1
Benin	2	Morocco	2
Cameroon	1	Nepal	1
Canada	2	Niger	1
Chad	2	Nigeria	7
Chile	1	Pakistan	4
Djibouti	1	Samoa	1
Egypt	1	Senegal	1
Gambia	1	South Africa	9
Ghana	2	Togo	2
Guatemala	1	Tunisia	1
Guinea Bissau	1	Turkey	1
Guinea	1	United Kingdom	1
India	3	Uruguay	8
Jordan	1		

* Allegations can include one or more personnel. Source: OIOS-IED compilation of DFS-CDU data.

TCCs' responses to requests for information have improved along with more TCC-led investigations

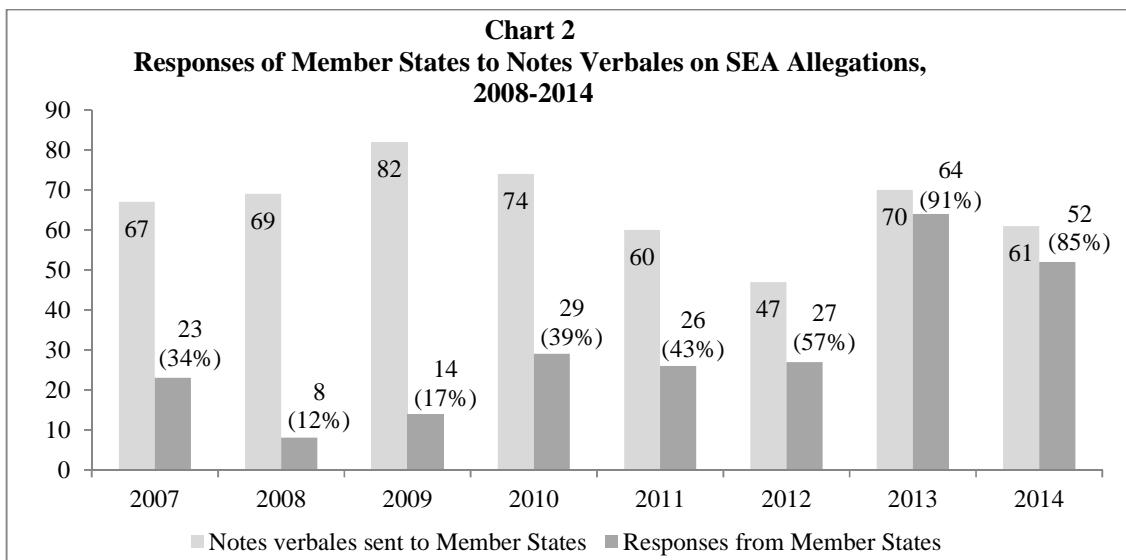
18. Both the United Nations and TCCs have mutual legal obligations under the revised MOU, essential for the effective functioning of the zero-tolerance policy. (See Table 4)

Table 4
Selected procedural requirements of the United Nations and TCCs

Event	United Nations obligation	TCC obligation
The United Nations has <i>prima facie</i> grounds indicating SEA may have been committed by military personnel	Inform the TCC ‘without delay’	Notify United Nations within 10 working days if it will conduct its own investigation
TCC decides to investigate		‘Immediately inform’ the United Nations of the identity of its national investigation officer(s)
Investigation is being conducted by TCC		Notify United Nations of progress ‘on a regular basis.’
Investigation is concluded by TCC		Notify United Nations of the findings and outcome of investigation subject to its national laws and regulations

Source: Summarised from MOU by OIOS-ID; A/61/19/Part III, paragraph 3 and A/RES/61/267B.

19. Interview and documentary data show two positive trends: the general response rate of TCCs to SEA allegation notifications improved between 2010 and 2013, but fell in 2014 (Chart 2), and TCCs are undertaking more national investigations, with a consequent decrease in OIOS-ID military investigations. With respect to response rates by Member States to *Notes verbales*, according to DFS, the slight decrease in 2014 can be attributed to DFS also sending *Notes verbales* to concerned Member States specifically on pending matters of paternity, including from cases dating several years back. Such responses seem to have a lower response rate.



These numbers pertain to SEA-related Notes Verbales sent to Member States. Source: CDU data, see <https://cdu.unlb.org/Statistics/UNFollowupwithMemberStatesSexualExploitationandAbuse.aspx> (18 July 2014).

20. With respect to investigations into SEA allegations against military personnel, according to DFS in 2010, seven out of the 31 allegations were investigated by TCCs; 15 out of 31 in 2011; nine out of 17 in 2012 and 25 out of 33 in 2013. Importantly, in 2013 none was investigated by OIOS.¹⁷

Only a few TCCs comply with the 10-day deadline; some do not respond at all and timeliness and comprehensiveness of information provided remains an issue

21. Timeliness of investigations is critically important if justice for victims of any SEA is to be both assured and seen to be so. This view has been expressed by Member States and was by key stakeholders during interviews.¹⁸

22. Despite the positive trends noted above, according to DFS-CDU, only a few Member States comply with the ten -day deadlines for informing the United Nations whether they will conduct their own investigations pertaining to military personnel.¹⁹ While DFS-CDU does not currently track response time and could not provide precise information on compliance, documentation from 2011 to 2014 showed that 39 per cent of those Member States who were requested to conduct their own investigations had complied with the 10-day deadline. DFS noted that requests for information were sent to 53 Member States during 2011-2014; only 24 of those requests related to the appointment of NIOs.

23. According to DFS records, as at 22 March 2015, there were a total of 17 Member States who had information requests pending (14 had one request pending; three had two pending requests) even though DFS has a follow-up system with protocols in place. These 17 Member States had not responded to any of the requests from DFS. On 23 March 2015, OIOS-IED sent Note Verbales to the Member States to request verification of these records. Following this and other ongoing efforts by DFS, seven Member States responded to outstanding pending information requests. The following Member States did not respond and still have one information request pending: Cameroon, Ecuador, Gambia, Guinea-Bissau, Mali, Rwanda, Vanuatu, and Zambia. Guinea and Uganda each have two pending information requests.

24. The documentation provided by TCCs following investigations also varies considerably. Some TCCs provide investigation reports and/or other supplementary data on the outcomes/findings, while others provide only the overall outcome with no further details.²⁰

Missions view investigations by TCCs as unreliable

25. Senior mission officials expressed doubts about the functioning of the MOU and called for its revision. A majority of CDTs, senior leadership interviewees, and senior military interviewees also perceived a lack of independence and an inherent and irreconcilable conflict of interest in requesting national investigators to investigate their own

¹⁷ It should be noted that investigations against military personnel are also undertaken by missions in addition to those undertaken by missions and OIOS.

¹⁸ See the Report of the Special Committee on Peacekeeping Operations and its Working Group, A/59/19/Rev.1, paragraph 53, interview data also highlighted this point.

¹⁹ If the TCC is non-responsive then the United Nations can undertake the investigation.

²⁰ A/61/10 (Part III), Article 7 sexiens, Accountability states: “The Government agrees to notify the Secretary-General of progress on a regular basis, including the outcome of the case.”

troops. They viewed the TCCs as being strongly risk averse to the stigma of SEA allegations and powerfully motivated to exonerate their personnel. Interviewees also noted delays in initiating TCC investigations and the associated risk of loss of evidence. The investigation standards applied were seen as varying greatly, with some considered very poor. Military interviewees noted that a consequence of national investigations was that different military personnel in the same mission were subjected to different investigative standards and saw a need for the United Nations to develop such standards to fill this gap. Finally, there was concern that very little information about the outcomes of TCC investigations was received in missions, and that SEA victims, in particular, received no information about the outcomes of their cases.

26. To better understand TCC and PCC perspectives and challenges, OIOS-IED interacted with three permanent missions of Member States who responded to a request for information. One TCC underlined slow notification of cases by the Secretariat as a material issue. Another referred to potentially duplicative investigation procedures. One TCC expressed the view that naming countries against whose troops allegations of SEA were made would be welcome, because it might lead to “competition” among countries, to ensure the highest standard of compliance; another stated it would create divisions within the TCC community. A third felt that uniformed personnel were singled out for unjustified enforcement attention.

Some TCCs have tried to weaken enforcement actions

27. Despite an overall encouraging trend of enhanced TCC responsiveness, OIOS-IED noted that some TCCs have tried to weaken enforcement and have taken actions inconsistent with investigative due process. In one example, a TCC requested that information about disciplinary sanctions imposed be kept confidential and not shared in whole or in part with any third party. DFS complied with the request and did not report on the case in the 2009 Special Measures report, even in the aggregate. Another example included a TCC requesting that one of its personnel not be barred from peacekeeping following repatriation.

28. By contrast, in a more positive case, one TCC not only appointed a high-level investigation panel following the SEA, but its Head of State apologized for the offence to the Head of the host State where the SEA took place.

29. The DFS team of experts concluded that revision of the MOU was necessary. OIOS-IED notes that internal United Nations discussions related to improving various facets of enforcement have been ongoing since 2013, including in the Task Force on Investigations Working Group and the inter-agency SEA Working Group.

Long delays in OIOS-ID investigations have severely undermined SEA enforcement

30. From 2008 to 2013, OIOS-ID investigated 199 SEA allegations, including those against military personnel.²¹ There was conclusive evidence on its slow investigations. All senior leadership interviewees from missions with SEA allegations, as well as all CDT staff interviewed, considered that OIOS investigations took too long to ensure effectiveness of enforcement. An independent review of OIOS-ID in 2012 also considered such delays as a

²¹ Data available only on time taken for 157 cases out of the 199 cases for 2008-2013.

‘central and recurring theme’ and concluded, ‘the process of producing a report is neither rapid nor timely’.²² The average investigation time of OIOS-ID investigations during 2008-2013 from the date the complaint was received to the issuance of the report was 16 months. The average was reduced to 12.9 months in 2014. The longest investigation took 62 months to complete; the shortest, one month.

31. While interviewees acknowledged the need for confidentiality in OIOS-ID investigations, they felt they lacked information about the progress of the investigation. This included, for example, notification of whether OIOS-ID had decided to investigate the case or to refer it to the mission, the progress of the investigation and the expected date a report would be issued. They filled their information gaps through informal means. Reasons for the length of OIOS-ID investigations included:

- Lack of OIOS-ID resources at mission level and internal reconfigurations;
- Slow intake procedures;
- Slow report drafting;
- Supervisory delays in reviewing investigative reports;
- Excessively long quality assurance processes;
- Inconsistent data maintained on the various phases of the investigation process; and
- Lack of monitoring of investigation progress.

32. OIOS-ID stated that it has implemented a monthly case status review and a new target for completion of all investigations within an average of six months and a maximum of twelve months. In addition, the restructuring of OIOS-ID’s peacekeeping investigations resources was approved by the General Assembly in 2013 and will result in increased OIOS-ID presence in the largest missions. Implementation is nearing completion.

33. A new case management system for OIOS-ID is currently being implemented and will automate reporting of case status for complainants, subjects and senior management.

CASE STUDY

This case study illustrates two issues: a joint investigation approach resulting in drastically shortened investigation time, and the difficulties of the United Nations in utilising the provisions of the Status of Forces Agreement (SOFA) in a peacekeeping operation. In 2012, an allegation of the rape and abduction of a 13-year-old Haitian male was made against the Pakistani Formed Police Unit (FPU) in MINUSTAH, in Gonaïves, Haiti (Haiti henceforth ‘the Host State’ and Pakistan ‘henceforth ‘the PCC’).

On receipt of the allegation, and with no investigator in MINUSTAH, OIOS-ID departed from its usual practise of conducting investigations itself and formed a joint investigation team with the Police Division, DPKO (DPKO-PD). Management of both divisions agreed to this approach. The investigation team comprised a legal advisor from DPKO-PD and two police officers from MINUSTAH. One experienced investigator from OIOS-ID provided ongoing guidance from Headquarters and travelled to MINUSTAH. The Haitian National Police also initiated a criminal investigation and supported the United Nations investigation. As a result, the investigation was conducted, completed and a report issued in 34 days from the

²² OIOS-ID Independent Review 2012 (unpublished).

date of first receipt of information by OIOS-ID. Preliminary results were available after two weeks. This constituted a drastic shortening of the investigation cycle.

While the investigation cycle was much faster, there were other problematic aspects to the case. Firstly, the legal status of the members of the FPU was ‘experts on mission’ and part of the mission’s civilian component, and therefore liable to prosecution by the Host State. The Host State requested that their immunity be lifted. It also requested MINUSTAH to provide it with assistance, to ensure that the relevant provisions of the SOFA were followed. It was prepared, in case the FPU members were tried by its courts and sentenced, to guarantee that their detention facilities would be of the required standard and was also prepared to allow them to serve their sentences in the PCC’s territory. MINUSTAH was ready to accommodate and transport the FPU members to and from the trial.

Instead, the PCC informed the United Nations Headquarters that following discussions with the Host State’s government and the Department of Peacekeeping Operations, it had decided to initiate court martial proceedings against the FPU personnel. United Nations Headquarters agreed with the PCC’s decision. The PCC also informed the United Nations that it would not accept any decision by the Host State’s courts, and would not allow any of its observers to the court-martial proceedings, as to do so would contravene the PCC’s law on court martial. In the quickly convened and concluded court martial, no observers were allowed. Two members of the FPU were found guilty and repatriated. However, none of the commanders was sanctioned by the PCC. It informed the United Nations that it considered the case closed. It remains unclear if verbal assurances from the PCC to the United Nations of compensation to the Haitian victim were honoured, as the victim’s family had filed a claim of five million US dollars.

Within the United Nations, there were persistent reservations at various levels about the court martial and the repatriations. It was considered that it could give the impression of a scheme to get the FPU members out of the Host State; that it had increased the perception of impunity associated with United Nations personnel in Haiti; that the PCC’s measures circumvented the possibility of prosecution by the Host State; that the court martial, followed by routine repatriation, was unlikely to serve the purpose that appropriate action be taken and seen to be so; and that it could create a precedent that might complicate the handling of similar cases in the future.

This difficult case deserves joint reflection by the United Nations and Member States on how to improve the robustness and reliability of the Organization’s SEA enforcement mechanisms.

Mission leadership considers itself excluded and powerless in SEA enforcement

34. During interviews, senior mission leaders underlined their heavy responsibility regarding the zero tolerance policy for SEA, and that it was an issue they highlighted and raised whenever possible to personnel, such as during military medal-awarding parades and town hall events. However, four out of ten pointed out that they had accountability without authority [to take enforcement action]. Senior leaders of uniformed and civilian personnel expressed frustration over their inability to assist in enforcement overall and felt obliged to “chase” information on the status of cases. All Force Commanders interviewed felt excluded from the enforcement process: “We are just spectators”, said one. Another called for CDTs to

report directly to the Force Commander. An investigation professional expressed “the powerlessness [to take enforcement action] of the Special Representatives of the Secretary-General and Force Commanders [as] a problem.”

C. Wide variations in sanctions imposed in substantiated cases of SEA weaken the commitment to zero tolerance

Civilians are routinely dismissed for SEA and while cases of criminal prosecution occur, data on their outcomes is limited for lack of adequate follow-up

35. The United Nations has dealt strictly with civilians when there is ‘clear and convincing evidence’ of SEA.²³ When there is not clear and convincing evidence, then disciplinary action is normally imposed for any other types of misconduct that may have occurred during the alleged SEA. Aggravating and mitigating circumstances can affect the sanctions.

36. In 42 SEA cases involving civilians referred for disciplinary sanction, 22 civilians were dismissed or separated from service. (Table 5)

Table 5
Disciplinary sanctions against civilian personnel in peacekeeping operations
2008 to 2013

Type of disciplinary sanction	Number of cases
Dismissal	19
Separation from service	3
Lesser disciplinary sanction and administrative action	3
Closed as SEA could not be established at the requisite standard	5
Closed with note to official status file of staff member upon separation	3
Not pursued due to procedural issues or insufficient evidence of the requisite standard	7
Case still under review	2
TOTAL	42

Source: OIOS-IED compilation of OHRM data as at 7 April 2014.

37. From 2008 to 2012, the United Nations referred nine people (civilians and police personnel) to national authorities for prosecution.²⁴ Most were civilian contractors. According to the Office of Legal Affairs (OLA), referred cases included a number of egregious allegations, including the rape of a minor and systematic abuses by groups of contractors:

- **UNMIL:** In 2008 an expert on mission was referred for the alleged rape of a minor. In 2012, five employees of a United Nations contractor were referred to the authorities of a Member State for alleged SEA.

²³ Molari, (UNAT/2011/164).

²⁴ A/RES/62/63, para 9.

- **MONUC/MONUSCO:** In 2010, an official was referred to the authorities of two Member States for alleged sexual abuse of a minor. In 2012, an employee of a United Nations contractor was referred to the authorities of a Member State. The outcomes are unknown.

38. There appeared to be a data gap on the outcomes of nearly half of the civilian cases referred to national authorities. OLA reported that it refers the matters to Member States and follows up. To the extent that it receives information on the outcome of its referrals, OLA shares this information with DFS. However, according to OLA, Member States do not regularly provide such information on taking action or providing information to the United Nations as this lies within Member States' discretion.

Repatriation is the most common action for military and police personnel, while some Member States report prison terms imposed upon their military personnel

39. Repatriation, which is technically an administrative and not a disciplinary or accountability measure, was the most common and consistent form of action by the United Nations.²⁵ There were 90 such repatriations reported between 2010 and 2014.²⁶ Importantly, provision is also made to ensure that personnel who are repatriated are not re-hired in other peacekeeping missions. Sanctions by Member States included salary cuts, demotions, separation from service and criminal proceedings. However, there were no consistent sanctions for substantiated cases. While the specifics of each SEA case differ, as do the sentencing regimes in different countries, imprisonment was recorded as being largely imposed on military personnel for the period from 2010 to 2012 as follows:

- For 36 allegations, 21 out of 46 military personnel allegedly involved (45.7 per cent) were imprisoned;
- For 18 allegations, one police officer out of 19 allegedly involved (5.3 per cent) was imprisoned.²⁷

40. DFS has not received information on sanctions imposed by PCCs on their police officers for most of the substantiated allegations. The length of the prison term is generally disclosed to the United Nations by Member States, but not published.

The accountability of contingent commanders for SEA violations has been insufficiently emphasised or reported upon by both the TCCs and the United Nations

41. Neither TCCs nor the United Nations have taken up the issue of the responsibility of contingent commanders to maintain good discipline in troops in a systematic way. DFS reported that, while it follows up on such cases in accordance with all its normal procedures, the current reporting functions of the Misconduct Tracking System do not allow for the production of dedicated reports on complaints involving commanding officers. Furthermore, it stated it had not received any information on disciplinary action taken against contingent commanders for the involvement of military personnel under their command in acts of SEA.

²⁵ According to DFS, the principal measure taken by the United Nations in instances where allegations are found to be substantiated will be to request that the member states which employs (or in some circumstances deploys) the uniformed personnel involved take disciplinary actions against those uniformed personnel. The United Nations, not being the employer of those uniformed personnel, cannot take disciplinary action against them. Repatriation is but an administrative action and is not viewed as an accountability measure.

²⁶ DFS noted that there are a number of allegations for which more than one individual was repatriated. Repatriations were as follows: 31 for 2010; 22 for 2011; 10 for 2012; 17 for 2013 and 10 for 2014.

²⁷ Supplementary: A/68/56.

At the same time, DFS stated that former contingent commanders may have faced some sanctions, in particular in terms of career advancements, as a result of their failure in command and control and acts of SEA by their troops.

42. It appears that the most determined action taken by the United Nations to enforce command responsibility for the failure to prevent SEA was the disciplinary repatriation of 114 military personnel in a mission in 2008, including three officers, some of whom were not considered as direct perpetrators of SEA. DFS reported that it does not systematically maintain data with respect to large-scale disciplinary repatriations, though they are rare. Its misconduct tracking system only allows for the information to be extracted on a case-by-case basis.

A de facto dual categorization of SEA cases and capacity constraints are also reducing the integrity of the message and the effectiveness of the Organization's response

43. While mandated to investigate SEA allegations since 2005, OIOS-ID has prioritized cases involving minors and rape, while routinely referring allegations of consensual/transactional SEA involving adults, including paternity claims, against all categories of peacekeeping personnel back to peacekeeping missions²⁸ with varying outcomes.

44. Cases referred back are usually investigated by SIUs, which typically have very diverse caseloads, including non-SEA matters, and whose investigators generally lack specialised expertise in SEA matters.

45. The overall quality of SIU investigations was considered by mission interviewees to be poor. The rulings of the United Nations Dispute Tribunal were considered to have raised the standard of evidence to a level well beyond the investigative expertise and resources of SIUs. In 2014, OIOS developed and offered training programs to improve the quality of investigations conducted in missions by DFS and DSS SIUs. These are popular and demand for them is strong; however, OIOS uses investigators to deliver this training, during which time they are not investigating. Absent additional resources, this training by OIOS cannot be sustained, and in any case could compromise its independence.

D. Transactional sex is hidden and under-reported in missions, and the Organization's message on consensual sex is ambiguous and contested

Motivations for transactional sex include hunger and poverty, lifestyle and skill improvement and upward mobility

46. The issue of transactional sex between peacekeepers and the local population was raised in all 44 interviews with CDTs and senior leadership, with the common perception that it was continuing. Evidence from two sources confirms this perception.

47. First, in OIOS-IED interviews in Haiti, 231 individuals admitted to transactional sexual relationships with MINUSTAH personnel for various reasons, including enabling the women and their families to continue schooling and improving their future prospects. For rural women, hunger, lack of shelter, baby care items, medication and household items were frequently cited as the “triggering need”.²⁹ Urban and suburban women received (separate

²⁸ A/66/286, Part II.

²⁹ These interviews were conducted in the first quarter of 2014.

from payments) jewellery, “church” shoes, dresses, fancy underwear, perfume, cell phones, radios, televisions and, in a few cases, laptops. In cases of non-payment, some women withheld the badges of peacekeepers and threatened to reveal their infidelity via social media. Only seven interviewees knew about the United Nations policy prohibiting sexual exploitation and abuse. None knew of MINUSTAH’s reporting mechanism or its hotline.

48. OIOS notes that each instance of transactional sex would classify as prohibited conduct under the 2003 bulletin, thus demonstrating significant underreporting.

49. Second, a survey based on a randomly selected sample of 489 women aged 18 to 30 in Monrovia, Liberia in 2012³⁰ showed that over one quarter of the city’s women in that age group had engaged in transactional sex with United Nations peacekeeping personnel, usually for money. Women who engaged in transactional sex with peacekeepers were not significantly poorer than others; they also viewed the peacekeeping mission more favourably than women who did not have transactional sex with peacekeepers. The study concluded there was “a widespread violation of the United Nations’ zero tolerance policy” and recommended a thorough review of the policy and its implementation.

50. Here too, OIOS notes that the ‘widespread violation’ established by the survey would necessarily imply underreporting.

51. Third, condom distribution and the extent of voluntary counselling and confidential testing (VCCT) is also pertinent to the issue of underreporting, though evidence is not conclusive. Missions regularly distribute condoms to mission personnel to prevent HIV transmission. In 2005, the Zeid report noted that ‘this may create an impression, at least in the minds of some peacekeeping personnel, of an official ‘zero tolerance’ policy coexisting with an unofficial policy’.³¹ To address this risk, the Organization issued a clarification.³² Despite this, the number of condoms distributed, along with the number of personnel undergoing voluntary counselling and confidential testing (VCCT) for HIV and survey results from Haiti and Liberia, suggest that sexual relationships between peacekeeping personnel and the local population may be routine. (Table 6)

Table 6
Condom distribution and use of voluntary counselling and confidential testing (VCCT) for HIV in selected peacekeeping missions

Mission/years	Condoms distributed (Number)	Personnel using VCCT (Number)
UNMIL (2008-2013)	1,671,361	30, 625
MINUSTAH (2008-2013)	1, 985, 386	12, 090
UNAMID (2009-2013)	1,704,090	9,995
MONUSCO (2012-2013)	1,694, 694	830
UNMISS (2008-2013)	1,009,553	37,310
UNIFIL	1,003,729	5,124
UNOCI (2008-2013)	328, 431	3, 743
UNDOF	150,000	2
UNMIK	39,946	33

³⁰ Bernd Beber, Michael Gilligan, Jenny Guardado, Sabrina Karim, “UN Peacekeepers and Transactional Sex,” 2012.

³¹ A/59/710 para 44.

³²http://www.pseataskforce.org/uploads/tools/faqsseabyunpersonnelandpartners_echaecpsunandngotaskforceonpsea_english.pdf, para 29.

Mission/years	Condoms distributed (Number)	Personnel using VCCT (Number)
UNFICYP (2008-2013)	19,793	4
UNTSO (2011-2013)	14,600	29
UNMOGIP	12,140	68
MINURSO	1,440	0

Source: DPKO

52. On the other hand, the survey in Haiti showed that peacekeeping personnel preferred not to use condoms and that more often than not, sex was without condoms as the women felt uncomfortable asking their partners to use condoms.

53. In this respect, OIOS notes that the DFS team of experts also concluded there was underreporting of SEA allegations. Various explanations were given to them, including, inter-alia, problems of access and that United Nations personnel had “adapted by becoming more concerned with and adept at avoiding detection.”

There is confusion and resistance to the 2003 bulletin with regard to its provisions relating to sexual relationships that are strongly discouraged

54. The 2003 bulletin strongly discourages sexual relations between United Nations staff and ‘beneficiaries of assistance’. A review in 2010 recorded that in two field missions, “there was repeated debate with agency personnel at all levels about the boundaries of the bulletin, with individuals strongly challenging its prohibitions, and, in particular, that the use of the phrase ‘strongly discouraged’ allowed individual judgment to prevail.”³³

55. This appears to remain an unresolved issue. Key mission stakeholders referred to staff members seeking clarification on its meaning in theory and practice. Among uniformed personnel, the provision is seen in some missions as “discriminatory”, as they could be banned from all sexual relationships with nationals under mission-specific non-fraternization policies, while such policies are never made applicable to a mission’s civilian component. One PCC noted that a “clear difference between normal sexual relations and an act of SEA is not established.” Its biggest reported difficulty was to make its contingent members understand that all sexual relations were likely to be classified as abusive or exploitative. OIOS-ID also noted that there is still no definition of what constitutes non-consensual sex and, as 50 per cent of SEA allegations in 2013 were classified as non-consensual, considered this an important aspect that must be rectified.

56. Additionally, some interviewees viewed the bulletin as an intrusion of privacy. Staff with long mission experience stated there was a “general view that people should have romantic rights” and raised the issue of sexuality as a human right.

E. The United Nations has assisted very few of the victims of SEA that have entered its victim assistance architecture

57. The United Nations has performed very poorly in assisting victims of SEA when measured against the General Assembly’s intention that victims of SEA should be assisted “reliably”, “quickly” and “in a timely manner.”³⁴ Data demonstrates the extent of this failure:

³³ Global Synthesis Report: IASC Review of Protection from SEA by, 2010, paragraph 47.

³⁴ A/RES/62/214.

only 26 out of 217 SEA victims (12 per cent) identified by its victim assistance architecture have been referred for assistance and of those referred, little is known what assistance, in reality, was provided to them. There are several reasons for this state of affairs.

Mapping of remedial assistance services (hereafter ‘mapping’) has not been undertaken in all missions

58. The implementation of the victim assistance strategy has been slow. In countries with peacekeeping operations, CDTs were to lead in mapping the relevant remedial assistance services as part of the SEA Victim Assistance Mechanism (SEA/VAM). They were to do so with non-governmental organizations through an inter-agency task force to formulate a joint approach to assist victims so that the assistance and support is consistent in a country.³⁵ However, guidance on the implementation of the strategy called for in 2007 was only drafted in 2008 and disseminated in 2009, with missions only then beginning mapping activities.³⁶ Progress in implementation was monitored by CDU in a survey of 13 CDTs in 2011, by which time only six peacekeeping missions had mapped assistance services in their territory, and assistance had been provided to only three victims in three missions.³⁷ Between 2012 and September 2014, three more missions also completed mapping victim assistance services.³⁸

59. OIOS-IED data showed that only four missions had referred victims to such services. However, with the exception of MONUSCO, which referred all victims to assistance, missions covered by the three other CDTs still referred only a small minority (five to six per cent) of victims to those services.³⁹ (Table 7)

³⁵ Above footnote 5 refers.

³⁶ A/63/720 paragraph 18; A/64/669 para 22.

³⁷ A/66/669, paragraph 29.

³⁸ A questionnaire was sent to each CDT in January 2014. Several CDTs cover more than one peacekeeping mission.

³⁹ See table 9: MONUSCO had 100%, UNMIL 6%, UNOCI 5% and MINUSTAH 6%.

Table 7
Remedial assistance mapping in peacekeeping operations at September 2014

	Remedial services mapped:		Includes locations other than mission HQ:	Consultation with:					Number of victims			
	Mission	Yes	No	Yes	No	Host Government	Local Service providers	Communities and civil society	UNCT	International NGOs	Recorded by mission:*	Referred to mapped services:
MONUSCO	•		•			•	•	•	•	•	15	15
UNIFIL**	•		•			•	•	•	•	•	0	0
UNMIL	•		•			•	•	•	•	•	46	3
UNMISS	•		•			•		•	•	•	9	0
UNOCI	•		•			•	•	•	•	•	39	2
UNMOGIP***	•		•						•		0	0
MINURSO			•								3	0
MINUSMA	•										3	0
MINUSTAH	•										98	6
UNAMID			•								0	0
UNMIK	•										4	0

Source: OIOS compilation of data.

*Number of SEA victims provided by missions.

**Also covers UNFICYP, UNDOF, UNTSO.

***Also covers UNAMA.

By September 2014 MINUSMA, MINUSTAH and UNMIK had mapped remedial service. No information on what consultation was undertaken in the mapping.

Remedial assistance is viewed as making only a minor difference and largely ineffective due to a lack of funding

60. Lack of budget and the need to rely on local service providers were the main reasons cited for ineffectiveness. One interviewee who typified the sentiments said that they had “a mandate to give assistance that cover[ed] every possible type of assistance and not been given a penny.”

61. In addition, missions were unable to provide some types of assistance to victims pending substantiation of their allegations as dictated by policy. Legal arrangements and local culture were also considered to influence the availability of services and the willingness of victims to use them.

62. Further, interviewees in two of the four missions accounting for the bulk of SEA allegations also believed that United Nations Country Teams were reluctant to offer the necessary financial support for victim assistance because they viewed SEA as an issue limited to peacekeeping missions. This was confirmed for one mission through interviews.

63. Overall, senior leadership and CDT interviewees were unconvinced of the effectiveness of the resulting measures. Senior mission leaders were mostly unaware of the nature and extent of the assistance provided to complainants and victims. Mapping was seen as providing only information and not real assistance to victims.

Victim assistance was offered informally, supported by small sums from missions and the personal funds of United Nations staff

64. Some CDTs resorted to informal ways to assist victims. Examples included the provision of small amounts of cash for travel (e.g. bus fare) and other immediate needs. Petty cash from the mission was used on several occasions. Some staff reported using small amounts of their own funds to assist victims. According to DFS, steps to address this lack of funding for victims was proposed in the 2014 Special Measures report on the protection from SEA the Secretary-General has proposed to establish a trust fund to support the victims’ assistance strategy.⁴⁰

Paternity claims have been unsuccessful

65. Paternity claims in relation to SEA allegations remain a significant challenge. To date, not a single case of paternity has been formally established. In 2014, DPKO-DFS issued guidance on assistance in instances of paternity claims involving current or former members of peacekeeping missions in terms of DNA testing.⁴¹ One mission had used this guidance to seek budget allocation for DNA testing. CDTs also facilitated evidence-gathering for establishing paternity.

⁴⁰ A/69/779, paragraph 66.

⁴¹ 15 January 2014 Code Cable Number 0115.

III. CONCLUSION

66. More than ten years have passed since the United Nations began systematically addressing the issue of SEA in peacekeeping missions. Despite continuing reductions in reported allegations, that are partly explained by underreporting, the effectiveness of enforcement against sexual exploitation and abuse is hindered by a complex architecture, prolonged delays, unknown and varying outcomes and severely deficient victim assistance.

67. A principal challenge of the SEA enforcement architecture is its centralized decision-making in either the United Nations Headquarters or in the capitals of TCCs. Procedural delays inherent in this architecture can not only jeopardise the quality of evidence gathered, but also affect the chances of justice being served and seen to be served, both to the perpetrators and for the victims.

68. Issues of investigative standards and transparency also need attention.

69. Effective and sustainable solutions are possible if they are devised and implemented at the solution level – that of the peacekeeping missions – using the principle of subsidiarity. Evidence demonstrates that both procedural and substantive changes are needed in the investigative mechanisms that answer to the TCCs, the host country and the United Nations. With respect to the MOU, these changes may include consideration of, inter alia:

- Delegation of authority by TCCs to their contingent commanders to receive communications on SEA allegation and provide responses on the TCC's behalf;
- Provision by TCCs of pre-authorized and trained national investigation officers (NIOs) embedded in contingents, available for investigations immediately;
- Developing and specifying time limits and minimum standards for all SEA investigations;
- TCCs furnishing comprehensive, timely, detailed, and complete information on all investigations, supporting documents and outcomes; and,
- Use of courts martial in peacekeeping missions in egregious cases for military personnel.

70. Within the United Nations, quicker referral of SEA allegations to missions by OIOS-ID is essential to reduce procedural delays in investigations involving civilians and police components. Furthermore, the role of OIOS-ID in missions should be enhanced to enable them to convene mission-based teams from United Nations police and the SIUs, offer advice to mission management if cases require the involvement of national law enforcement authorities and develop mechanisms of first response to SEA. OIOS' independence would remain unaffected as its reporting line would remain unchanged.

71. The Organization also needs to better explain how the 2003 bulletin impacts non-exploitative, consensual sexual relations between United Nations personnel and nationals. Banning sex with the local population is ineffective. Personnel must be better sensitized as to which types of relationships are allowed, which must remain 'strongly discouraged' and why. Guidance developed using actual cases will minimize the current perception of an Organizational intrusion into private lives, while simultaneously providing staff with sufficient information, insights and context so that they do not enter into relationships that harm the very people they are meant to serve and bring disrepute to the Organization.

72. The Organization's lack of success in assisting victims of SEA is of serious concern as very few have been assisted. Details of the assistance provided are scant, suggesting that

the Organization has been unable to devise structures that are sufficiently dynamic to compensate for victims' powerlessness. Additionally, it is apparent that there are pressing unmet financial issues underlying victim assistance that must be addressed within policy frameworks rather than alleviated depending on staff members' generosity.

IV. RECOMMENDATIONS

73. OIOS-IED makes the following recommendations:

CRITICAL RECOMMENDATIONS

Recommendation 1: DPKO/DFS, in consultation with OLA as appropriate, should introduce the necessary revisions to the MOU to enable quick decisions at the mission level to respond immediately to SEA allegations in a more objective, reliable, timely and transparent manner. Appropriate issues to be considered for revision include, but are not limited to:

- When troop contributing countries report the findings of their investigation (as currently envisaged in Article 7.19 of the MOU) they should outline the evidence upon which their conclusions of the investigation rely.
- The MOU should define the minimum investigative standards and protocols to be followed by TCCs and require their compliance.
- The MOU should define the investigation competencies and experience of National Investigation Officers (NIOs) and DFS should monitor compliance.
- The MOU should include a target period for completing investigations.
- The MOU should include an appropriate role for the host country.

(Result B)

Recommendation 2: DPKO/DFS should propose a funded Comprehensive Strategy to address the under-reporting and provide appropriate Assistance and Support to Victims of SEA.

(Results D and E)

IMPORTANT RECOMMENDATIONS

Recommendation 3: DPKO/DFS should analyse whether different uniformed contingents exhibit varying levels of discipline in relation to SEA and use the results to improve the effectiveness of TCC and PCC pre-deployment training and in-mission preventive measures.

(Result B)

Recommendation 4: DPKO/DFS should strengthen its protocols to non-responsive Member States and routinely include full information on the extent of non-responsiveness for those who fail to comply with the terms and conditions of the MOU.

(Result B)

Recommendation 5: The Secretary-General should routinely identify in his annual Special Measures protection from SEA report, all failures in command and control based on completed SEA allegations and the related disciplinary measures taken by TCCs.

(Result C)

Recommendation 6: The Secretary-General should clarify the provisions in his bulletin (ST/SGB/2003/13) that strongly discourage sexual relations between United Nations personnel and beneficiaries of assistance.

(Result D)

Annex 1

The Office of Internal Oversight Services (OIOS) presents below the full text of comments received from the Department of Peacekeeping Operations and the Department of Field Support (DPKO/DFS) on the evaluation results contained in the present report. This practice has been instituted in line with general Assembly resolution 64/263, following the recommendation of the Independent Audit Advisory Committee.

Comments received from the Department of Peacekeeping Operations and the Department of Field Support: memorandum dated 29 April 2015 from the Under-Secretary-General for Peacekeeping Operations and the Under-Secretary-General for Field Support.

Memorandum from the Under-Secretary-General for Peacekeeping Operations and the Under-Secretary-General for Field Support

1. The Departments of Peacekeeping Operations and Field Support remain fully committed to ensuring that the Secretary-General's zero tolerance policy towards sexual exploitation and abuse by United Nations personnel is comprehensively implemented in all peacekeeping missions. As noted in the Secretary-General's annual report on Special measures (A/69/779), one case of sexual exploitation and abuse is one too many.

2. The Departments would like to recall that, as we neared the ten-year mark after a series of measures were initially identified and proposed in the Secretary-General's report entitled "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations" (A/59/710), the Departments recognised that it would be appropriate to learn from experience acquired over the intervening years. To that effect, a team of experts was appointed in 2013 to assess four peacekeeping missions and, upon completion of the team's work, an inter-departmental and inter-agency working group was established to review and discuss the team's findings. The working group met throughout 2014 to develop recommendations to further strengthen the response to sexual exploitation and abuse in the areas of prevention, enforcement and remedial action. In January 2015, the Secretary-General convened a high level meeting of the United Nations' senior leadership to review the report and recommendations of the working group. Information on the recommendations and outcome of the high level meeting are presented in the latest Secretary-General's report on Special measures (A/69/779).

3. The Departments welcome the evaluation conducted by the Office of Internal Oversight Services and note that several of the challenges identified and discussed by the working group identified above are also raised in this evaluation. Consequently, the recommendations from the working group and those contained in this evaluation often go hand in hand. However, the Departments regret that aspects related to prevention of sexual exploitation and abuse, an essential component of the three-pronged strategy that was put in place ten years ago, were not addressed in the evaluation, as this would have provided a much more complete view of the measures taken by the Departments to address sexual exploitation and abuse. In that respect, the Departments recall that prevention is a central element in the Organisation's response to sexual exploitation and abuse and includes risk assessment, training, community outreach, awareness-raising and vetting of personnel.

4. The Departments also regret that the evaluation does not further highlight efforts undertaken to strengthen case management, conduct yearly quality assurance exercises to identify and address pending cases and systematize follow up with Member States. In field missions, an accountability framework containing refined indicators of performance in the areas of prevention, enforcement and remedial actions was introduced, along with a specific risk assessment framework for sexual exploitation and abuse. Furthermore, for the last three years quarterly reminders have been sent to Member States regarding pending information, and these reminders, coupled with face to face meetings with representatives from Permanent Missions, have resulted in greater clarity on the information requested and an improvement in the provision of that information. The Departments also note the marked improvement in cooperation with Member States concerning enforcement efforts, as reflected by the increasing level of responses on actions taken. Partnership between the United Nations and its Member States remains essential in order to ensure that individuals who engage in misconduct are held accountable.

5. The Departments have some concerns with the analysis made of some of the data contained in the evaluation. One striking example of this is the analysis made of the data concerning the number of substantiated allegations for different member states - with at the most nine allegations over four years - which does not take into consideration that thousands of personnel were deployed over that period and that Member States with a greater number of allegations are amongst those deploying the greatest number of troops.

6. Another area of concern is with the analysis on underreporting of cases of SEA. The Departments believe that it is important that the discussion on the challenge of underreporting take into consideration the overall developments that have occurred in peacekeeping since 2005. There has been a significant increase in the number of peacekeeping personnel deployed since 2005, and a significant decrease in the number of SEA allegations over that period. While it is not disputed that underreporting remains an issue of concern, this picture also supports an analysis that strengthened efforts in all areas of the three-pronged strategy by the Organization and Member States, as well as work by peacekeeping missions to reach out to local communities, are having a positive impact. In the view of the Departments, this aspect is not acknowledged in the evaluation, and is an example of how a discussion of prevention efforts could have provided a fuller picture.

7. The Departments remark that issues raised concerning the portrayed “unreliability” of investigations conducted by troop contributing countries or the fact that troop contributing countries would try to “weaken enforcement actions” appear to be based on perceptions or on a few anecdotal examples instead of a broader analysis of cases. The Departments also note that some of the examples cited in the evaluation are from several years ago, whereas the issues are presented as reflective of the current state of play.

8. One further point of concern for the Departments is the stated view that neither the troop contributing countries or the United Nations have taken up the issue of the responsibilities of contingent commanders to maintain discipline in a systematic way. The Departments would like to clarify that information on failures in command and control is recorded by the Departments and where a failure in command and control is associated with allegations of sexual exploitation and abuse, the Departments take action by requesting that Member States take disciplinary actions against the commanding officers involved. These requests are followed up in the same manner as other requests for disciplinary action.

9. As indicated above, the recommendations contained in the OIOS evaluation are generally very similar to the recommendations formulated by the working group convened by the Departments and reviewed in the high level meeting chaired by the Secretary-General.

10. The Departments take the view that the report presents a partial picture of the challenges and achievements in the area of protection from SEA. Given its focus on a limited period, and its lack of consideration of all three prongs of the SEA strategy, the Departments believe that, as presented, the evaluation does not do justice to the efforts that have, and continue to be taken, nor ultimately to the challenges that remain and that the report wishes to highlight.

11. The Departments remain committed to strengthening the Secretary-General's policy of zero tolerance through strengthening the Organisation's efforts in the areas of prevention, enforcement and remedial action. The Departments look forward to continued cooperation with OIOS to that effect.

Detailed comments of the Department of Field Support on the report of the Office of Internal Oversight Services, Inspection and Evaluation Division

Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations

- Paragraph 5(h): It would be important to clarify the nature of the work of the Team of Experts, which undertook an internal evaluation of four peacekeeping missions (MINUSTAH, UNMISS, MONUSCO, UNMIL, consisting of brief mission visits. The reports of the team of experts were considered by an interdepartmental and inter-agency working group (SEA Working Group), which brought on board critical expertise, best practices and lessons learned in relation to SEA. This working group process led to the proposals contained in the 2014 Special measures report of the Secretary-General. DFS believes that it leaves a false impression to rely solely on the reports of the team of experts, without considering the larger work that those reports fed into, including the 2014 Special measures report. In this context, DFS notes that OIOS has added case-related data to the revised report from 2015 (see paragraph 15), and it would therefore be balanced to also consider the 2014 Special measures report, which was issued in February 2015.
- Paragraph 11: DFS is concerned over the following statement: “... OIOS-ID provided evidence that CDT, missions or TCCs have either not reported, delayed reporting, or conducted unauthorized investigations.” It should be noted that this statement appears to be based on 3 cases (one for 2011, 2012 and 2013 each) and the fact that, in 2011, DFS sent a Code Cable to field missions reminding them of the procedures that were to be adhered with in instances involving allegation against members of military contingents. Such evidence is not supportive of a situation that would continue in 2014.

- Paragraph 11: The reference in the last sentence to CDTs is confusing (namely that “CDT, missions or TCCs have either not reported, delayed reporting, or conducted unauthorized investigations”) as CDTs do not operate independently of the mission.
- Paragraph 12 and Table 2: There is no indication provided that the situation identified in the review conducted by OIOS, the results of which were released in 2012, continues to exist today.
- Paragraph 13 and 14: See comments on paragraph 11. There is no indication provided that the situation identified in 2011 continues to exist today. In addition, even if it is desired to include reference to code cable 1156 of 9 June 2011 and the OIOS-ID review of 2012, it would give a more balance and accurate representation to highlight the improvements since that time.
- Page 9, Chart 1: During the reconciliation of data between CDU and OIOS in January 2014, it was noticed that a case from 2011 had not previously been counted. Therefore, at that point, it was added to the 2011 numbers, which made the total count for 2011 75 matters. The chart is based on the old data, and should be revised.
- Paragraph 15: DFS notes the assertion that, notwithstanding the Standard Operating Procedure issued in 2010, “confusion still exists in missions on how to respond immediately following allegations of SEA against military contingent members.” However, the sentence that follows does not focus on confusion by missions, but rather by only one TCC, which DFS does not believe is supportive of the previous statement. DFS makes the same comment with respect to the following observation by one senior official. DFS assumes, although it is not clearly stated, that the following sentence, which speaks of six cases (dating between 2011 and 2015) suggests that there is evidence of delay of missions reporting allegations to Headquarters. If this assumption is correct, DFS is unable to agree that six cases over five years form a valid basis for a general suggestion that field missions delay reporting allegations to Headquarters.
- Paragraph 18 and Table 3: This paragraph cumulates data on substantiated allegations of SEA over, this time, a four years period, whereas the number of personnel is based on December 2014 figures. The numbers in personnel would have likely varied over the four years period, making this analysis less reliable. DFS would like to point out that the data indicates barely an average of 2 cases per year, for the member state with the most substantiated allegations, while this member state and others are deploying thousands of personnel per year. It can easily be argued that such data would more appropriately point to individual failings than to the overall attitude of a member state’s military forces towards SEA.

- Paragraph 19: DFS notes it would be helpful to provide available information to explain the degree of the positive trend of “TCCs...undertaking more national investigations, with a consequent decrease in OIOS-ID military investigations,” namely that member states conducted 7 of 28 investigations initially referred to them in 2010, 15 of 25 in 2011, 9 of 13 in 2012 and 25 of 27 in 2013.
- Paragraph 20: footnote 17 seems to refer to the first sentence of the paragraph rather than the sentence: “This view has been expressed both by Member States and was reiterated by key stakeholders during interviews.”
- Paragraph 19 and Chart 3: The data provided retains some numerical inaccuracies in addition to leaving the impression that only OIOS investigates matters when TCCs do not. For at least for the years for which data is reconciled between OIOS and CDU (2010-2014), data available to CDU and used for the Secretary-General’s report indicates as follow:
 - 2010: 31 allegations were reported to involve military contingents personnel, of which 28 were investigated, 7 by TCC, 13 by OIOS and 8 by field missions. An additional 7 allegations involved Military Observers for which investigations are conducted by the United Nations (OIOS or field missions).
 - 2011: 31 allegations were reported to involve military contingents personnel, of which 25 were investigated, 15 by TCC, 4 by OIOS and 6 by field missions. An additional 9 allegations involved Military Observers.
 - 2012: 17 allegations were reported to involve military contingents personnel, of which 13 were investigated, 9 by TCC, 1 by OIOS and 3 by field missions. An additional 2 allegations involved Military Observers.
 - 2013: 33 allegations were reported to involve military contingents personnel, of which 27 were investigated, 25 by TCC, none by OIOS and 2 by field missions. An additional 4 allegations involved Military Observers.
- Paragraphs 20 to 23: The information in these paragraphs leaves the impression that if member states do not reply to requests that they investigate, then matters will be left unaddressed. To the contrary, DFS has in place a follow-up system with OIOS to ensure that, when no reply is received after 20 days, matters are brought back to the attention of OIOS, for a decision to be made if OIOS or the relevant field mission will investigate.
- Paragraph 22: If the information in this paragraph pertains only to requests for TCC to conduct investigations, then matters would be investigated by the United Nations. References to China, Indonesia and Algeria should be removed as replies were received from their Permanent Missions on 21 April 2015 and 17 April 2015 (in respect of Indonesia and Algeria), respectively.

- Paragraph 26: DFS is concerned that providing examples, which are several years old, dating from 2007 in one instance, is deceiving in terms of reflecting the situation in 2014.
- Paragraph 28 – In connection to the reference to the work of the team of experts, please see the comment related to paragraph 5(h), set out above. Case-study: The choice of this case-study generates confusion as this is a case involving personnel with the status of experts on mission, for which the United Nations is responsible for conducting investigations, whereas the focus of the evaluation is more on investigations conducted by TCC for which the joint field mission-OIOS investigation approach would not apply per se. Similarly, provisions under the SOFA applicable to members of military contingents and those provisions applicable to experts on mission are significantly different.

Paragraph 38: Upon further review and a detailed analysis of the statistics, the breakdown of repatriations per year, as recorded in the Supplementary Information to the Report of the Secretary-General on Special measures for protection from sexual exploitation and sexual abuse, is as follows:

2010: 31

2011: 22

2012: 10

2013: 13 / 17*

2014: 10

* For 2013 SEA matters, 4 repatriations have been reported after the submission of the supplementary information, bringing the total for 2013 to 17.

As for footnote 23, in its current form, it is not clear what is meant. Suggested rewording: “DFS noted that there are a number of allegations for which more than one individual was repatriated.”

- Paragraph 38: Information presented in this paragraph is incomplete. First and foremost, the principal measure taken by the United Nations in instances where allegations are found to be substantiated will be to request that the member states which employs (or in some circumstances deploys) the uniformed personnel involved take disciplinary actions against those uniformed personnel. The United Nations, not being the employer of those uniformed personnel, cannot take disciplinary action against them. Repatriation is but an administrative action and is not viewed as an accountability measure. DFS believes that the paragraph should be revised to reflect the above
- Paragraph 39: It is not clear what reference period is indicated in the following sentence: “Sanctions imposed by PCCs on their police officers for most of the substantiated allegations over the reference period have not been received.” In addition to clarifying the reference period, DFS suggests rewording as follows: “DFS has not received information on sanctions imposed by PCCs on their police officers for most of the substantiated allegations over the period [year X to year Y].”

- Paragraph 40: The information contained in the second sentence, namely that “DFS reported that it does not specifically track” information regarding the responsibility of contingent commanders to maintain good discipline in troops, remains inaccurate in that it gives the impression that these cases are not followed up by DFS-CDU in accordance with its procedures. Indeed, DFS-CDU will record and track instances whereby DFS has requested that disciplinary actions be taken against commanding officers for failures identified in article 7 sexiens (2). All such cases are treated as with any matter referred for disciplinary actions by member states, including through the established follow-up procedures. We suggest that the wording be amended to read “DFS reported that, while it follows up on such cases in accordance with all its normal procedures, the current reporting functions of the Misconduct Tracking System do not allow for the production of dedicated reports on complaints involving commanding officers.” DFS also notes that CDU did not have the resources to individually review each case to identify referrals envisaged in this paragraph.
- Paragraph 41: The second-to-last sentence remains inaccurate as information on large-scale repatriation is recorded and tracked. It is, however, correct that the current reporting functions of the Misconduct Tracking System maintained by CDU do not allow to specifically identify and produce dedicated reports on such cases. Evidence of one instance in 2013 (MINUSMA) was pointed out to the evaluation team.
- Paragraphs 45- 50: It is important that the discussion on the challenge of underreporting take into consideration the overall developments that have occurred in peacekeeping since 2005. There has been a significant increase in the number of peacekeeping personnel deployed since 2005, and a significant decrease in the number of SEA allegations over that period. While it is not disputed that underreporting remains an issue of concern, this picture also supports an analysis that strengthened efforts in all areas of the three-pronged strategy by the Organization and Member States, as well as work by peacekeeping missions to reach out to local communities (particularly in MINUSTAH, UNMIL and MONUSCO), are having a positive impact. In the view of the Departments, this aspect is not acknowledged in the evaluation, and is an example of how the lack of a discussion of prevention efforts may have resulted in a picture that is not fully developed.
- It would be helpful to have more information about the surveys, which were conducted in Haiti and Liberia, in order to understand if they sought information about any instances of transactional sex at any time, or were restricted to more recent instances. In Haiti, Liberia and the DRC, in particular, there have been sustained efforts to reach out to well-placed structures within local communities in order to raise awareness and encourage reporting of SEA. These efforts suggest that there are diverse opportunities for victims to come forward to receive protection and assistance, which contrasts with the picture presented in the report that underreporting remains a large-scale problem across the board in peacekeeping.

- Paragraph 48: With particular reference to paragraph 48, the figures refer to a survey conducted in 2012, and indicates that over a quarter of a selected sample of 498 women in Monrovia were involved in transactional sex with UN peacekeeping personnel. It would be important to provide information regarding the criteria used by the survey (e.g. did the selected women include sex workers, women in long/short relationship with UN personnel, women living near UN installations? were the women reporting incidents within the last year or from several years ago). Since 2008, the UNMIL CDT has regularly conducted awareness-raising in local communities, including in the Monrovia area. While there may be underreporting, the analysis of the information collected during CDT training activities do not indicate such a high number of women involved with UNMIL personnel in Monrovia. For instance, the number of SEA allegations (including transactional sex) involving UNMIL personnel significantly decreased from 13 cases in 2011 to 6 in 2012 and 2013.
- Paragraph 50 and Table 6: The last sentence may be misleading as condom distributions and VCCT are part of the United Nations' HIV/AIDS programme. For VCCT for example, during that period, all staff members were encouraged to take a HIV test as part of this programme. This was in no way connected to the possibility that staff members could have had sexual relations with members of the host state population, let alone had engaged in SEA.
- In reference to Table 6, information provided by UNMIL raises questions about the figures provided in the report (UNMIL – numbers of condoms distributed between 2008 and 2013: 16,714,3610). It is noted that the population in Liberia is approximately 4,000.000 and UNMIL personnel was around 16,000 in 2008-9 including troops. Figures were regularly reduced the years after. This leads to a question of whether the figures are correct.
- Paragraph 51: It is suggested that this paragraph, which appears to deal with the issue of underreporting, should be moved to appear between paragraphs 49 and 50. Its current location suggests a link between a general conclusion about underreporting and a suggestion that peacekeepers preferred not to use condoms, whereas there is no evidence to substantiate this link.
- Paragraphs 59-62: It would be important, in the interest of a complete and balanced report, to refer to the 2014 Special measures report of the Secretary-General (A/69/779) in connection with the proposal to establish a trust fund to support the victim's assistance strategy. This is all the more relevant in light of Recommendation 2.
- Paragraph 64: As noted above, it would be important to reference the proposals set out in A/69/779 in connection with addressing paternity claims.

- Recommendations: Please refer to DPKO/DFS comments to the recommendations, as set out in the attached “Recommendation Action Plan.”

In addition, please note that DPKO/DFS, with the Conduct and Discipline Unit (CDU/DFS) as a lead actor, are heavily engaged in implementing the numerous (48) proposals contained in the Secretary-General’s 2014 report on Special measures (A/69/779, issued on 13 February 2015), which are being undertaken in addition to its normal activities. The Secretary-General has indicated in A/69/779 that he will seek resources to establish a sexual exploitation and abuse coordination in CDU/DFS, which would work to put in place the numerous initiatives of the Secretary-General. However, further resources would be required by CDU/DFS to implement the recommendations of OIOS-IED contained in the report.

Recommendation Action Plan

Report of the Office of Internal Oversight Services: Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations

27 April 2015

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
Recommendation 1 (Result): <p>Recommendation 1: DPKO/DFS, in consultation with OLA as appropriate, should introduce the necessary revisions in the provisions of the MOU to enable quick decisions at the mission level to respond immediately to SEA allegations and to make it more objective, reliable, timely and transparent. Appropriate issues that can be considered for revision include, but are not limited to:</p> <p>(a) When troop contributing countries report the findings of their investigation (as currently envisaged in Article 7.19 of the MOU) they should outline the evidence upon which their conclusions of the investigation rely.</p> <p>(b) The MOU should define the minimum investigative standards and protocols to be followed by TCCs and require their compliance.</p> <p>(c) The MOU should define the</p>	<p><u>DFS comment:</u> DPKO/DFS will need to consult closely with OLA, the Office of Military Affairs and the Police Division within DPKO, as well as other concerned actors in connection with this recommendation.</p> <p>DFS/DPKO notes that this recommendation will require significant effort. DPKO/DFS, with the Conduct and Discipline Unit (CDU/DFS) as a lead actor, are heavily engaged in implementing the numerous (48) proposals contained in the Secretary-General's 2014 report on Special measures (A/69/779, issued on 13 February 2015), which are in addition to its normal activities.</p> <p>The Secretary-General has</p>	DFS (lead) OLA, DPKO (OMA, PD) (support), and OIOS-ID (lead, as indicated in comments)	It is not possible to provide a target date for completion prior to the required consultations. A target date for completion will be subject to consultation, as well as additional resources being made available to DFS to pursue this, and other, recommendations.

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
<p>investigation competencies and experience of National Investigation Officers (NIOs) and DFS should monitor compliance.</p> <p>(d) The MOU should include a target period for completing investigations.</p> <p>(e) The MOU should include an appropriate role for the host country.</p>	<p>indicated in A/69/779 that he will seek resources to establish a sexual exploitation and abuse coordination in the Conduct and Discipline Unit, which would work to put in place the numerous initiatives of the Secretary-General. Further resources would need to be contemplated to enable implementing this recommendation, as well as a number of others set out herein.</p> <p>In addition to the overall comment above, DPKO/DFS makes the following additional comments on the suggested issues to consider for revision, as indicated in (a)-(e) above:</p> <p>(a) DPKO/DFS is not clear what is meant by recommending that the MOU outline the evidence upon which conclusions of the TCC's investigations rely. If it is meant that TCCs should indicate the evidentiary standard used in their investigative process, this is an issue for which OIOS-ID has the mandate and expertise to take the lead. DPKO/DFS also notes</p>		

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>that it may be more useful to Member States if OIOS-ID were to publish the evidentiary standards that it would consider acceptable in an SEA investigation by a TCC; such a document could serve as a reference point on the issue of investigative standards.</p> <p>(b) DPKO/DFS believes that the MOU is a high-level document, which should not contain detailed protocols on investigative standards, which may be more appropriately set out in the Standard Operating Procedures. To the extent that the minimum investigative standards and protocols to be followed by TCCs are detailed in SOPs or the MOU, OIOS-ID has the organizational mandate and expertise in investigations, and must take the lead in this aspect of the recommendation.</p> <p>(c) As noted above, DPKO/DFS believes that the SOPs and/or statement of unit requirements would be more appropriate document(s) for defining the</p>		

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>investigation competencies and experience of National Investigation Officers. Again, DPKO/DFS does not have the required expertise in this area; however we stand ready to support OIOS-ID in this aspect of the recommendation.</p> <p>(d) DPKO/DFS agree that there should be a target period for completion of SEA investigations by TCCs. It is noted that the Secretary-General requested, in A/69/779, that Member States commit to a timeline of six months, subject to extenuating circumstances, to complete SEA investigations.</p> <p>(e) It is not clear what is intended by including an “appropriate role for the host country” in the MOU and DPKO/DFS believe that this aspect of the recommendation requires clarification in order to allow for comment.</p>		
<p>Recommendation 2 (Result): DPKO/DFS should propose a funded Comprehensive Strategy to address the under-reporting and provide appropriate</p>	<p><u>DFS Comments – trust fund:</u> This recommendation addresses the issues of underreporting of SEA and funding support to victims. DPKO/DFS is of the view that</p>		

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
Assistance and Support to Victims of SEA.	<p>these two issues are distinct and must be addressed separately, as set out below.</p> <p>As to the recommendation that DPKO/DFS should propose a funded Comprehensive Strategy to provide appropriate Assistance and Support to Victims of SEA, the Secretary-General has already indicated, in the 2014 Special measures report (A/69/779, issued on 13 February 2015) that he intends to establish a trust fund for victims to provide support and assistance to victims, complainants and children born as a result of sexual exploitation and abuse. DPKO/DFS will support these efforts. On this basis, we consider that this aspect of the recommendation is redundant and request that it should be deleted from the report.</p> <p>Anticipated actions: Trust fund: The Secretary-General has indicated that he will appoint a working group to develop terms of</p>	DPKO/DFS and the Office of the Controller in the Department of	A specific timeline on this work will require consultation with DM and other stakeholders. Progress

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>reference for the trust fund, as well as identify resource implications and funding mechanisms (see paragraph 66 of A/69/779).</p> <p>DFS Comments – under-reporting: As to the recommendation that DPKO/DFS should propose a funded Comprehensive Strategy to address under-reporting, on the basis of the report, it is unclear to DPKO/DFS what it would entail to establish a “funded Comprehensive Strategy to address under-reporting.” DPKO/DFS does not see a need for funded strategy, as efforts are already underway. DPKO/DFS takes the issue of under-reporting seriously, and believes that an effective response is closely linked to continuing to</p>	<p>Management will jointly lead this working group and the development of terms of reference for the trust fund. The proposals of the working group will be submitted to Member States for their consideration and endorsement.</p>	<p>will be reported in the next report of the Secretary-General on Special measures for protection from sexual exploitation and sexual abuse.</p>

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>strengthen community outreach and complaint reception mechanisms. DPKO/DFS notes that the Secretary-General has already indicated, in the 2014 Special measures report (A/69/779) that he intends to “develop a model complaint reception mechanism that can be adapted by duty stations and that will allow victims of sexual exploitation and abuse access to confidential, effective and efficient means of reporting within their communities. Victims will thus be provided with additional community-based reporting options, rather than having to report to the United Nations” (see paragraph 43 of A/69/779). DFS has already begun work on this initiative.</p> <p>Anticipated actions: Complaint reception: The development of a model complaint reception framework, which can be adapted by peacekeeping missions as appropriate, and used to improve the efficiency of community-based</p>	<p>Conduct and Discipline Teams, in collaboration with United Nations Country Team, international and local NGOs, community leaders and local</p>	<p>An update on activities to establish mechanisms in communities, consultations and discussions with other stakeholders is due from missions by November 2015.</p>

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>complaint mechanisms.</p> <p>A stocktaking of current complaint/information reception mechanisms and processes in peacekeeping missions through which misconduct can be reported.</p> <p>DFS issues a model SEA complaint reception framework to missions, with a request that CDTs consult with UN and NGO partners and local communities on what appropriate mechanisms would look like in their specific environment.</p> <p>Missions report to DFS on the exercise set out above.</p> <p>DFS reviews feedback from missions, consults further with missions, and considers further refinement to the model SEA community-based complaint mechanisms, as needed.</p> <p>DFS requests that missions establish community-based complaint reception mechanisms,</p>	governments where relevant.	<p>Completed in October 2014</p> <p>Completed in April 2015</p> <p>Anticipated by November 2015</p> <p>Anticipated by April 2016</p> <p>Anticipated in September 2016, with follow-up with peacekeeping missions.</p>

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>which have been designed based on the consultations conducted with partners and DFS, as set out above.</p> <p>DFS Comments: Finally, DPKO/DFS believes that community outreach, which is part of the prevention prong of the Organization's response to protection from SEA, is also linked to under-reporting. The Secretary-General indicated in A/69/779 that he will develop a Secretariat-wide communications strategy focused on SEA. The strategy will consider best practices and highlight complaint reception procedures to encourage the reporting of misconduct.</p> <p>Anticipated actions: Community outreach: A Secretariat-wide communications strategy focused on SEA is developed.</p>	DPKO DFS DPI	This effort has resource implications, and DFS has already initiated discussions with Member States aimed at identifying donor funding to assist in the development of the communications strategy. It is not possible at this time to indicate the target date for completion of this exercise.

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
<p>Recommendation 3: DFS should analyse whether different uniformed contingents exhibit varying levels of discipline in relation to SEA and use the results to improve the effectiveness of TCC and PCC pre-deployment training and in-mission preventive measures.</p>	<p>In conjunction with Heads of Missions, DFS will analyze cases and sanctions relating to SEA implicating contingent members, and share that analysis with DPKO (OMA and DPET) for consideration of customizing pre-deployment training for specific missions, where appropriate.</p>	<p>DFS, with support Conduct and Discipline Teams, in consultation with Heads of Mission DPKO</p>	<p>To be undertaken on annual basis</p>
<p>Recommendation 4: DPKO/DFS should strengthen its protocols to non-responsive Member States and routinely include full information on the extent of non-responsiveness for those who fail to comply with the terms and conditions of the MOU.</p>	<p><u>DFS Comment:</u> DPKO/DFS agrees with this recommendation, while noting that there has been a significant improvement in overall response rates by Member States. While DPKO/DFS will consider what additional measures can be added to in relation to non-responsive Member States, it is important to highlight its current protocols, which were systematized in 2012. Under this process, all allegations that are pending with Member States are followed up on a regular basis. A first reminder is</p>	<p>DPKO DFS Member States</p>	<p>Measures to review existing protocols to begin by June 2015. Regular reporting to the USG/DPKO and USG/DFS on non-responsive Member States to occur twice per year, beginning in December 2015.</p>

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>sent via e-mail to the Permanent Mission three months after the initial Note Verbale is sent, a second reminder three months thereafter, and a third reminder six months later. A subsequent reminder would be in the form of another more formal Note Verbale.</p> <p>SEA matters are followed up as a matter of priority. DFS notes that the data from January 2015 until March 2015 shows a positive trend as regards the rate of response from Member States. During this period, 16 requests for information related to SEA were sent. During the same period, 23 replies were received, relating to the 16 requests sent or to requests sent in 2014. Therefore, currently the rate of reply on SEA matters for 2015 is over 100%. DFS-CDU will continue to follow up on open matters pending reply from TCCs and PCCs through Notes Verbales, e-mail communications and meetings with military and police advisors and other representatives of the Permanent Missions. The high rate</p>		

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>of reply shows that the current follow up protocol is yielding results.</p> <p>Anticipated action: Additional measures will be put in place in the content/frequency of communications between the Secretariat and non-responsive Member States.</p> <p>The existing protocol will be reviewed to ensure that repeated non-response by a Member State is raised with DPKO/DFS senior leadership.</p>		
<p>Recommendation 5:</p> <p>The Secretary-General should routinely identify in his annual Special Measures protection from SEA report, all failures in command and control based on completed SEA allegations and the related disciplinary measures taken by TCCs.</p>	<p>DFS Comment: Information regarding substantiated allegations of failure to exercise command and control in relation to SEA investigations, as provided by Member States, which investigate their own contingents, will be included by DFS in its inputs to the Special Measures report.</p> <p>In order to make reporting of this information more effective, DFS recommends that OIOS add a sub-category of misconduct, under the</p>	<p>DFS Member States</p>	<p>Annually, in the Secretary-General's report on Special measures for protection from sexual exploitation and sexual abuse, beginning with the 2015 report (anticipated to be issued in February 2016)</p>

IED Recommendation	Anticipated Actions	Responsible Entity(ies)	Target date for completion
	<p>description of sexual exploitation and abuse, to reflect a failure to exercise effective command and control, as the sub-categories are the basis for entries in the Misconduct Tracking System and related reporting functions.</p> <p><u>Anticipation Actions:</u> Information regarding substantiated allegations of failure to exercise command and control in relation to SEA investigations, as provided by Member States, which investigate their own contingents, will be included by DFS in its inputs to the Special Measures report.</p>		
<p>Recommendation 6:</p> <p>The Secretary-General should clarify the provisions in his bulletin (ST/SGB/2003/13) that strongly discourage sexual relations between United Nations personnel and beneficiaries of assistance.</p>	<p><u>DFS Comment:</u> No comment as this recommendation is not for DFS. The lead department for the ST/SGB/2003/13 would be the Department of Management and DFS stands ready to offer support.</p>		

Annex 2

OIOS comments on DPKO/DFS response

1. OIOS thanks DPKO/DFS for their written comments and ongoing dialogue during the evaluation.
2. Paragraph 3: OIOS fully agrees with DPKO/DFS that the prevention prong is central in the Organization's response to sexual exploitation and abuse. However, it should be noted that OIOS had communicated the scope of the evaluation to DPKO/DFS on 12 December 2013, in which prevention was specifically excluded. Comments were invited but none were received. OIOS interpreted this silence as assent to the scope of the evaluation.
3. Additionally, OIOS refers to the Secretary-General's bulletin that deals with methods of evaluation. (ST/SGB/2000/8) This states, *inter-alia*, that evaluations should give due consideration "to the specific nature of the varied activities" and that "an attempt shall be made to identify and analyse the factors associated with effectiveness and impact." Such analyses are both complex and time consuming and impose a natural limit on what can be achieved. Keeping its limited staff and budgetary resources in mind, OIOS decided that a narrower, more focused report would best "enable the Secretariat and Member States to engage in systematic reflection, with a view to increasing the effectiveness of the main programmes of the Organization." OIOS chose quality over quantity.
4. At the same time, OIOS notes that despite the focus of the evaluation on the enforcement and remedial prongs, it did retrieve, albeit in a limited way, information relevant to prevention. For example, during interviews conducted in Haiti with 231 individuals (229 women and two men), who admitted to having transactional sex with peacekeepers, there was some concern over how and why MINUSTAH would accept complaints from Haitians about treatment by peacekeepers. The respondents relied on their past experience and their difficulties in communicating them to the mission due to language barriers and physical inaccessibility. They were also concerned about the neutrality and reliability of the reporting process. Similarly, the results of the DFS independent experts reports also suggest much improvement is needed in prevention.
5. Paragraph 4: OIOS wishes to make three points. First, with respect to case management, the evaluation demonstrated the limitations of the misconduct tracking system (MTS). Management attention to its functionalities would be useful so that it can be made capable of generating information and analysis both at the case level as well as broader issues.
6. Second, the refined indicators of performance can reasonably be expected to yield examples of progress and success but equally may also reveal difficulties and challenges. Both should be shared broadly, including with civil society as they will enhance the credibility of the Organization.
7. Third, OIOS fully agrees that partnership between the United Nations and its Member States remains essential and welcomes the steps taken by DPKO/DFS. At the same time, given the results with respect to the information requested from Member States

(refer paragraphs 21-22) just as the Secretary-General emphasizes that one case of sexual exploitation and abuse is too many, OIOS emphasizes that one case of non-responsiveness by Member States is also one case too many. All Member States contacted by the Organization in matters of sexual exploitation and abuse must respond without exception for this partnership to be fully effective.

8. Paragraph 6: OIOS notes that the DPKO/DFS appointed independent experts also reached the same conclusion and with reference to one mission, stated, “There are cases where TCCs/FPUs have obstructed or shown reluctance to assist in an investigation.” The examples given by OIOS are established by documentary evidence.
9. Additionally, OIOS cautions against any hint of concession that would weaken enforcement by framing the issue as a ‘few anecdotal examples.’ This would be immediately fatal to the accepted principle of zero tolerance. If one case of sexual exploitation is too many, one case of weakening enforcement action is also one case too many.
10. The issue of reliance on ‘perception’ is a relevant point and requires a nuanced approach. It is true that relying on perception *alone* would indeed not stand the test of professional evaluation. Yet, it is equally inadvisable to *completely* disregard the element of perception in a peacekeeping environment on the issue of sexual exploitation and abuse. For example, the Zeid report⁴² also referred to perceptions. Similarly, the independent panel of experts appointed by DPKO/DFS too referred to perceptions. For example, one such report notes that “failure to report cases of SEA was said to be in part a result of the perception of the UN compound as forbidding or fortress-like.” OIOS notes that the Secretary-General himself includes perceptions as a relevant factor while reporting to the Security Council.⁴³ Mission public information surveys also try to accurately measure perceptions.
11. Paragraph 7: Given the responsibility incumbent upon the contingent commander for discipline and good order under the MOU, the issue cannot be treated on par with cases where the responsibility is only individual. Thus, DPKO/DFS approach that “requests [with respect to responsibilities of contingent commanders] are followed up in the same manner as other requests for disciplinary action” requires a modification. Rather, these constitute a special category by themselves that must be tracked and reported upon in the Special Measures report. OIOS further notes that the issue of command responsibility was reported upon only one in the 2010 Special Measures report which stated, “Letters of caution had been placed in the files of commanding officers.”
12. We note and appreciate the action plan prepared by DPKO/DFS and further note that several recommendations do not yet have target dates for completion. We look forward to remaining engaged with DFS and other stakeholders for implementation of the report’s recommendations.

⁴² A/59/710, paragraphs 13, 37, and 66.

⁴³ S/2014/957, para 17.