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Chairman: Mr. Ali. (Malaysia)
*Chairman of the Advisory Committee on Administrative
and Budgetary Questions:* Ms. McLurg

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The meeting was called to order at 10.05 a.m.

Agenda item 126: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*) (A/62/7/Add.35 and A/62/582 and Corr.1)

Agenda item 128: Proposed programme budget for the biennium 2008-2009 (*continued*)

Agenda item 136: Report on the activities of the Office of Internal Oversight Services (*continued*)

Strengthening investigations

1. **Mr. Kim Won-soo** (Deputy Chef de Cabinet and Assistant Secretary-General), introducing the report of the Secretary-General on strengthening investigations (A/62/582 and Corr.1), said that the report had been prepared in accordance with General Assembly resolutions 61/275 and 61/279.

2. In its resolution 61/279, the General Assembly had requested the Secretary-General to provide a comprehensive report on the results of the ongoing examination and rationalization of the investigation caseload and the overall review of the capacity of the Investigations Division of the Office of Internal Oversight Services (OIOS). That ongoing examination and rationalization had been undertaken by the Under-Secretary-General for Oversight Services, who had commissioned an external expert to assist in the exercise.

3. The results of the review had been reported to the Secretary-General and were contained in the annex to the report. The main areas to be strengthened included leadership and management, operating strategies and procedures, and optimal structure and location. The Secretary-General had taken note of the approach being taken by OIOS to improve the functioning of the Investigations Division and of the actions that were within the authority of the Under-Secretary-General. The Secretary-General also recognized that there were financial implications associated with those actions, particularly the restructuring, which would be submitted to the General Assembly for approval in the appropriate budget cycle.

4. The Secretary-General was concerned, however, that the capacity of other areas of the Organization that were mandated to carry out investigations, such as programme managers, the Office of Human Resources Management and the Department of Safety and

Security, was insufficient. OIOS had indicated that, during 2007, 108 cases pertaining to staff involved in peace operations had been referred to other departments or offices for investigation. It was essential that the staff who carried out those investigations should be properly trained and that the investigations should be conducted in accordance with the same standards.

5. Other aspects requiring review included due process rights of staff during the course of investigations, the need for a clear framework of cooperation and coordination between the internal justice system and OIOS, and the accountability and independence of the Organization's investigative capacity.

6. The Secretary-General was committed to the highest standards of integrity and considered that a strong and effective investigative capacity was essential. He therefore wished to initiate a comprehensive review of investigations and submit a report on the outcome to the General Assembly, taking into account, *inter alia*, the reform of the administration of justice, the report of OIOS and reports on the accountability framework and the enterprise risk-management and internal control framework.

7. **Ms. Ahlenius** (Under-Secretary-General for Internal Oversight Services), introducing the report of the Office of Internal Oversight Services on strengthening its investigation function, which was contained in the annex to the Secretary-General's report (A/62/582), said that the leadership and management issues in the Investigations Division were currently being addressed. The principal Deputy Director for New York had been recruited and had assumed his duties in December 2007. The vacancy announcement for the Director (D-2) had recently closed and the recruitment and selection process would be initiated shortly.

8. With respect to restructuring, the main issue was to improve the timeliness and quality of investigations. Restructuring would result in enhanced quality management, more efficient case and staff management, and greater professional career development opportunities and access to training. It would also prevent the duplication of fixed costs and lead to a more efficient use of divisional investigative support and administrative resources. The

establishment of regional centres would ensure optimum investigations capacity and help overcome the vulnerability and inflexibility of small field-based teams.

9. The Procurement Task Force pilot project had demonstrated the efficiency of using specialized teams operating out of a central office to conduct investigations in the field. In that regard, it should be noted that OIOS was the only investigative office in the United Nations system with decentralized offices.

10. OIOS had developed a standard set of operating procedures that incorporated all the information needed to conduct investigations. Some 15 operational protocols relating to more technical matters such as information technology forensics had also been developed. The protocols and other advisory circulars prepared by staff from across the Division had been consolidated into the overall standard operating framework, with a view to enhancing the capacity of all investigators.

11. The entire system was designed to provide information about the investigation function to all United Nations staff. Individual cases would be protected, but stakeholders would be made aware of how OIOS and the Investigations Division carried out their work.

12. The incorporation of the caseload of the Procurement Task Force into the permanent structure of the Investigations Division was ongoing. However, unless regional hubs were strengthened with posts for highly specialized investigators of white-collar offences, including complex fraud schemes, the Investigations Division would not be able to absorb such cases. Regrettably, cases involving significant contracts and many United Nations vendors would have to be abandoned.

13. The establishment of the regional centres was subject to the approval of the General Assembly, in the context of the proposed budget for the support account for peacekeeping operations for 2008/09. As pointed out in its budget submission, the proposed restructuring would eliminate the need to establish 20 new posts.

14. **Ms. McLurg** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/62/7/Add.35), said that the Advisory Committee's report addressed two main

issues raised by the Secretary-General in his report (A/62/582), namely his request for a mandate to submit to the General Assembly, at its sixty-third session, a report on the outcome of a comprehensive review of investigations at the United Nations and the proposals of the Under-Secretary-General for Internal Oversight Services to strengthen the Investigations Division.

15. With regard to the Secretary-General's request, the Advisory Committee took note of his concern at the "insufficient" capacity of other entities of the Organization mandated to carry out investigations, and the need for such capacity to be developed, adequately supported by training and governed by detailed sets of standards and guidelines informing all parties concerned of their rights and obligations during investigations, as well as taking into account the due process rights that ought to be applied uniformly in all investigations carried out by the Organization.

16. The Advisory Committee was of the view that the Secretary-General's comments did not build on the framework for investigations adopted in General Assembly resolutions 57/282, section IV, and 59/287. It recalled that, in its resolution 48/218 B, the General Assembly had clearly established the role and mandate of OIOS, and in its resolution 59/287, its role in internal investigations. The Advisory Committee also recalled that the placement of the investigation function within OIOS had been reaffirmed by the Assembly in its resolution 61/245. Before a decision was taken on the need for a comprehensive review of investigations at the United Nations, as proposed by the Secretary-General, the Advisory Committee recommended that he should be requested to provide information on all the entities other than OIOS carrying out inquiries and investigations, their legislative basis and precise role, the number and types of cases handled, related resources, reporting mechanisms, standards and guidelines involved and training imparted, as well as information on the implementation of resolution 59/287.

17. With respect to the proposals to improve the functioning of the Investigations Division of OIOS, the Advisory Committee noted that the Secretary-General had taken note of the approach taken by OIOS to improve the functioning of the Investigations Division and of the actions, practical in nature and, in several instances already under implementation, that were within the authority of the Under-Secretary-General to implement. The Secretary-General had also indicated

that some actions, particularly those related to the restructuring of the Investigations Division, had financial implications, which would be reported to the General Assembly for approval in the appropriate budget cycle.

18. Paragraphs 22 to 38 of the annex to the Secretary-General's report set out initiatives undertaken by OIOS in connection with its operational strategies and procedures. The Advisory Committee was of the opinion that the implementation of those initiatives should be used as benchmarks to assess the performance of OIOS.

19. The Advisory Committee noted that the proposals to structure the Investigations Division were centred on organizing investigative capacity around the two main types of cases investigated by OIOS, namely sexual exploitation and abuse cases and financial, economic and administrative cases; the decision to create specialized teams to investigate those cases effectively; and repositioning the resident investigators from peacekeeping missions in three regional centres (New York, Vienna and Nairobi) where investigative capacity would be concentrated.

20. The Advisory Committee considered that the presentation of the envisaged restructuring would have been strengthened by a more complete analysis and specific reference to the experience with resident investigators. The submission of the proposals to the Assembly should be supported by an analysis that explained more fully the reasons for changing the approach previously proposed. Any changes that had administrative and financial implications would be subject to the review and approval of the General Assembly, in accordance with established procedures.

21. With respect to the investigation of sexual exploitation and abuse, the Advisory Committee noted that paragraph 61 of the annex to the Secretary-General's report, as drafted, appeared to limit the role of OIOS to investigating cases involving rape and sexual exploitation and abuse involving minors. Upon enquiry, the Committee had been informed by OIOS that the message conveyed in paragraph 61 was incorrect and that OIOS was not seeking to limit its role but rather to ensure that there were clear roles and responsibilities among all actors.

22. **Ms. Bizilj** (Slovenia), speaking on behalf of the European Union; the candidate countries Croatia, the former Yugoslav Republic of Macedonia and Turkey;

the stabilization and association process countries Albania, Bosnia and Herzegovina, Montenegro and Serbia; and, in addition, Liechtenstein, Moldova and Ukraine, said that the Secretary-General's report and the annex containing the report of OIOS (A/62/582) contained useful information on the functions, structure and work processes of the Investigations Division of OIOS and covered, inter alia, important issues relating to operational strategies and procedures for investigations. The European Union considered that the elaboration of comprehensive standard operating procedures, including fairness and due process considerations, should be handled with care and take into account the concerns raised.

23. The European Union stood ready to engage constructively in the negotiations on those important issues, with a view to strengthening the investigation function in a manner that accommodated all views expressed. It considered that the Advisory Committee's conclusions and recommendations formed a sound basis for further deliberations.

24. **Mr. Hunte** (Antigua and Barbuda), speaking on behalf of the Group of 77 and China, said that the Group reaffirmed the roles and mandates relating to investigations that had been established by the General Assembly in its resolutions 48/218 B, 54/244, 57/282, 59/272, 59/287 and 61/245. It stressed the importance of giving OIOS operational independence and reaffirmed the primacy of OIOS in investigating category I cases. It also acknowledged that various Secretariat entities had their respective responsibilities in conducting investigations. The Group would therefore like more information regarding the Secretary-General's intention to undertake a comprehensive review of investigations in the United Nations.

25. While reaffirming the operational independence of OIOS, the Group stressed that the Office's fundamental purpose was to assist the Secretary-General in his internal oversight responsibilities. Its procedures and strategies on strengthening investigations should therefore be developed in that context. The Group concurred with the Advisory Committee that the envisaged restructuring of the Investigations Division was not solely within the managerial purview of the Under-Secretary-General for Internal Oversight Services.

26. The Group was concerned at the apparent confusion within OIOS about its position within the Secretariat and agreed with the Advisory Committee that, bearing in mind the very nature of OIOS and its mandate as the internal oversight body within the Secretariat, OIOS could not become party to international agreements.

27. The Group noted that OIOS had engaged the services of an independent external consultant to review its investigations capacity. It reiterated its position that, as far as possible, the Organization should maximize the use of available internal expertise. The commissioning of external consultants should be conducted in accordance with established administrative procedures, with full respect for mandates and the oversight role of Member States. The Group would appreciate receiving further information on the consultant's background and expertise, the recruitment process, and the cost to the Organization. It noted with concern that the Advisory Committee did not have access to the consultant's review and intended to seek further information on its content.

28. Effective leadership was critical in managing the increased workload and staffing of the Investigations Division. The Group would welcome further information on the recruitment of the Director of the Division, including the terms of reference, the skills required for the post, how the post related to the proposals contained in the budget submitted by OIOS for 2008-2009, and the interim steps taken to date by the Acting Director.

29. The Group attached great importance to the transparency, predictability, accountability and objectivity of investigations and welcomed the ongoing review of standard operating procedures and their incorporation into an updated investigations manual. However, it was deeply concerned at the expert's conclusion that the current manual was lacking in useful and practical information, since that cast doubt on the quality of the investigations carried out to date. It was also concerned that investigators in the Division who might not possess knowledge of the rules, regulations and proceedings currently did not have the means to acquire such knowledge. The situation required close scrutiny and further clarification.

30. The Group considered that a proper case management system was essential to professionalizing the investigations capacity of OIOS and the

Organization as a whole. However, it would appreciate further clarification as to the apparent view that not all allegations or complaints warranted an investigation. The Group firmly believed that, in the interest of transparency, consistency and fairness, every allegation should be given at least an initial review. It would also like further information regarding how OIOS intended to prioritize cases in a manner that produced "reliable and consistent" results. Regarding the proposal to establish a special Case Intake Committee, the Group wished to know how that would complement existing case assessment processes and referrals to other mechanisms.

31. The Group concurred that, if used properly, investigative tools and technology would strengthen the efficiency and capacity of the Investigations Division. It would appreciate further information on the Division's needs, the types of tools and technology that would help fill those needs and the funds requested.

32. Regarding the proposal to organize the Office's investigative capacity around sexual exploitation and abuse cases and financial, economic and administrative cases, the Group was concerned that that might unduly diminish the responsibility of OIOS in investigating all category I cases, including those that might not fall under the two areas identified by OIOS. In addition, OIOS appeared to suggest that its responsibility in investigating sexual exploitation and abuse would be limited to rape and sexual exploitation and abuse involving minors. The Group considered that all cases of sexual exploitation and abuse were serious, not only those involving minors. It therefore sought further clarification from the Secretariat.

33. With respect to the proposal to set up specialist teams of investigators, the Group was concerned that the establishment of such teams might lead OIOS to overemphasize certain types of cases and underemphasize others. The mixed results of the efforts of the Procurement Task Force, which OIOS viewed as a model for the proposed specialist teams, underlined the Group's concerns.

34. The description of the Procurement Task Force's workload in the present report appeared to contradict information given in the OIOS report on the Task Force for the period ending 30 June 2007 (A/62/272). For example, in paragraph 51 of the present report, OIOS asserted that, in the experience of the Procurement

Task Force, highly qualified and specialized teams might carry out and complete complicated investigations after only a couple of field visits of a few weeks each. In document A/62/272, OIOS complained that such investigations took months, if not years. The Group therefore intended to study the proposal very closely, especially in the light of the fact that the Under-Secretary-General for Internal Oversight Services intended to incorporate the Procurement Task Force into the Investigations Division.

35. The plan to relocate investigators from the peacekeeping missions to the United Nations Offices at Vienna and Nairobi and to New York deserved further discussion. The Group took note of the potential savings in costs but considered that many questions remained unanswered. The report did not, for example, provide information as to who would conduct investigations in the peacekeeping missions that were not mentioned in the report.

36. The Group reiterated its commitment to a solid internal oversight function and stood ready to work constructively with its partners to achieve that end.

37. **Ms. Stevens** (Australia), speaking also on behalf of Canada and New Zealand, said that, while it was disappointing that strengthening the investigation function of OIOS had not been addressed more expeditiously, it was vital to avoid taking hasty decisions. However, the two sets of recommendations submitted by OIOS and the Secretary-General did not fit together to provide a comprehensive vision of the investigation function. Although her delegation had previously been told that the apparently poor relationship between OIOS and the Administration was attributable to the perception that OIOS was an external rather than an internal entity, it was clear that OIOS was part of the Secretariat and subject to the authority of the Secretary-General. It had a responsibility to support his efforts to improve the management of the Organization and further progress should be made on that front.

38. In the annex to the Secretary-General's report, OIOS had made a number of sound proposals. Her delegation particularly welcomed the imminent recruitment of a Director of the Investigations Division and supported the planned updating of the investigations manual. It also saw merit in the development of standard operating procedures, the

increased use of computer forensic tools and the improvement of case intake and prioritization methods.

39. With regard to the proposed restructuring of the Investigations Division, it was clear that OIOS must deploy investigators with appropriate specialist skills. However, a number of points should be clarified further. For instance, the arguments in favour of restructuring did not include detailed substantive and qualitative examples of the shortcomings of the current structure. More information was needed on the impact of investigator location on the quality and timeliness of investigative outcomes. The practical implications of moving investigators from their current locations to the three regional centres, the impact of such a move on the timely execution of investigations and the projected effects of the revised chain of command should also be explored.

40. Her delegation would be grateful for reassurance regarding the proposed specialization of investigators. It was essential to know whether such specialization would still allow OIOS to investigate the full range of cases falling within its purview. In that connection, the meaning of paragraphs 60 and 61 of the annex to the Secretary-General's report, which seemed to suggest that the mandate of the Investigations Division with regard to sexual exploitation and abuse allegations would be limited to cases of rape and sexual exploitation and abuse involving minors, should be further clarified. It would also be useful to know whether the resources allocated by the General Assembly at its sixtieth session to train investigators dealing with category II cases had been used. Lastly, before undertaking a comprehensive review of investigations in the United Nations, the Secretary-General should provide further information about the nature of the investigations carried out by non-OIOS actors and the number of such investigations.

41. **Mr. Hoe Yeen Teck** (Singapore) said that it was in everyone's interest to ensure that the United Nations had a strong investigative capacity. However, the difficulties facing OIOS were not necessarily only structural and resource-related: they were largely attributable to deficiencies in the Office's working methods.

42. A transparent investigations system must incorporate clear rules on scope, process and behaviour. The shortcomings of the investigations manual described in paragraph 22 of the annex to the

Secretary-General's report were therefore significant cause for concern and went a long way towards explaining the inconsistencies characterizing some of the investigations carried out by OIOS. The report's insinuation that stakeholders did not necessarily have access to information explaining the way in which investigations were conducted was also disconcerting. That combination of inadequate rules and incomplete information served to undermine the current system.

43. Uncertain rules disadvantaged those being investigated. While the Secretary-General's report indicated that due process rights were defined in the investigations manual, OIOS procedures did not withstand the review of the United Nations Administrative Tribunal. Indeed, four United Nations entities for the administration of justice had, at one stage or another, concluded that those procedures did not respect due process, and the Joint Disciplinary Committee had even said that the Organization's rules on investigations were incompatible with international human rights instruments. There were further inconsistencies in terms of the application of administrative sanctions: some staff implicated in OIOS reports had been suspended while others had not and, in a number of cases, staff placed on administrative leave had not been given the opportunity to refute the allegations against them.

44. Investigators had special responsibilities and their behaviour influenced not only the quality of the investigations carried out but also, by extension, the credibility of the Organization. They must therefore be held to the same, if not higher, standards of accountability as other staff and, in particular, their penchant for running to the media must be addressed. Unfortunately, however, OIOS did not seem to be very willing to accept responsibility for the actions of its investigators. Mistakes could be costly, not for OIOS itself, but rather for the reputations of the accused and for Member States, which would eventually have to foot the compensation bill. The comprehensive audit of OIOS by the Board of Auditors requested by the General Assembly in 2007, would be critical in re-establishing the integrity of the investigations regime.

45. While the report currently before the Committee made a small contribution to efforts to address some of the issues facing OIOS, it was imprecise and full of half measures. Even the final recommendation contained in paragraph 11 (a) was unclear. The

Committee should therefore be prepared to devote the time needed to discuss the relevant issues in further detail.

46. **Mr. Rashkow** (United States of America) said that OIOS planned to take or had already taken a number of practical steps to improve the functioning of the Investigations Division. Since the Under-Secretary-General for Internal Oversight Services had the authority to implement those actions, his delegation urged her to pursue measures designed to address weaknesses and shortcomings in the current investigations system.

47. The annex to the Secretary-General's report proposed a number of operational adjustments to current policies and methods, including the development of a new electronic case management system and the updating of the investigations manual, designed to improve the conduct of investigations. OIOS was also encouraged to refine and further develop its standard operating procedures in order to ensure fairness and respect for due process and to pursue its proposal to increase the use of computer forensic methods, tools and practices in order to improve its ability to detect fraud. His delegation looked forward to receiving a report on the implementation of those measures.

48. As for the proposed restructuring of the Investigations Division, his delegation agreed with the observation contained in paragraph 16 of the Advisory Committee's report to the effect that the proposal would have been strengthened by a more complete analysis and specific reference to the experience with resident investigators, and therefore supported the recommendation contained in paragraph 23 of the same report.

49. With regard to the comprehensive review of investigations to be undertaken by the Secretary-General, the General Assembly had clearly established the role and mandate of OIOS, including its responsibility for conducting investigations, in its resolution 48/218 B. The Assembly had also, in its resolution 61/245, reaffirmed the placement of the investigation function within OIOS. The legislative framework for the Office's investigative activities was therefore well established and should not be revisited in the context of the comprehensive review. Before proceeding with that review, detailed information should be provided on the entities other than OIOS

mandated to carry out investigations and on the number of cases handled.

50. **Mr. Matsunaga** (Japan) said that, in order to respond appropriately to the Secretary-General's concern regarding the insufficient capacity of United Nations entities, other than OIOS, mandated to carry out investigations and to provide him with relevant guidance, Member States might need additional information on a number of issues, in particular on the nature of those entities and on the number of cases handled.

51. His delegation welcomed the Advisory Committee's reference to the framework for investigations adopted in General Assembly resolutions 57/282, section IV, and 59/287. Since adherence to the provisions of relevant resolutions was an important element of accountability. In that connection, the Secretariat should provide justification for its observations and analysis with reference to such resolutions. Further clarification of the issues and queries raised in paragraph 5 of the Advisory Committee's report was also needed.

52. The actions and proposals set out in the annex to the Secretary-General's report deserved careful yet open-minded consideration. His delegation supported the new approach to sexual exploitation and abuse investigations set out in paragraph 60 of the annex and welcomed, in particular, the efforts of OIOS to seek to clarify its role in such cases on the basis that the Investigations Division would continue to investigate them taking into account the responsibilities of the different investigative units in the missions. OIOS, the Department of Field Support and the Department of Safety and Security must clearly delineate their respective roles and responsibilities in that regard, on the basis of the relevant General Assembly resolutions, and every effort must be made to ensure that there were no gaps in the Organization's response to sexual exploitation and abuse. According to paragraph 65 of the annex, the new approach further supported the relocation of investigators from the missions to the regional centres. In that connection, it was essential for Member States to be briefed on every aspect of the reformulated role of OIOS in sexual exploitation and abuse cases at the earliest opportunity.

53. The rationale for the proposed restructuring of the Investigations Division set out in the annex to the Secretary-General's report was very useful. His

delegation concurred with the Advisory Committee that that the restructuring proposals would have been strengthened by a more complete analysis and specific reference to the experience with resident investigators, and looked forward to receiving additional information on that issue, particularly its budgetary and administrative implications, during informal consultations. Further details of the proposal to relocate resident investigators to the three regional centres should also be provided.

54. **Mr. Kim** Won-soo (Deputy Chef de Cabinet, Assistant Secretary-General) said that the Secretary-General had decided to undertake a comprehensive review of investigations because he recognized that a number of problems were undermining the Organization's capacity to investigate cases of misconduct. For instance, in 2007, OIOS had investigated 60 such cases whereas other, non-OIOS entities with far weaker capacities had investigated three times that number. In the absence of harmonized, professional standards and a unified policy in that sphere, the Organization risked damaging its reputation, an eventuality that would have consequences for both the Secretariat and Member States.

55. The prospect of the comprehensive review should not, however, prejudice Member States' consideration of the proposals set out in the annex to the Secretary-General's report. Indeed, unless action was taken on those proposals before the expiry of the mandate of the Procurement Task Force at the end of 2008, the Organization might find itself bereft of all investigative capacity.

The meeting rose at 11.15 a.m.