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

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The meeting was called to order at 10.15 a.m.

Agenda item 136: Report on the activities of the Office of Internal Oversight Services (*continued*)
(A/61/603; A/62/272 and Add.1)

1. **Ms. Ahlenius** (Under-Secretary-General for Internal Oversight Services), introducing the report of the Office of Internal Oversight Services on the activities of the Procurement Task Force for the 18-month period ended 30 June 2007 (A/62/272), recalled that the Procurement Task Force had been established within the Office of Internal Oversight Services (OIOS) in January 2006 in response to allegations of irregularities, fraud and corruption within the Procurement Service as identified by OIOS and other sources, including the Independent Inquiry Committee on the oil-for-food programme, and the recognition that a specialized and dedicated capacity was needed to address procurement cases effectively and comprehensively.

2. The Task Force's initial caseload had involved more than 300 separate allegations of procurement irregularities, the majority of which had been referred by the Investigations Division. Allegations ranged from corruption, fraud and illegality in a number of high value contracts on the part of vendors, their intermediaries and/or staff to single episodes of mismanagement, misconduct and violations of the rules and procurement processes in smaller procurement exercises.

3. Stressing that OIOS attached equal significance to inculpatory and exculpatory evidence, she said that the Task Force had issued 22 reports covering a total of 63 procurement-related cases. The reports identified 10 significant corruption schemes in procurement and had led to the expulsion of 20 corrupt vendors from United Nations vendor rosters. Since the reporting period, an additional three reports had been issued and an additional 11 vendors had been removed, bringing the total number of disbarred vendors to 31. Many of the Task Force's recommendations had been adopted by the Vendor Review Committee and accepted by the affected companies. Certain vendors had revised their conduct and had been reinstated.

4. Upon its establishment, the Task Force had prioritized the cases of eight staff members placed on special leave with pay by the Administration in January 2006. She stressed that it was the Administration —

not OIOS — that had placed the staff members on special leave, as it was management's responsibility to follow up on OIOS reports. OIOS was responsible for establishing and reporting facts. Many of the cases involved multiple allegations with regard to high value contracts in several different locations throughout the world. Following its investigation of the eight staff members, the Task Force had recommended that one should be referred for criminal prosecution; three should be exonerated; and appropriate action should be taken against four staff members who had violated the Organization's rules and regulations.

5. In 2007, the Task Force had turned its full attention to significant vendor procurement contracts. During the 18-month period covered by the report, it had identified serious corruption cases in several United Nations peacekeeping missions and in several high value contract and procurement exercises at Headquarters, with an aggregate value of hundreds of millions of dollars. The investigation reports described in detail how internal control system deficiencies contributed to procurement irregularities and underscored the need for a robust internal control framework.

6. It should be noted that various United Nations agencies, including the Department of Management, the Procurement Service, its Vendor Review Committee and the Controller, had consulted the Task Force regarding large value contracts, procurement exercises and vendors.

7. Noting that the Task Force's investigation methods had been seriously misreported, she clarified that investigations were conducted in compliance with the Investigations Division's Manual of Investigation Practices and Policies. The investigations were administrative in nature and focused on establishing the facts. Every effort was made to ensure that investigations were carried out in a highly professional manner and that staff were fully informed of their due process rights in administrative investigations.

8. Since June 2007, the Task Force had been addressing the most serious cases to date, including a potential multi-million-dollar scheme by a host of vendors, significant cases of waste and abuse in several United Nations missions and at least four additional corruption investigations. Reports on the cases would be issued in the coming months. The Task Force would soon complete a significant report on the contracts for

the review of the Organization's pay and benefits system — a review that had been requested by the General Assembly.

9. There were more than 250 outstanding cases and additional matters were being referred on a regular basis. It was in the Organization's best interests to retain the Task Force to address those cases and conduct high-level investigations. The Task Force had proven that a highly specialized team could successfully assist the Organization in identifying mismanagement, fraud and corruption in procurement. In her proposals for strengthening the OIOS Investigations Division, she had outlined the process for establishing specialized teams or units to investigate two broad categories of cases, namely sexual exploitation and abuse cases and economic and financial offences. The concept of the Task Force would thus be incorporated in the Investigations Division's basic structure in the course of 2008.

10. She trusted that, during the deliberations on the report, the General Assembly would be made fully aware of the concerns regarding procurement and the precise nature of the Task Force's work.

11. **Ms. Miller** (Office of Human Resources Management), speaking on behalf of the Under-Secretary-General for Management, introduced the note by the Secretary-General (A/62/272/Add.1) transmitting his comments on the report of the Office of Internal Oversight Services (A/62/272). She also introduced the report of the Secretary-General on the Procurement Task Force (A/61/603), which outlined the terms of reference and the planned outputs of the Task Force, based on the latest information available when the report was prepared.

12. The report of OIOS on the activities of the Procurement Task Force for the 18-month period ended 30 June 2007 summarized the Task Force's activities related to major investigations and put forward observations to be addressed by the Secretariat. The Secretary-General's note provided comments and clarifications on each section of the OIOS report and addressed the broader issues raised by the Task Force.

13. In the introduction to document A/62/272/Add.1, the Secretary-General highlighted some of the major initiatives taken as part of the procurement reform agenda. A comprehensive report on the matter would be submitted by the Secretary-General during the current session for the Committee's consideration.

14. Section II of the note provided information and clarification on how the Secretariat was addressing the challenges faced by the Task Force in the conduct of its investigations and section III provided an overview of the established procedures for addressing cases of fraud and presumptive fraud arising from investigations and further information on the major investigations summarized in the OIOS report. In certain cases, the summaries provided by the Task Force were preliminary and should be regarded as such. As OIOS had indicated in its report, the findings of the Task Force should be regarded as those of the Task Force, and not a final determination by the Administration of the Organization. The Secretary-General stressed that each of the staff members concerned was presumed innocent pending the conclusion of his or her case.

15. Section IV commented on the inclusion of financial information in the OIOS report and section V outlined the Secretary-General's position on the general observations made by the Task Force and specific actions being taken by the Secretariat with respect to accountability and management of vendors, financial disclosure, recovery action, consistency in actions against staff and due process.

16. Regarding vendors, the Secretary-General's note highlighted the steps already being taken in line with the recommendations of the Task Force. However, if the Assembly agreed with the recommendation that a mechanism should be implemented to publicize the names of vendors who had been removed from the Organization's vendor database after having been fully provided with due process, significant resources would need to be authorized.

17. With respect to financial disclosure to investigators, the Secretary-General agreed with OIOS that the existing regulations provided sufficient authority in the context of investigations. However, it should be noted that that authority was linked to the specific investigation of allegations against a staff member and that the Secretary-General retained his discretion as to which matters should be referred for disciplinary action as provided under the current rules.

18. With regard to recovery action in cases of fraud or corruption, every effort would be taken to minimize the Organization's financial exposure and to seek financial restitution.

19. Concerning consistency in handling cases, each of the reports of the Task Force referred for action against staff had been subject to the same rigorous analysis by the Administration, including a thorough consideration of the evidence available, the applicable rules and aggravating and mitigating factors. The Administration would continue to handle the cases using the same standards.

20. The Administration had sought the guidance of the United Nations Administrative Tribunal regarding the due process rights of staff members in the context of an investigation, as the nature of those rights had been the subject of recent judicial decisions by the Tribunal.

21. A separate report on the future of the Task Force would be submitted to the General Assembly for its consideration during the sixty-second session. The Secretary-General would ensure that the Administration dealt with the important issues raised by the Task Force and the specific recommendations in a satisfactory manner.

22. **Mr. Abraszewski** (Vice-Chairman of the Advisory Committee on Administrative and Budgetary Questions), said that the Advisory Committee had reviewed the Secretary-General's report on the Procurement Task Force (A/61/603) in December 2006. The Advisory Committee recommended that the General Assembly should take note of the report.

23. **Ms. Mesquita** (Portugal), 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 and Montenegro; and, in addition, Armenia, Moldova and Ukraine, said that further information on the establishment and financing of the Task Force might be required. The information relating to the individual cases mentioned in the report must be handled carefully and due process must be ensured. The European Union noted with concern the findings of corruption, fraud, waste, abuse, negligence and mismanagement in a number of high value contracts.

24. The European Union valued the activities and the competence of the Task Force and believed that it should be in a position to complete its caseload during 2008. In order to facilitate a comprehensive approach to the work of the Task Force and the overall OIOS investigation activities, the European Union requested the Secretary-General to submit as soon as possible the

report on the overall review of the capacity of the OIOS Investigations Division requested by the General Assembly at its sixty-first session.

25. **Mr. Hussain** (Pakistan), speaking on behalf of the Group of 77 and China, said that the General Assembly, in its resolutions 61/275 and 61/279, had requested the Secretary-General to present a comprehensive review of the Investigations Division. Unfortunately, the relevant report had not been presented. The Group was strongly opposed to adopting a piecemeal approach when dealing with issues of such importance and was therefore not in favour of holding informal consultations until the Secretary-General presented the report in question so that the item could be addressed in a comprehensive manner.

26. **Mr. Rashkow** (United States of America) said that the Procurement Task Force was to be commended for reporting on more than 10 significant fraud and corruption schemes with an aggregate contract value of approximately \$610 million, which had resulted in an approximate misappropriation of resources in excess of \$25 million. With more than 270 outstanding cases, it was imperative that the Task Force should continue its important work. The United States agreed with OIOS that the revelations of the Task Force concerning serious procurement irregularities indicated a need to overhaul the manner in which procurement was handled in the Secretariat and to strengthen oversight and investigative capabilities. However, the ad hoc manner in which the Task Force had been established needed to be reviewed and more secure arrangements needed to be made to ensure long-term support for the investigation of procurement and other irregularities.

27. It was essential to consider how to integrate the Task Force's work into the overall investigation function of the Office of Internal Oversight Services, while taking into account the Office's recently completed special review of its Investigations Division. That comprehensive review was designed to assess the Organization's investigative capacity and to propose improvements to ensure conformity with best practices. Member States were already in possession of the Secretary-General's report on the resources needed to continue procurement investigations in 2008 (A/62/520) and the Advisory Committee on Administrative and Budgetary Questions had apparently completed its observations and recommendations in respect of the OIOS report on the activities of the

Procurement Task Force for the 18-month period ended 30 June 2007 (A/62/272). His delegation urged the Secretariat to circulate the Advisory Committee's comments as soon as possible to facilitate and expedite the Committee's decisions concerning funding arrangements for the Task Force in 2008.

28. In paragraph 84 of its report on proposals for strengthening the Office of Internal Oversight Services (A/60/901), OIOS declared its intention to conduct a comprehensive assessment of the functions, structure and work process of its Investigations Division. The Advisory Committee had taken note of the proposed assessment in paragraph 74 of its consideration of the comprehensive review of governance and oversight within the United Nations and its funds, programmes and specialized agencies (A/61/605) and had expressed the opinion that "the investigations function should be maintained in the Office of Internal Oversight Services with such refinement as might be possible after the completion of the special review". In its resolution A/61/245, the General Assembly had endorsed the Advisory Committee's recommendation. Subsequently, in paragraph 18 of its consideration of the Secretary-General's report on the strengthening of the Office of Internal Oversight Services (A/61/880), the Advisory Committee had requested that information should be provided in the context of the proposed programme budget for 2008-2009 on the results of the review and any changes envisaged. It was therefore clear that the Advisory Committee and most Member States deemed the release of the OIOS comprehensive report a priority. The United States called upon the Secretary-General to immediately finalize his comments regarding the OIOS report on investigations and to release that report promptly.

29. Member States would like to have before them the OIOS review of its investigations function as they considered the proposal for continuation of the Procurement Task Force. If the Secretary-General was unable to provide his comments in a timely manner to the Fifth Committee, perhaps he could submit his comments separately and request that OIOS should immediately submit the report directly to the Fifth Committee for its consideration. Member States could not engage in a productive discussion concerning the possible integration of the Procurement Task Force into the overall OIOS investigative capacity without clearly understanding how OIOS envisioned strengthening its Investigations Division.

30. Given the importance of the Procurement Task Force and the limited time available for the discussion of the funding arrangements for 2008, his delegation was in favour of holding informal consultations as planned. The work of the Task Force was too important to allow it to be discontinued in such a manner.

31. **Mr. Matsunaga** (Japan) said that his delegation had noted the observations of OIOS that, given the experience of the Procurement Task Force over the previous 18 months, the United Nations procurement system required sweeping changes, oversight and investigative capabilities must be strengthened and corruption often arose because suppliers and their intermediaries were able to identify and exploit weaknesses in the system and staff. It welcomed the intention of the OIOS to submit a comprehensive report on the management of procurement systems and reform and trusted that the report would focus on one of the most acute needs of the Organization: ensuring robust internal controls in procurement activities.

32. With regard to the resources of the Procurement Task Force, his delegation fully agreed with the view, expressed by the Secretary-General in the note containing his comments on the OIOS report on the activities of the Task Force (A/62/272/Add.1), that it was not OIOS, but the Department of Management, that had the delegated authority to prepare and present budget proposals and financial information to the General Assembly. There should be no misunderstanding in that connection. With regard to the plan for completion of the work of the Task Force, his delegation was concerned that the Committee would have difficulty gaining a broad and comprehensive view of the future work of OIOS for two reasons. First, the plan itself was neither clear nor prescriptive. Second, OIOS was adopting a piecemeal approach in which the Task Force was viewed as an ad hoc entity, even though it had been in existence for two years, and in which the General Assembly might be invited to consider incorporating the competence of the Task Force into the overall OIOS capacity.

33. His delegation believed that the plan for completion of the work of the Task Force and the concomitant resource requirements could have been reflected in the proposed programme budget, and that OIOS should not be treated as an entity above established procedures but instead should abide by them. As an internal audit body, OIOS should set an example in its observance of rules and procedures,

including those concerning its future work and corresponding requirements.

34. **Ms. Bárcena** (Under-Secretary-General for Management) said that, in the light of the requests made by the General Assembly in its resolutions 61/275 and 61/279, the Secretary-General had instructed the Department of Management and the Office of Legal Affairs, with the assistance of OIOS, to prepare a report on the OIOS Investigations Division and particularly the prospect of strengthening the investigation function. As the report had been requested in the context of the programme budget for the biennium 2008-2009, the Department of Management would lead the process of preparing it, on the basis of a draft already received from OIOS at the end of October 2007. The review would take into consideration models used by other organizations and would include a comparative analysis of similar international practices. In that connection, the Department of Management was maintaining close contact with the European Commission and other intergovernmental bodies to learn how they approached the task of strengthening investigative capacity.

35. **Mr. Abelian** (Secretary of the Committee), responding to the request from the United States representative that the recommendations of the Advisory Committee in respect of the OIOS report on the activities of the Procurement Task Force (A/62/272) should be circulated as soon as possible, said that the Advisory Committee, having completed its consideration of the matter the previous day, had forwarded its recommendations to the Bureau of the Fifth Committee. The report would be issued in all official languages shortly.

36. **Mr. Rashkow** (United States of America) said that his delegation felt strongly that discussion of the activities of the Procurement Task Force and the investigative capacity of OIOS should proceed. It was incumbent on the Fifth Committee, as a deliberative body and part of the Organization's oversight structure, to take up matters placed on its agenda and to keep in mind the limited time available to it. Fulfilling that responsibility was a matter entirely separate from, and independent of, the eventual outcome of the debate.

37. **Ms. Mesquita** (Portugal), speaking on behalf of the European Union, said that the European Union was prepared to begin informal consultations on the matter at hand, but would await the guidance of the Bureau.

38. **The Chairman** said that he took it that the Committee wished the Bureau to consider the matter, with a view to finding a solution as soon as possible.

39. *It was so decided.*

Agenda item 161: Financing of the African Union-United Nations Hybrid Operation in Darfur

(continued) (A/62/379, A/62/380 and A/62/540)

40. **Mr. Balogun** (Nigeria) said that Nigeria had demonstrated its substantial interest in bringing peace and security to the Sudan by contributing three military battalions to the African Union-United Nations Hybrid Operation in Darfur (UNAMID), with more military and medical personnel to follow. Being the first peacekeeping mission of its kind, the African Union-United Nations operation in Darfur deserved the full support of all Member States. His delegation believed that the Advisory Committee's recommended 10-per-cent reduction in the budget proposed by the Secretary-General for the period from 1 July 2007 to 30 June 2008 should be re-examined to ensure that the principal objective of the operation was not sacrificed to financial considerations.

41. While all parties involved in the conflict in Darfur should faithfully pursue the course of peace and reconciliation through dialogue, the international community should complement those efforts by providing adequate resources. Thought should be given to proper harmonization of command and control structures to prevent problems as the mission got under way and to achieve appropriate synergy. As the vast Darfur region required the construction and rehabilitation of basic infrastructure, as well as capacity-building to enable its people to resume their lives and regain hope, the sum proposed for quick-impact projects was not encouraging. His delegation believed that the budget allocation for such projects should be improved.

42. **Mr. Kassaye** (Ethiopia) said that the commendable efforts to bring sustainable peace and stability to Darfur should be strongly supported by financial and human resources sufficient to ensure implementation of the three-phase approach established at the November 2006 high-level meeting in Addis Ababa and of Security Council resolution 1769 (2007). In the light of the mission's complexity and multidimensional tasks, his delegation welcomed the proposed budget and believed that any reduction in

it could adversely affect the entire operation and, therefore, the overall efforts to bring about peace and stability in the region. In order to implement the mission structure proposed by the Secretary-General and ensure that there was effective coordination between all the relevant entities, civilian staff should be recruited expeditiously to fill the proposed posts. The challenge before the United Nations and the African Union, acting together with the Government of the Sudan, was to respond effectively to the situation in Darfur.

43. **Mr. Shen Yanjie** (China) said that the Security Council's unanimous adoption of resolution 1769 (2007) was an important step towards reaching a just and appropriate settlement in Darfur and bringing peace and stability to that region, to the Sudan and to Africa as a whole. China had always actively advocated political settlement of the Darfur question and therefore supported the deployment of UNAMID, which must be backed by adequate resources to ensure effective and efficient implementation. China also urged international financial support for the African Union mission, which had always operated under difficult circumstances.

44. His delegation had noted the concerns of the Advisory Committee and some Member States regarding the extraordinary measures adopted by the Secretary-General for the implementation of UNAMID and agreed that the Secretariat should improve its planning in order to avoid the need for such measures altogether. Similarly, with regard to accelerating procurement for UNAMID, the Secretariat should avoid methods such as the current single-source contract. The Organization should purchase goods and services through bidding open to all eligible and qualified suppliers in a wide range of geographical locations.

45. **Mr. Hoe Yeen Teck** (Singapore) said that the life-or-death situation in Darfur required the urgent attention of the General Assembly, as delay might result in more suffering. Steps should be taken to ensure that UNAMID was ready to deploy fully by 31 December 2007.

46. It was a matter of great concern that the Secretariat seemed not to have followed proper procurement procedures, despite the 16 months of planning time available to the Department of Peacekeeping Operations between the adoption of

Security Council resolutions 1663 (2006) and 1769 (2007). According to publicly available information, that Department had still not finalized its list of requirements by April 2007, yet had requested approval on 19 April 2007 for a comprehensive contract to be awarded without competitive bidding, arguing that the company concerned was the only competent one in Darfur and was already providing services to the African Union Mission in the Sudan (AMIS). Although the request for approval had not mentioned the size of the contract or the items required, it had been urgently cleared by the Office of Programme Planning, Budget and Accounts on 25 April 2007 without being reviewed by the Headquarters Committee on Contracts, in breach of established procurement rules.

47. The Headquarters Committee on Contracts had only conducted an ex-post-facto review of the matter four months later, on 31 August 2007, having been urgently convened on the previous day and asked to complete its review within a very short time. The value of the contract, \$250 million, exceeded the \$50-million spending authority approved by the Advisory Committee. The Headquarters Committee on Contracts had indicated that it had insufficient information to make a considered assessment, but, considering that approval had already been given and that the request was urgent, had recommended — with reservations — that the company should be accepted.

48. His delegation wished to know whether proper procedure had been followed, given the time available to plan the operation, the submission of a request for approval of the contract in advance of the approval for deployment and the absence of a list of requirements at the time approval had been granted. His delegation had noted that the Department of Peacekeeping Operations had been able to furnish the company concerned with a list of requirements within three months of that approval. As the contract was large and covered many types of services, it wondered why the company in question had been selected, as it appeared to have at least one competitor in the field able to fulfil all aspects of the contract. It also wondered why the contract had not been split up and subject to competitive bidding, given that several smaller companies were providing services to AMIS.

49. Finally, his delegation wished to know what purpose was served by the Headquarters Committee on Contracts review of the contract if it had already received approval on 25 April 2007, and why that

Committee had been rushed into providing a decision without sufficient information. As his delegation had asked for information at a formal meeting of the Fifth Committee, it would prefer to receive responses at a formal meeting, but was willing to show flexibility. Regardless of whether they were provided in a formal or informal setting, the responses should be provided in writing.

50. Internal controls existed to guide the Organization in conducting business on behalf of the Member States, particularly when it was faced with uncertain situations. While the problem of Darfur was pressing and the scope of UNAMID was complex, the Organization had been preparing for the operation for two years and should have been able to complete that preparation not only speedily, but properly. Breaches of the Organization's rules, particularly by the Organization itself, raised questions of accountability. While his delegation had no wish to delay the deployment of UNAMID, the procurement procedures in question should be explored, as they had implications for future deployments.

51. **Mr. Kovalenko** (Russian Federation) said that his delegation believed that UNAMID should be deployed as rapidly as possible and receive financing sufficient to ensure full implementation of its mandate. The timely and effective planning of peacekeeping operations was affected by resource considerations which significantly determined whether military and civilian staff were able to have their needs met from the very start of a mission. His delegation was consequently concerned that the Secretariat had failed to present the proposed budget for UNAMID in a results-based format, which not only would have facilitated its consideration in the Fifth Committee and Advisory Committee, but also would have helped to ensure that peacekeeping operations were transparent and accountable and that their activities could be evaluated.

52. His delegation also could not understand the Secretariat's decision to include in the proposed budget for UNAMID expenditure to support the African Union mission incurred within the budget for the United Nations Mission in the Sudan (UNMIS), when — in accordance with the most recent resolution on the financing of UNMIS — such expenditure was to have been submitted as part of a revised UNMIS budget. That approach gave the impression that the resources in question had been borrowed from the UNMIS

budget in contradiction of over 150 General Assembly resolutions affirming that no peacekeeping operation was to be financed using resources borrowed from another active peacekeeping operation.

53. His delegation regretted that the Security Council, when it had adopted resolution 1769 (2007), had not been informed that implementation of UNAMID would require exceptional measures which had the effect of suspending or contravening some of the financial regulations and rules, human resources provisions and procurement procedures of the Organization. It doubted whether some of the steps indicated in the Secretary-General's letter to the President of the General Assembly (A/62/379) were warranted. Peacekeeping missions were by definition established and implemented in emergencies and did not justify contravening the Organization's rules, a situation which would, moreover, make the missions less effective. The Secretariat's suspension of established procurement rules and the awarding of a no-bid \$250-million contract to a hand-picked supplier frustrated the Member States' long-standing efforts to make the Organization's procurement system more effective and transparent and to eliminate its many risks.

54. During the consideration of the proposed budget for UNAMID, his delegation would bear in mind the need to provide the mission with the necessary resources, on the basis of a realistic assessment of its requirements and taking into account the recommendations of the Advisory Committee.

55. **Mr. Yeo** (Officer-in-Charge, Peacekeeping Financing Division) said that the Secretariat had taken note of the Committee members' remarks and questions and would prepare detailed written responses to them. In addition, the Controller and senior Procurement Division staff would be present at the forthcoming informal consultations on the proposed budget for UNAMID in order to respond to questions, particularly those concerning the single-source contract.

The meeting rose at 11.30 a.m.