

FRAMEWORK AGREEMENT

between the European Union and the United Nations for the Provision of Mutual Support in the context of their respective missions and operations in the field

WHEREAS, in the Joint Statement on UN-EU Cooperation in Crisis Management signed on 7 June 2007, the Secretary-General of the United Nations and the Presidency of the Council of the European Union reaffirmed their determination to enhance mutual cooperation and coordination in the area of crisis management, including through the establishment of specific coordination and cooperation mechanisms for crisis and post-conflict situations where the United Nations and the European Union are engaged;

WHEREAS, to enhance such mutual cooperation and coordination, the United Nations and the European Union have agreed to establish a framework agreement for the mutual provision of logistic, administrative and security support by United Nations peace operations and political missions (hereafter 'UN Missions') and European Union Common Security and Defence Policy military and civilian crisis management operations (hereafter 'EU Operations') engaged in crisis and post-conflict situations in the field;

WHEREAS, expenditure arising from European Union civilian operations are borne by the budget of the European Union and implemented by the European Commission;

WHEREAS, pursuant to Article 41(2) of the Treaty on European Union, expenditure arising from EU Operations having military or defence implications are borne by the Member States of the European Union;

WHEREAS, pursuant to European Union Council decision (CFSP) 2015/528 of 27 March 2015, ATHENA is the mechanism entrusted with the administration of the common and nation borne costs of EU Operations having military or defence implications;

WHEREAS the United Nations and the European Union each confirm that they are authorized to enter into this framework agreement, and to undertake the responsibilities herein contained;

NOW, THEREFORE, the United Nations and the European Union (individually a 'Party' and collectively the 'Parties') agree as follows:

Article 1

Purpose and scope

1.1 This agreement ('Agreement') sets out the framework for the provision of mutual logistic, administrative and security support by UN Missions and EU Operations engaged in crisis and post-conflict situations in the field.

1.2 This Agreement shall not apply to:

- (i) Logistics or other support provided to UN Missions or EU Operations by their respective Member States on a bilateral basis;
- (ii) UN Mission-EU Operation cooperation or assistance arrangements, other than for the provision of logistic, administrative and security support; or
- (iii) UN Mission-EU Operation cooperation or assistance arrangements concluded prior to the date of this Agreement.

Article 2

General principles

2.1 The competent authorities of the Parties may enter into arrangements for the provision of mutual logistic, administrative and security support (hereafter 'Support') by UN Missions and EU Operations engaged in crisis and post-conflict situations in the field.

2.2 The provision of Support shall be subject to the UN Missions' and EU Operations' respective capabilities and areas of deployment and without prejudice to their ability to carry out their respective mandates.

2.3 The provision of Support shall be subject to the Parties respective regulations, rules, established practices and procedures (hereafter 'Regulations and Rules').

Article 3

Technical implementation arrangements

3.1 The detailed modalities and financial arrangements applicable to the provision of Support shall be agreed on a case-by-case basis and set out in mission-specific technical implementation arrangements concluded pursuant to Article 2 of this Agreement (hereafter 'Technical Implementation Arrangements'). Where applicable the European Union shall furthermore ensure that Technical Implementation Arrangements shall be concluded by the competent authorities acting on behalf of ATHENA.

3.2 Neither Party shall be: (i) obliged to provide Support to the other, save as expressly set out in a Technical Implementation Arrangement; or (ii) liable to the other for its inability, in whole or in part, to provide such Support.

3.3 In case of conflict between this Agreement and any Technical Implementation Arrangement, the terms of this Agreement shall prevail.

Article 4

Planning and coordination

4.1 The Parties shall each designate an official (hereafter the 'UN Coordinator' and the 'EU Coordinator', respectively) to coordinate the provision of Support pursuant to this Agreement.

4.2 Save as otherwise agreed between the Parties, the UN Coordinator and the EU Coordinator shall be the point of contact for all matters arising in respect of this Agreement.

4.3 The UN Coordinator and the EU Coordinator shall consult on a regular basis to review and coordinate the timely provision to the other of all relevant information as may be required for the purposes of planning, identifying, prioritizing and coordinating UN Mission and EU Operation Support requirements.

Article 5

Categories of support

5.1 Technical Implementation Arrangements concluded pursuant to this Agreement may include the following categories of Support

- (i) the provision of logistic goods, supplies or services;
- (ii) the transfer (sale) of equipment;
- (iii) the construction, refurbishment and/or handover of infrastructure;
- (iv) the provision of security or protection services to personnel and/or property and/or
- (v) the exchange of classified information.

5.2 The above-mentioned categories of Support are for illustrative purposes only and shall not be interpreted as exclusive, or as a commitment to provide such Support.

*Article 6***Provisions on support**

6.1 The provision of logistic goods, supplies or services pursuant to a Technical Implementation Arrangement may include, but shall not be limited to the categories of logistic goods, supplies and services set out in Annex 1 of this Agreement.

- (i) Unless otherwise agreed in writing in the applicable Technical Implementation Arrangement, the quality of logistic goods, supplies or services provided by the UN Mission or the EU Operation to the other shall be of equal quality and calibre to that enjoyed by the provider's own personnel;
- (ii) For purposes of providing the logistic goods, supplies or services, the UN Mission and the EU Operation may draw on existing contracts or arrangements entered into by or on behalf of the provider; the Parties shall ensure that all services, equipment, supplies purchased by or on behalf of the provider shall be procured in accordance with the Regulations and Rules of the provider.

6.2 The transfer of equipment pursuant to a Technical Implementation Arrangement may include, but shall not be limited to, the categories of equipment set out in Annex 2 of this Agreement.

- (i) To the extent that the Technical Implementation Arrangement provides for the transfer (sale) of equipment, the UN Mission and the EU Operation, while at all times acting in conformity with their respective Regulations and Rules, may transfer, sell or dispose of equipment to the other on the basis set out below:
 - (a) The provider represents and warrants that it is the sole owner of the equipment, that the equipment is fully paid and free of any third party rights, liens and encumbrances;
 - (b) The recipient acknowledges that the equipment is sold on an 'as is' 'where is' basis and that the provider makes no warranties or representations, express or implied, as to the condition of the equipment, or as to its suitability and fitness for any intended use, and that the provider shall not be liable for any claims, demands, losses or liability arising from or in connection with the use or operation of the equipment after it has been transferred to the recipient;
 - (c) Save as otherwise expressly agreed in the applicable Technical Implementation Arrangements, the transfer of title to the equipment shall occur (1) when the purchase price has been credited in full to the provider's designated bank account; and (2) a handover certificate confirming the physical handover and receipt of the equipment has been signed by the recipient;
 - (d) Immediately prior to the occurrence of the transfer of title, the provider and the recipient shall jointly prepare an inventory of, and inspect, the equipment;
 - (e) Immediately upon occurrence of the transfer of title, the recipient shall assume full responsibility for the equipment, including for the loss of, damage to, or destruction of, the equipment (including for the insurance of the equipment); and,
 - (f) The provider shall transfer to the recipient any warranties in place for the equipment.
- (ii) Additional terms and conditions governing the transfer of the equipment shall be set out in the applicable Technical Implementation Arrangement.

6.3 The specific terms and conditions governing the construction, refurbishment and/or handover of infrastructure shall be agreed where applicable on a case-by-case basis, and set out in the Technical Implementation Arrangement. For the purpose of the construction, refurbishment and/or hand over of infrastructure, the competent authorities of the Parties shall also consult with, and seek the appropriate approvals or agreement from the host Government, or landowner, as necessary.

6.4 The specific terms and conditions under which classified or confidential information may be exchanged in the field shall be set out in the Technical Implementation Arrangements concluded pursuant to this Agreement. The provision or exchange of classified or confidential information shall be subject to the Parties' respective policies, procedures and established practices.

6.5 The specific terms and conditions governing the provision of security or protection services shall be set out in the applicable Technical Implementation Arrangement. The provision of security or protection services shall be subject to the UN Missions' and the EU Operations' respective mandates and shall not derogate from the recipient's responsibility to take adequate measures to safeguard its personnel and property.

Article 7

Financial arrangements

7.1 Technical Implementation Arrangements concluded pursuant to this Agreement shall include appropriate financial arrangements based, *inter alia*, on the following financial provisions.

I. General principles

7.2 Save as otherwise expressly provided in this Agreement, or otherwise agreed by the Parties in writing, Support provided by one Party to the other pursuant to this Agreement shall be provided on a cost-reimbursable basis. Specific details of the costs for each support activity and their method of calculation will be further elaborated in the relevant Technical Implementation Arrangements, referred to in Article 3 herein.

7.3 The Parties shall ensure that the costs incurred in the provision of Support:

- (i) Are supported by accurate and up-to-date records and documents and include only actually incurred costs directly attributable to the Support received by the other party, and
- (ii) will be reimbursed if they comply with the criteria outlined in this Agreement, as well as any additional conditions outlined in the Technical Implementation Arrangements and agreed to in advance.

7.4 The provider shall submit invoices to the recipient after delivery or performance of the Support. The provider shall invoice the recipient at least once a year for all transactions not previously invoiced. Invoices shall be accompanied by the necessary support documentation and shall be paid within sixty (60) days of the date of the invoice. Payment shall be made in the currency of the provider or as otherwise agreed.

II. Provision of logistic goods, supplies or services and security support

7.5 Logistic goods, supplies and services and the provision of security or protection services shall be charged on the basis of actual direct costs that the provider incurs on account of the provision of the Support.

III. Transfer of equipment and infrastructure

7.6 The purchase price (if any) shall be determined on the basis of the net market value or where no market value can be determined, it shall be fair and reasonable taking into account specific local conditions and depreciation rates applied by the respective competent authorities.

7.7 The recipient of the equipment shall be responsible for the costs associated with the transfer of the equipment, including, without limitation, any transportation costs.

7.8 Where applicable the Parties, acting in conformity with their respective Regulations and Rules, may contribute to the cost of infrastructure constructed, refurbished or improved by one of them for the purposes of use by the other and/or both of them. The terms and conditions governing such contributions shall be agreed in writing by the competent authorities on a case-by-case basis and set out in the applicable Technical Implementation Arrangement.

7.9 To the extent that the provision or handover of infrastructure pertains to premises, camps, or other infrastructure constructed, refurbished, or improved by either of the Parties for its own purposes in the implementation of its mandate, the modalities for handover, including any financial arrangements shall be set out where applicable in a Technical Implementation Arrangement.

IV. Exchange of classified information

7.10 Exchange of classified information between EU Operations and UN Missions shall be at no cost.

Article 8

Additional provisions of Technical Implementation Arrangements

8.1 The terms and conditions of Technical Implementation Arrangements concluded pursuant to this Agreement shall be consistent with this Agreement and shall include:

- (i) Appropriate Liability and Indemnity provisions based on the provisions set out in Article 9 below. The necessary adjustments shall be made to such Liability and Indemnity provisions to reflect the parties to the applicable Technical Implementation Arrangement. In particular, for the purposes of Technical Implementation Arrangements that relate to European Union operations having military or defence implications, the officials, personnel, servants and agents of the European Union referred to in Article 9 below shall be deemed to include the officials, personnel, servants and agents of ATHENA and of European Union participating States;
- (ii) Appropriate Consultation and Dispute Resolution provisions based on the provisions set out in Article 11 below;
- (iii) Provisions regarding the Human Rights Due Diligence Policy and Privileges and Immunities as set out in Articles 10 and 12 below.

8.2 Technical Implementation Arrangements shall also include, *inter alia*, appropriate provisions governing Liaison and Coordination, Implementation procedures, Invoicing/Payment procedures, as well as provisions for Recordkeeping, Audit and Investigations.

Article 9

Liability and indemnity

9.1 Save as expressly provided in this Agreement, the United Nations, including its officials, personnel, servants and agents, and the European Union, including its officials, personnel, servants and agents, shall incur no liability whatsoever arising from or in connection with the implementation of this Agreement. In particular, and without prejudice to the generality of the foregoing, the United Nations, including its officials, personnel, servants and agents, and the European Union, including its officials, personnel, servants and agents, shall incur no liability whatsoever for any military or other operations or activities carried out by the other Party, including such other Party's officials, personnel, servants or agents.

9.2 The United Nations and the European Union shall each be responsible for resolving and shall indemnify, hold and save harmless, the other, its officials, personnel, servants or agents from and against, all claims, demands, losses and liability of any nature or kind in respect of the death, injury, illness, or loss or damage to personal property, sustained by their respective officials, personnel, servants or agents, arising from or in connection with the implementation of this Agreement, save to the extent that such claims or demands result from the gross negligence or wilful misconduct of the other Party, or of its officials, personnel, servants or agents.

9.3 The United Nations and the European Union shall each be responsible for resolving, and shall indemnify, hold and save harmless, the other, its officials, personnel, servants and agents from and against, all claims, demands, losses and liability of any nature or kind brought or asserted by third parties, based on, arising from, related to, or in connection with their respective acts or omissions, or the acts or omissions of their respective officials, personnel, servants and agents, in the implementation of this Agreement.

Article 10

Human Rights Due Diligence Policy

The responsibilities undertaken by the United Nations pursuant to this Agreement are subject to the terms of the Human Rights Due Diligence Policy on UN Support to non-UN Security Forces (S/2013/110), a copy of which is attached in Annex 3 of this Agreement.

Article 11

Consultation and dispute resolution

11.1 The United Nations and the European Union shall keep the implementation of this Agreement under close review and shall regularly and closely consult with each other for that purpose.

11.2 The UN Coordinator and the EU Coordinator shall, within their respective responsibilities, regularly consult with each other, at either's request, on any difficulties, problems, matters of concern or disputes that may arise in the course of the implementation of this Agreement and shall use best efforts to discuss and resolve any matters amicably by negotiation.

11.3 In the event that the UN Coordinator and the EU Coordinator are unable to resolve any difficulties, problems, matters of concern, or disputes to the satisfaction of the Parties, consultations shall be continued between the Under-Secretary-General for Operational Support and the Deputy Secretary General for Common Security and Defence Policy and Crisis Management and ultimately, if required, at the request of either Party, between the Secretary-General of the United Nations and the High Representative of the European Union for Foreign Affairs and Security Policy, with a view to reaching an amicable resolution.

11.4 Any claims or disputes that have not otherwise been resolved in accordance with this Article of this Agreement may be submitted to a mutually-agreed conciliator or mediator. Any claim or dispute which has failed to be settled by such conciliation or mediation may be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who will be the Chairman. If within thirty (30) days from the date on which the request for arbitration was made either Party has not appointed an arbitrator or if within thirty (30) days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint an arbitrator. The procedures for the arbitration shall be in accordance with the UNCITRAL Arbitration Rules then obtaining. The arbitrators shall have no authority to award punitive damages. The arbitral award shall contain a statement of reasons on which it is based and shall be accepted as the final adjudication of any such claim or dispute.

Article 12

Privileges and immunities

Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs or the European Union, including its institutions and competent entities.

*Article 13***Final provisions**

13.1 This Agreement shall enter into force on the date of its signature by the Parties.

13.2 This Agreement may be modified, supplemented or amended at any time by written agreement between the Parties.

13.3 This Agreement shall be reviewed 5 years after its entry into force.

13.4 This Agreement may be terminated at any time by either Party giving sixty (60) days' notice to the other. Notwithstanding the termination of this Agreement, the provisions of Articles 9, 11 and 12 of this Agreement shall remain in force until such time as all disputes, claims or liabilities arising in connection with this Agreement have been resolved.

13.5 The Annexes to this Agreement are an integral part of this Agreement.

IN WITNESS WHEREOF, this Agreement is signed by the duly authorized representatives of the European Union and the United Nations

Done at New York, on 29 September 2020, in duplicate, in the English language.

For the European Union:



For the United Nations:




ANNEX 1

Categories of logistic goods, supplies and services that may be provided:

Transportation and movement services

Infrastructure and engineering services

- Accommodation
- Office space
- Infrastructure for Role 1 up to 3

Technical facilities

- Storage
- Workshops
- Fuel station
- Ammunition storage
- Parking (for vehicles or aircraft); helipads.
- Electrical power
- Sanitary Water

General services

- Grounds maintenance
- Cleaning/janitorial services
- Environmental protection (sewage/waste removal)
- Minor repairs and maintenance
- Fire protection/prevention and fire fighting

Management services

- Camp management services
- Environmental protection

Control services

- Veterinary and food control
- Waste control
- Water control
- Hygiene control
- Pest control

Real life support

- Rations/catering
- Laundry
- Moral & welfare
- Energy
- Sanitary
- Cleaning
- Waste disposal

Supply services

- Petroleum, oil, lubricants (POL)

Communication services

Medical support

- Pharmaceuticals
- Medical supplies
- Casualty evacuation / Medical evacuation (CASEVAC/MEDEVAC)
- Medical treatment (Role 1, Role 2 and Role 3 services)
- Medical waste disposal
- Patient evacuation coordination cell (PECC)

Security services

ANNEX 2

Categories of equipment that may be transferred:

- Accommodation (incl. buildings and temporary/tented accommodation)

Other infrastructure

- Vehicles (General purpose vehicles, armoured vehicles, specialized vehicles)
 - Construction, handling, and other specialized equipment and machinery
 - Pumps, water treatment equipment and machines
 - Non-lethal items of military equipment
 - Petroleum, oils, lubricants
 - Clothing
 - IT and communication equipment
 - Medical supplies, equipment and/or pharmaceuticals
 - Ammunition
 - Spare parts
 - Generators
 - Furniture
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ANNEX 3

United Nations Human Rights Due Diligence Policy



United Nations

**General
Assembly
Security Council**

A/67/775-S/2013/110

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General Assembly
Sixty-seventh session
Agenda item 69

Promotion and protection of human rights

Security Council
Sixty-eighth year

Identical letters dated 25 February 2013 from the Secretary-General addressed to the President of the General Assembly and to the President of the Security Council

I have the honour to transmit herewith the text of the human rights due diligence policy on United Nations support to non-United Nations security forces (see annex). Member States were advised of my decision to institute this policy by means of a note verbale dated 25 October 2011.

The policy sets out measures that all United Nations entities must take in order to ensure that any support that they may provide to non-United Nations forces is consistent with the purposes and principles as set out in the Charter of the United Nations and with its responsibility to respect, promote and encourage respect for international humanitarian, human rights and refugee law.

I wish to underline that the policy is based on existing standards and obligations that States have accepted through their membership in the United Nations, through their recognition of standards set out in the Universal Declaration of Human Rights and through their acceptance of obligations under key international instruments.

Insofar as the General Assembly and the Security Council may decide to mandate United Nations entities to provide support to non-United Nations security forces, I trust that both the Assembly and the Council will take the policy into account in their deliberations.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the General Assembly and of the Security Council.

(Signed) **BAN Ki-moon**

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Annex

[Original: English and French]

Human rights due diligence policy on United Nations support to non-United Nations security forces

I. Core principles

1. Support by United Nations entities to non-United Nations security forces must be consistent with the Organization's purposes and principles as set out in the Charter of the United Nations and with its obligations under international law to respect, promote and encourage respect for international humanitarian, human rights and refugee law. Such support should help recipients to attain a stage where compliance with these principles and bodies of law becomes the norm, ensured by the rule of law. Consistent with these obligations, United Nations support cannot be provided where there are substantial grounds for believing there is a real risk of the receiving entities committing grave violations of international humanitarian, human rights or refugee law and where the relevant authorities fail to take the necessary corrective or mitigating measures. For the same reasons, if the United Nations receives reliable information that provides substantial grounds to believe that a recipient of United Nations support is committing grave violations of international humanitarian, human rights or refugee law, the United Nations entity providing such support must intercede with the relevant authorities with a view to bringing those violations to an end. If, despite such intercession, the situation persists, the United Nations must suspend support to the offending elements. Notwithstanding the present policy, existing obligations of human rights, humanitarian and refugee law continue to apply to all United Nations activities.
2. United Nations entities that are contemplating or involved in providing support to non-United Nations security forces must therefore pursue a policy of due diligence, comprising the following key elements:
 - (a) Before support is given, an assessment of the risks involved in providing or not providing such support, in particular the risk of the recipient entity committing grave violations of international humanitarian law, human rights law or refugee law;
 - (b) Transparency with receiving entities about the legal obligations binding the Organization and the core principles governing provision of support; and
 - (c) An effective implementation framework, including:
 - (i) Procedures for monitoring the recipient entity's compliance with international humanitarian, human rights and refugee law;
 - (ii) Procedures for determining when and how to intercede with a view to putting an end to grave violations of any of those bodies of law and for deciding, if need be, upon the suspension or withdrawal of support; and
 - (iii) General operational guidance, as required, by the respective United Nations entities to the country level on implementation of the policy.
3. Adherence to the human rights due diligence policy is important to maintain the legitimacy, credibility and public image of the United Nations and to ensure compliance with the Charter and with the Organization's obligations under international law.
4. Relevant policies and guidelines on specific areas of support, including the guidance notes developed in the inter-agency Security Sector Reform Task Force, must be consistent with the due diligence policy.
5. The present policy is not intended in any way to hinder the normal work of the Organization aimed at encouraging respect for international humanitarian, human rights or refugee law, including developing capacity as well as investigating and reporting on violations of those bodies of law and interceding with relevant authorities to protest those violations, secure remedial action and prevent their repetition. The policy is intended to complement those normal processes.

II. Human rights due diligence policy

A. Scope of the policy

6. The human rights due diligence policy applies to all United Nations entities providing support to non-United Nations security forces. It therefore applies not only to peacekeeping operations and special political missions, but also to all United Nations offices, agencies, funds and programmes that engage in such activities.

B. Definitions

7. For the purpose of this policy, “non-United Nations security forces” include:
 - (a) National military, paramilitary, police, intelligence services, border-control and similar security forces;
 - (b) National civilian, paramilitary or military authorities directly responsible for the management, administration or command or control of such forces;
 - (c) Peacekeeping forces of regional international organizations.
8. “Support” is understood to mean any of the following activities:
 - (a) Training, mentoring, advisory services, capacity- and institution-building and other forms of technical cooperation for the purpose of enhancing the operational capabilities of non-United Nations security forces;
 - (b) Ad hoc or programmatic support to civilian or military authorities directly responsible for the management, administration or command and control of non-United Nations security forces;
 - (c) Financial support, including payment of salaries, bursaries, allowances and expenses, whatever the source of the funds;
 - (d) Strategic or tactical logistical support to operations in the field conducted by non-United Nations security forces;
 - (e) Operational support to action in the field conducted by non-United Nations security forces, including fire support, strategic or tactical planning;
 - (f) Joint operations conducted by United Nations forces and non-United Nations security forces.
9. “Support” does **not** include:
 - (a) Training or sensitization regarding international humanitarian, human rights and refugee law;
 - (b) Standard-setting (e.g. advice on and review of legislation, codes and policies) and capacity support directly related to the implementation and promotion of compliance with human rights laws and standards and to foster democratic governance of security institutions;
 - (c) Engagement to promote compliance with humanitarian, human rights and refugee law or to negotiate humanitarian access and carry out relief operations;
 - (d) Mediation and mediation-related support;
 - (e) Medical evacuation (MEDEVAC) and casualty evacuation (CASEVAC).
10. “Support” may be direct or indirect — that is, through implementing partners.

11. When determining whether an activity constitutes support or not in accordance with paragraphs 8 and 9 above, United Nations entities should consider the need to promote consistency in the implementation of the policy across the United Nations system according to paragraphs 18 and 20 below.
12. "Grave violations" mean, for the purposes of the present policy:
 - (a) In the case of a unit:
 - (i) Commission of "war crimes" or of "crimes against humanity", as defined in the Rome Statute of the International Criminal Court, or "gross violations" of human rights, including summary executions and extrajudicial killings, acts of torture, enforced disappearances, enslavement, rape and sexual violence of a comparable serious nature, or acts of refoulement under refugee law that are committed on a significant scale or with a significant degree of frequency (that is, they are more than isolated or merely sporadic phenomena); or
 - (ii) A pattern of repeated violations of international humanitarian, human rights or refugee law committed by a significant number of members of the unit; or
 - (iii) The presence in a senior command position of the unit of one or more officers about whom there are substantial grounds to suspect:
 - Direct responsibility for the commission of "war crimes", "gross violations" of human rights or acts of refoulement; or
 - Command responsibility, as defined in the Rome Statute of the International Criminal Court, for the commission of such crimes, violations or acts by those under their command; or
 - Failure to take effective measures to prevent, repress, investigate or prosecute other violations of international humanitarian, human rights or refugee law committed on a significant scale by those under their command;
 - (b) In the case of civilian or military authorities that are directly responsible for the management, administration or command of non-United Nations security forces:
 - (i) Commission of grave violations by one or more units under their command;
 - (ii) Combined with a failure to take effective measures to investigate and prosecute the violators.
13. "United Nations" includes any office, department, agency, programme, fund, operation or mission of the United Nations.

C. Risk assessment

14. Before engaging in support, the United Nations entity directly concerned must conduct an assessment of the potential risks and benefits involved in providing support. This assessment should include consideration of the following elements (where a United Nations entity has an existing mechanism in place, this may be used to conduct the assessment in accordance with paragraph 19 below):
 - (a) The record of the intended recipient(s) in terms of compliance or non-compliance with international humanitarian, human rights and refugee law, including any specific record of grave violations;
 - (b) The record of the recipient(s) in taking or failing to take effective steps to hold perpetrators of any such violations accountable;
 - (c) Whether any corrective measures have been taken or institutions, protocols or procedures put in place with a view to preventing the recurrence of such violations and, if so, their adequacy, including institutions to hold any future perpetrators accountable;

- (d) An assessment of the degree to which providing or withholding support would affect the ability of the United Nations to influence the behaviour of the receiving entity in terms of its compliance with international humanitarian, human rights and refugee law;
 - (e) The feasibility of the United Nations putting in place effective mechanisms to monitor the use and impact of the support provided;
 - (f) An assessment based on the factors above and on the overall context of the support, of the risk that the receiving entity might nevertheless commit grave violations of international humanitarian, human rights or refugee law.
15. Information on the record of the intended recipient with regard to compliance with international humanitarian, human rights and refugee law should be obtained from the United Nations or other reliable sources.
16. Where, as a result of this risk assessment, the United Nations entity directly concerned concludes that there are substantial grounds for believing that there is a real risk of the intended recipient committing grave violations of international humanitarian, human rights or refugee law, notwithstanding any mitigatory measures that the United Nations might take, then the United Nations entity concerned must not engage in the provision of support to that intended recipient. The United Nations entity should make clear that support will not be possible unless and until the intended recipient takes measures that are of such effect that there are no longer substantial grounds for believing that there would be a real risk of such grave violations occurring. Such measures might include, for example, the removal of an officer from a senior command position when there are substantial grounds for suspecting that officer of being responsible for grave violations of international humanitarian, human rights or refugee law.
17. Where, as a result of the risk assessment, the United Nations entity directly concerned concludes that substantial grounds do **not** exist for believing there to be a real risk of the intended recipient committing such violations, then the United Nations entity concerned may proceed to engage in the provision of support, subject to compliance with the following sections of this policy.

D. Transparency

18. Effective implementation of the policy requires the understanding and cooperation of all stakeholders, including donor and programme countries, troop- and police-contributing countries and host countries of United Nations peacekeeping and political missions. Each entity mandated to or anticipating support for non-United Nations security forces shall engage proactively with Member States and other relevant partners and stakeholders to explain the policy.
19. Before engaging in support to non-United Nations security forces, the responsible senior United Nations official[s] (e.g. Special Representative of the Secretary-General, Resident Coordinator, country representative) should inform the recipient authority/ies in writing of the United Nations core principles for support to non-United Nations security forces under this policy. In particular, recipients should be notified that United Nations support cannot be provided to units that fall under the command of individuals against whom there are substantiated allegations of grave violations of international humanitarian, human rights or refugee law. The recipient authority should also be advised of procedures or mechanisms to implement the policy, as outlined in section III below. It should be made clear to the recipient that, in order to sustain the support, the United Nations is obligated to continuously assess whether or not the recipient's actions are consistent with the Organization's obligations under the relevant bodies of law. While advocacy and communication may be undertaken by a specific United Nations entity, it should be coordinated to promote consistency across the United Nations in-country, and the most senior United Nations official in a given country (Special Representative of the Secretary-General and/or Resident Coordinator) should be kept informed of such steps.

III. Ensuring effective implementation

A. Elements of an implementation framework

20. Implementation of the human rights due diligence policy must take into account the specific mandates of the United Nations entity concerned, as well as the nature and extent of the support, and the political and operational context in which it is delivered.
21. Each United Nations entity providing support must develop an implementation framework in accordance with its management practices in order to ensure compliance with this policy. That framework should be clearly set out in a standing operating procedure or similar instrument. The framework should, where relevant, be reported to the entity's mandating body. Such a framework should include, as required:
 - (a) Resources required to effectively manage delivery of the support and to monitor and evaluate its impact;
 - (b) Incentives or other accompanying measures aimed at improving compliance by the recipient with international humanitarian, human rights and refugee law;
 - (c) Mechanisms for the effective monitoring of the recipient's behaviour to detect grave violations of international humanitarian, human rights and refugee law and the recipient institution's responses to any violations (such mechanisms should include procedures for regular reporting from the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office for the Coordination of Humanitarian Affairs (OCHA) and the United Nations Children's Fund (UNICEF) and from the offices of the Special Representatives of the Secretary-General for Children and Armed Conflict, and the Special Representative of the Secretary-General on Sexual Violence in Conflict);
 - (d) Well-defined systems for the collation and effective review of information gathered through such monitoring and from other sources, including local protection of civilian networks;
 - (e) Well-defined procedures to guide decisions by responsible United Nations officials on whether or not violations committed by the recipient entity require intervention with the recipient entity or its command elements or, as a final resort, require the suspension or withdrawal of support under this policy;
 - (f) Clear procedures for communication with the relevant authorities where United Nations intervention or the suspension or withdrawal of support is required under this policy;
 - (g) Clear and effective procedures for evaluating and considering the possible risks if support is suspended or withdrawn, including risks to the safety and security of United Nations and associated personnel, and for identifying appropriate mitigatory measures, and ensuring that they are taken.
22. In the application of the policy and the use of measures set out in paragraphs 21 (a) to (g) above at the country level, each United Nations entity should take into account the need to promote consistency in the implementation of the policy across the United Nations system. The most senior United Nations official in country (Special Representative of the Secretary-General and/or Resident Coordinator) is responsible for initiating consultations on the implementation framework with all national and international stakeholders. In the case of integrated missions, consultations between the mission and the United Nations country team should be part of established procedure.

B. Prior advice to United Nations legislative bodies

23. Action by United Nations entities to support non-United Nations security forces requires particularly careful attention due to the special risks, potential liabilities and high visibility involved. It is therefore important that United Nations entities exercise due diligence, in particular by conducting a risk assessment, **before** a mandate or directive is adopted to provide support to non-United Nations security forces. The resulting evaluation should be included in reports or briefings to legislative bodies, as appropriate. In the peacekeeping context, such evaluations should help inform and shape proposals by the Secretary-General to legislative bodies regarding mandates.

C. Reporting and oversight

24. Relevant official United Nations reports (e.g. reports of the Secretary-General to the Security Council, country and thematic reports by United Nations offices, programmes, agencies and funds) should cover support provided to non-United Nations security forces, including the nature and scope of the support, measures employed to ensure compliance with the “due diligence” policy, related actions to promote respect for the core principles of United Nations support and an assessment of the impact of the support.
25. Where critical difficulties arise relating to such support, United Nations entities should report immediately to the relevant decision-making United Nations officials and legislative bodies, as appropriate, on developments related to the elements of the risk assessment that present the Organization or its personnel with the risk of being associated with grave violations of international humanitarian, human rights or refugee law. The United Nations entities involved should report on the circumstances, any measures taken to mitigate or remedy the situation and recommendations for follow-up action.

D. Mitigatory measures

26. If the United Nations receives reliable information that provides substantial grounds for believing that a recipient of United Nations support is committing grave violations of international humanitarian, human rights or refugee law, the United Nations entity providing support should bring these grounds to the attention of the relevant national authorities with a view to bringing those violations to an end.
27. If, despite intercession by the United Nations entity concerned, the United Nations receives reliable information that provides substantial grounds to suspect that the recipient entity is continuing to engage in grave violations of international humanitarian, human rights or refugee law, then the United Nations entity must suspend or withdraw support from the recipient.

E. Operational challenges

28. In the peacekeeping context, withholding or withdrawing support in the face of a failure by recipient security forces to comply with the core principles of the policy may significantly diminish the mission's ability to fulfil the overall mandate and objectives set out by the Security Council. Suspension or withdrawal of logistical, material or technical support may, however, become necessary where continued support would implicate the Organization in grave violations of international humanitarian, human rights or refugee law. The Secretary-General should keep the Council informed of measures taken by a peacekeeping operation under this policy and, where it is thought that application of this policy would have a critical impact on the ability of the operation to discharge its mandate, should advise the Council in a timely manner and seek the Council's advice regarding the way forward. Similarly, should the withholding or withdrawal of support by a United Nations agency, fund or programme affect the ability of that entity to fulfil its mandate, the Executive Head of the said agency, fund or programme will advise the governing body of the agency, fund or programme in a timely manner, and seek its advice regarding the way forward.

F. Accountability

29. Following endorsement of the present policy framework by the Secretary-General, senior managers at Headquarters (Under-Secretaries-General, the Administrator of the United Nations Development Programme (UNDP), the Executive Directors of funds and programmes) are responsible for ensuring that support for non-United Nations security forces and institutions and implementation of the policy are kept under regular review in their areas of responsibility. They are also responsible for ensuring that significant developments in the implementation of this policy, including mitigatory actions taken under it, are brought to the timely attention of the Secretary-General and the relevant legislative bodies.

30. Where relevant, integrated mission task forces and integrated task forces should include in their agendas a standing item on review and evaluation of support provided to non-United Nations security forces.
 31. A further submission to the Policy Committee should be prepared in one year's time, in the light of experience gained to determine, inter alia, if any further implementation measure(s) or mechanisms are required.
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ANNEX 4

UN and EU Points of Contact

EU

- EUMS D.2, LOG DIR/RES
European Union Military Staff, Logistics
Resources Support
EUMS-LOGISTICS-DIRECTORATE@eeas.europa.eu
- CPCC,
Civilian Planning and Conduct Capability
cpcc.secretariat@eeas.europa.eu

UN

- DOS/DSA/SPS
Department of Operational Support
Division for Special Activities, Support Partnerships Service
dos-sps@un.org
 - DOS/OSCM/OASG
Department of Operational Support
Office of the Assistant Secretary-General for Supply Chain Management
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