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STRICTLY CONFIDENTIAL

OFFICE OF INTERNAL OVERSIGHT SERVICES
INVESTIGATIONS DIVISION

REPORT OF INVESTIGATION

ID CASE NO. 0629/06

REDACTED

This Investigation Report of the Investigations Division of the United Nations Office of Internal Oversight Services is provided upon your request pursuant to paragraph 1(c) of General Assembly resolution A/RES/59/272. The Report has been redacted in part pursuant to paragraph 2 of this resolution to protect confidential and sensitive information. OIOS' transmission of this Report does not constitute its publication. OIOS does not bear any responsibility for any further dissemination of the Report.

22 February 2007

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INVESTIGATION INTO A FATAL MOTOR ACCIDENT,
ON [REDACTED] IN [REDACTED], INVOLVING A
UNITED NATIONS VEHICLE AND A CIVILIAN CYCLIST
(ID Case No. 0629/06)

I. INTRODUCTION

1. On [REDACTED] the Investigations Division of the Office of Internal Oversight Services (ID/OIOS) received a report from the [REDACTED] of the United Nations Operation in [REDACTED] ([REDACTED] that at approximately 1.30 p.m. on [REDACTED] 2006 a United Nations (UN) Toyota Prado vehicle, registration number [REDACTED], driven by [REDACTED] ([REDACTED] knocked down and fatally injured a civilian cyclist, [REDACTED] (the victim), aged 22 years, on the road nine kilometres north of [REDACTED].

2. The [REDACTED] report noted that, after the collision, [REDACTED] did not stop the vehicle and failed to make any effort to ascertain the condition of the victim or to render him any assistance. Instead, [REDACTED] continued driving until he was stopped and queried by local police at the [REDACTED] checkpoint, approximately 83 kilometres from the scene of the fatal collision. [REDACTED] subsequently accompanied the police back to the accident scene, where the victim's bicycle was recovered. However, the victim's body was not located until the following day, approximately 52 meters from the established point of impact.

3. The [REDACTED] report specified that at the time of the collision there were two passengers in the UN vehicle, namely [REDACTED] - who was the front seat passenger, and [REDACTED] - who sat in the back seat.

4. On [REDACTED] a [REDACTED] was convened to examine the circumstances of this collision. The [REDACTED] subsequently expressed dissatisfaction with the conduct of the [REDACTED], suggesting a number of additional areas that should have been examined by the [REDACTED] in their consideration of this case; consequently a second [REDACTED] was convened on [REDACTED] to reconsider the case.

II. BACKGROUND INFORMATION

5. [REDACTED] is a [REDACTED]. He joined [REDACTED] on [REDACTED] as the [REDACTED]. At the time of the accident, [REDACTED] was attached to the [REDACTED]. [REDACTED] was the senior officer in the vehicle. The use of [REDACTED] as a name - in paragraph 1 above - used to identify the subject of this report is an abbreviation of [REDACTED]. However, [REDACTED] has advised ID/OIOS that [REDACTED] is the accepted version of his name and should therefore be used as such to identify him.

6. In a security briefing on [REDACTED] presented by the [REDACTED], and attended by [REDACTED] some demonstrations in the region were forecast for [REDACTED] and the

security level of risk was classified as "medium". A classification of "medium" implies that threats are likely and the impact of the threats is significant and may result in injury.

7. [REDACTED] and his fellow officers were travelling on an authorised journey from [REDACTED] to [REDACTED]. Having departed for [REDACTED] on [REDACTED] they were returning to [REDACTED] at the time of the accident.

III. APPLICABLE LAW

8. [REDACTED] Motor Vehicles Ordinance, 1983

(Ordinance No. LV of 1983) (modified up to 29th November 1990)

Section 104: Duty of a driver in case of an accident and injury to a person: when any person is injured or any property is damaged as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall-

- (a) take all reasonable steps to secure medical attention for the injured person, and if necessary convey him to the nearest hospital, unless the injured person or his guardian (in case he is a minor), desires otherwise;
- (b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence.

Section 137: General provision for punishment of offence – Whoever contravenes any provision of this Ordinance or of any rules or regulations made hereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to two hundred [REDACTED] or, if having been previously convicted of any offence under this Ordinance he is again convicted of an offence under this Ordinance, with fine which may extend to four hundred [REDACTED]

Section 143: Driving recklessly or dangerously: whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable on a first conviction for the offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred [REDACTED] () (*sic*) and his driving licence shall be suspended for a specified period, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to six months or with fine which may extend to one thousand [REDACTED] or with both and his driving licence shall be suspended for a period not exceeding one month.

9. Ten Rules Code of Personal Conduct for [REDACTED]

Rule 2: Respect the law of the land of the host country, their local culture, traditions, customs and practices.

Rule 5: Respect and regard the human rights of all. Support and aid the infirm, sick and weak. Do not act in revenge or with malice, in particular when dealing with prisoners, detainees or people in your custody.

10. [REDACTED] Standard Operating Procedures

Regulations Governing the Use of [REDACTED] Vehicles

Reporting, Investigation And Handling of Accidents

14. When an [REDACTED] vehicle is involved in an accident, the driver must take the following actions:

- a. Stop the vehicle and remain at the scene unless his/her personal safety will be jeopardized by so doing.
- b. Give such first aid to any injured person as he/she is qualified to administer.
- c. If the accident involves death, injury, or serious damage to UN or civil property, report immediately by radio/telephone or other practical means to the nearest MP detachment/unit or [REDACTED] or [REDACTED] where there is no UN unit nearby to the local police [REDACTED]. The [REDACTED] and the [REDACTED] must similarly be intimated. The information to the [REDACTED] and the [REDACTED] should include particulars of driver and passengers and their unit identities, particulars of vehicles involved, location and date/time of accident, nature of injuries to UN/civilian personnel, extent of damage to UN/civil property and nature of assistance if required.
- d. Where there is no nearby [REDACTED] gendarmerie investigation report on completion and transmit it to the [REDACTED] by the fastest and most appropriate means available.
- e. [REDACTED] form must always be carried in [REDACTED] vehicles and must be completed at the scene of the accident. The accident vehicle should be submitted within 24hrs to the nearest [REDACTED] with copies of the DAR going to the nearest MP Detachment and the [REDACTED].
- f. Do not accept liability on the part of [REDACTED] or yourself and do not negotiate any financial settlements.

11. [REDACTED] Administrative Instruction [REDACTED]

In any case any [REDACTED] (*sic*) is involved in an accident, the UN driver must (*sic*) the following actions:

1. Stop the vehicle and remain at the scene of the accident until the actions indicated below are completed unless his or her personal safety is in absolute danger.
2. Render first aid to any injured persons as him or her is qualified to administer

3. If an accident involving injury, death or serious damage to UN or NON-UN property occurs it must be immediately reported to [REDACTED] by [REDACTED] or cell phone to [REDACTED] (sic).

12. Agreement between [REDACTED] and the [REDACTED] concerning the status of the [REDACTED] (sic):

[REDACTED] arrest and transfer of custody, and mutual assistance

44. "The [REDACTED] of [REDACTED] shall have the power of arrest over the military members of [REDACTED]..."

Jurisdiction

51 (b). Military members of the military component of [REDACTED] shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in [REDACTED].

13. [REDACTED] Establishment Role And Organisation

Roles

3. "The roles of the [REDACTED] will be:

a. To maintain order and discipline in [REDACTED]

b. To prevent violations in the interests of the host nation and protect the rights of their citizens by ensuring that members of the [REDACTED] comply with local laws and regulations."

[REDACTED]
6. "...The [REDACTED] has empowered the [REDACTED] to exercise police authority over all [REDACTED]

7. "The [REDACTED] while exercising the authority bestowed upon [REDACTED] by the [REDACTED] must ensure that the directives are followed in letter and spirit. He must also ensure that [REDACTED] and [REDACTED] also strictly adhere to these guidelines when the authority is delegated to them."

IV. METHODOLOGY

14. The ID/OIOS investigation included, but was not limited to, a visit of the scene of accident; a review of the two [REDACTED] files; and the [REDACTED] and local police investigation files. ID/OIOS also re-interviewed [REDACTED] and [REDACTED]

V. INVESTIGATIVE DETAIL

The collision and driver's actions

15. ID/OIOS ascertained that the collision occurred at about [REDACTED] on [REDACTED] on a straight stretch of the main road between [REDACTED] and [REDACTED], approximately 7.6 [REDACTED] north of [REDACTED]. The UN vehicle, [REDACTED], driven by [REDACTED] was travelling in a southerly direction. The victim had been riding [REDACTED] bicycle in the same direction as the UN vehicle along the shoulder of the said road, when the UN vehicle struck [REDACTED] from behind. The victim was thrown from [REDACTED] bicycle and died as a result of the injuries received. The UN vehicle sustained extensive damage to its right-front side, including the fender, headlight and bonnet.

16. Local police, stationed in the [REDACTED] of [REDACTED], conducted an examination of the accident scene - taking photographs and recording measurements. Additional photographs were taken by [REDACTED] on [REDACTED]. ID/OIOS investigators later visited the scene of the accident, accompanied by the police officers who had attended the accident scene on [REDACTED] 2006 and the [REDACTED].

17. ID/OIOS found the roadway along which the accident occurred to be a two-way carriageway running north-south. The roadway measure [REDACTED] in width and has provision for a single-lane of traffic to travel in each direction, divided by a broken white line painted along the roadway centre. The road is flat and straight, the surface is of tar-seal and is in good condition. At the site of the accident bordering the roadway, is a [REDACTED] tar-sealed shoulder. The shoulder is divided from the main carriageway by a broken-white line painted along the roadway. Approximately [REDACTED] beyond the roadway shoulder stands meter-high grass and occasional shrubbery running the length of the roadway. A dense forest runs parallel to the roadway on both sides at a distance of approximately [REDACTED] from the roadway.

18. The attending police officers - Officers [REDACTED] and [REDACTED] - opined that the victim was travelling along the shoulder of the roadway at the time of impact, which is a common habit - as observed by ID/OIOS - of cyclists travelling through the [REDACTED] countryside. The police officers supported this opinion by indicating a mark in the grass, approximately 40 centimeters beyond the edge of the shoulder, which they posited was left by the right-hand wheel of the UN vehicle. This mark, and debris apparently from the back-light of the victim's bicycle, was still visible at the time of the ID/OIOS examination. The police officers indicated the points at which the victim's bicycle and [REDACTED] body were found. ID/OIOS noted that the victim's bicycle was found approximately [REDACTED] from the point of impact and the victim's body approximately [REDACTED] further on from the location of the bicycle.

19. The police officers told ID/OIOS that they found no vehicular skid marks on the roadway when they attended the accident scene. They described the weather conditions at the time of their arrival as dry, clear and sunny. Visibility was good.

20. ID/OIOS opines that, based on its site inspection and experiments at the scene, the victim should have been seen - from behind - from a distance of [REDACTED]. Moreover, that such observance of the victim would have been assisted by the [REDACTED] and [REDACTED] that [REDACTED] was wearing at the time.

21. The death certificate records the victim as having died from injuries consistent with having been struck by a motorcar. The attending physician told ID/OIOS that death would have occurred on impact as the victim had sustained a broken neck.

22. ID/OIOS interviewed [REDACTED] of the [REDACTED] post in [REDACTED] who stated that a motorist who had been passing in the opposite direction and had witnessed the incident had alerted police to the accident. The witness reported to police in [REDACTED] - the [REDACTED] that is situated approximately [REDACTED] from the accident scene - that a UN vehicle had struck a cyclist and had not stopped. Police at [REDACTED] radioed the report to the police in [REDACTED] who in turn relayed the information to police at the [REDACTED] checkpoint. Police at the [REDACTED] checkpoint subsequently stopped the UN vehicle being driven by [REDACTED].

23. ID/OIOS interviewed [REDACTED] ([REDACTED]), the Brigade Commander of the [REDACTED] in [REDACTED]. [REDACTED] confirmed that traffic police officers had received information about the accident from a motorist, however, details of the motorist were not obtained hence his identity is unknown.

24. Based on his knowledge of the area, ID/OIOS sought [REDACTED]'s professional opinion on [REDACTED]'s actions in leaving the scene of the accident. [REDACTED] said that the UN driver had been wise to leave the scene, as any villagers or local drivers passing by could have killed him in reprisal, if the victim had been found seriously injured or dead. However, he added that this fact did not justify the UN driver's total disregard for the victim, as the UN driver could have sought refuge at the nearest police station or safe place and reported the accident in the best interests of the victim.

Review of preliminary investigations

25. In [REDACTED]'s signed statement to the local police made on [REDACTED] [REDACTED] stated that a person on a bicycle suddenly appeared on the road "from the jungle" and that the right front of [REDACTED] vehicle had struck the back of the bicycle. [REDACTED] stated that, thinking that nothing very serious had happened, [REDACTED] continued driving and later made a telephone report to UN authorities.

26. [REDACTED] stated that [REDACTED] was driving at approximately [REDACTED] per [REDACTED] but that [REDACTED] did not see the cyclist until just before impact. [REDACTED] stated that the cyclist was travelling in the same direction as the UN vehicle and the right front of the UN vehicle struck the back of the bicycle throwing the cyclist off. [REDACTED] said that [REDACTED] noticed two civilian vehicles coming towards [REDACTED] from the opposite direction, but that those vehicles did not contribute to the collision. When questioned by the first [REDACTED] as to why [REDACTED] had not avoided the cyclist, [REDACTED] stated that [REDACTED] failed to see the cyclist because of a lack of concentration due to boredom.

27. [REDACTED] said that [REDACTED] did not stop [REDACTED] vehicle to check on the condition of the cyclist because of the prevailing security situation in the country at that time and that [REDACTED] was concerned for his own security and that of [REDACTED] passengers. Moreover, in [REDACTED] statement to [REDACTED] dated [REDACTED] [REDACTED] stated that [REDACTED] thought that there might be an immediate retaliatory reaction and attack from the people in the cars, so [REDACTED] kept on driving to reach a safer place. [REDACTED] said that he then called the [REDACTED] and [REDACTED] personnel and that UN [REDACTED] staff contacted [REDACTED] to inquire about the safety of the passengers and [REDACTED] said that [REDACTED] was advised not to stop anywhere as the local people might become violent. When questioned by the first [REDACTED] as to the reason why [REDACTED] did not stop, [REDACTED] stated that [REDACTED] did not stop because he feared retaliation from local people because of the predicted security problems forecast for [REDACTED]

28. Following these calls, [REDACTED], who had been notified by [REDACTED] about the accident, contacted [REDACTED] in a statement to [REDACTED] [REDACTED] stated that when [REDACTED] spoke to [REDACTED] on the telephone, [REDACTED] was already returning to the scene of the collision with the police. He stated that he therefore did not advise [REDACTED] not to stop nor did [REDACTED] say that the local people might become violent.

29. In a signed statement provided to the local police, dated [REDACTED] [REDACTED] stated that a person on a bicycle suddenly appeared "from the jungle" and that the UN vehicle struck him from behind. In [REDACTED] statement to [REDACTED] dated [REDACTED] [REDACTED] elaborated that [REDACTED] sought advice from [REDACTED] after the accident but they continued driving. [REDACTED] said that they should have stopped, but continued driving because of the prevailing security situation in the country and they felt threatened as a result and decided to move quickly to a safer place.

30. In [REDACTED] statement to the local police on [REDACTED] and in [REDACTED] statement to [REDACTED] dated [REDACTED] [REDACTED] stated that [REDACTED] hit a cyclist from the rear and that after the collision, [REDACTED] did not stop as they felt that their lives could be threatened if they did so.

ID/OIOS interview with [REDACTED]

31. ID/OIOS interviewed [REDACTED] on [REDACTED] [REDACTED] who stated that [REDACTED] had been briefed by [REDACTED] predecessor and from [REDACTED] own experience knew that a driver involved in an accident should stop and render assistance to any injured party, provided that such assistance could be done safely. [REDACTED] said that neither [REDACTED] nor [REDACTED] passengers carried firearms in accord with normal operating procedure for [REDACTED]

32. [REDACTED] stated that [REDACTED] was driving the UN vehicle as [REDACTED] did not know how to drive, and having previously seen [REDACTED] drive, knew [REDACTED] was not a good driver, thus [REDACTED] preferred to drive [REDACTED] [REDACTED] stated that [REDACTED] drove the vehicle at speeds up to [REDACTED] after the collision, during which time the [REDACTED] of recorded excessive speed was logged as [REDACTED] was scared of the situation and was travelling quickly.

33. [REDACTED] stated that [REDACTED] first saw the cyclist from a "little distance" and immediately before the collision. [REDACTED] stated that at the time when [REDACTED] first saw [REDACTED] it was a "point of no return" meaning that [REDACTED] could not avoid hitting [REDACTED] [REDACTED] said that the cyclist was travelling in the

same direction as the UN vehicle on the far right side of the road. [REDACTED] stated that the other two civilian cars were "far away" and played no part in the collision.

34. [REDACTED] stated that when [REDACTED] hit the cyclist [REDACTED] braked immediately but did not come to a complete stop at any time. [REDACTED] said that [REDACTED] and [REDACTED] passengers had a momentary discussion about the situation and that neither of [REDACTED] passengers told [REDACTED] to stop. As the [REDACTED] in the vehicle, [REDACTED] made the decision to carry on. Both [REDACTED] passengers had said that they were afraid of retaliation and [REDACTED] said that they should keep going. [REDACTED] said that [REDACTED] did not stop because of [REDACTED] "perception of danger" that existed at the time of the collision. However, [REDACTED] conceded that there was no immediate or imminent threat present at the time of the collision and [REDACTED] did not feel threatened by the occupants of the other two civilian vehicles, who were the only other people in the vicinity. [REDACTED] stated that [REDACTED] did not stop at the nearest town - [REDACTED] - which [REDACTED] knew had a police post, after the collision as [REDACTED] did not consider it to be safe for them to stop given its proximity to the collision site. However, [REDACTED] stated that in hindsight - combined with [REDACTED] experience now in [REDACTED] and [REDACTED] previous [REDACTED] threat assessment training [REDACTED] should have stopped the vehicle after the collision.

35. [REDACTED] stated that [REDACTED] first used [REDACTED] mobile telephone to report the collision - approximately [REDACTED] after it occurred - whilst at the [REDACTED] checkpoint, which was approximately [REDACTED] from the scene of the collision. [REDACTED] stated that he first telephoned [REDACTED] in [REDACTED] and then made a number of other telephone calls. When queried why [REDACTED] had waited so long to report the accident, [REDACTED] stated that [REDACTED] was waiting for a safe place to stop before using [REDACTED] telephone. Moreover, [REDACTED] said that [REDACTED] did not think of giving the telephone to one of [REDACTED] passengers to use prior to [REDACTED] call. [REDACTED] stated that [REDACTED] did not use the [REDACTED] in the UN vehicle because [REDACTED] had not stopped the vehicle - [REDACTED] did not offer a more reasonable explanation.

ID/OIOS interview with [REDACTED]

36. When interviewed by ID/OIOS on [REDACTED] [REDACTED] [REDACTED] stated that when [REDACTED] first saw the cyclist, [REDACTED] was riding on the extreme right side of the road heading in the same direction as the UN vehicle, and, contrary to [REDACTED] statement to the local police on [REDACTED] [REDACTED] did not see the cyclist suddenly appear "from the jungle" on the side of the road, nor did [REDACTED] see [REDACTED] or [REDACTED] bicycle in any place other than on the road. [REDACTED] stated that the vegetation on the side of the road did not impede [REDACTED] view of the cyclist and nor would it have impeded [REDACTED]'s view of the cyclist.

37. [REDACTED] stated that prior to the collision [REDACTED] noticed that [REDACTED] moved the UN vehicle to the right and thought that [REDACTED] had done so in anticipation of the other two vehicles approaching from the opposite direction. [REDACTED] said that [REDACTED] thought [REDACTED] had misjudged the distance and moved too far to the right or else [REDACTED] simply did not see the cyclist who [REDACTED] then struck from behind.

38. [REDACTED] stated that after impact with the cyclist, [REDACTED] slowed the vehicle, but did not stop. [REDACTED] asked [REDACTED] for advice and [REDACTED] told [REDACTED] that [REDACTED] should stop

the vehicle, not leave the place and that they should check on the cyclist. [REDACTED] said that [REDACTED] explained to [REDACTED] that this is what the rules required.

39. [REDACTED] said that [REDACTED] decided not to stop the vehicle, stating that the security situation in the country was not good and that if they stopped they may be attacked. [REDACTED] said that [REDACTED] made this statement, as [REDACTED] seemed to fear that they might be attacked. However, there was no immediate or obvious threat to their safety and that it was clear to [REDACTED] that [REDACTED]'s decision was based on what [REDACTED] thought may occur, rather than anything that was apparent at the scene of the collision.

40. [REDACTED] said that [REDACTED] was his senior officer, that he was an experienced officer and that he was the driver of the vehicle. [REDACTED] said that as a [REDACTED] [REDACTED] could have exercised [REDACTED] however, it was impossible to compel [REDACTED] to stop the vehicle as [REDACTED] was driving and the vehicle was travelling at speed. [REDACTED] said that, having already given advice to stop, [REDACTED] did not pressure [REDACTED] to stop and he could not take any physical action against [REDACTED]. [REDACTED] said that it was [REDACTED]'s decision to continue driving and that [REDACTED] had done so despite [REDACTED]'s advice.

41. [REDACTED] stated that [REDACTED] could not recall exactly when [REDACTED] used [REDACTED] UN-issued mobile telephone, but it was as [REDACTED] approached the police checkpoint. [REDACTED] stated that [REDACTED] had said that he would make a call when they got to a position of safety. He said that although [REDACTED] had [REDACTED] personal mobile telephone or [REDACTED] did not consider using it as [REDACTED] had said that he would make a call when they got to a safe place. [REDACTED] stated that [REDACTED] did not ask [REDACTED] for the use of [REDACTED] UN-issued telephone nor did [REDACTED] consider using the vehicle's radio, as [REDACTED] did not know how to operate it.

42. [REDACTED] stated that [REDACTED] was the [REDACTED] and knew how to operate all of the communications equipment, including the vehicle [REDACTED] but did not use the [REDACTED] to report the accident. [REDACTED] said that he could not recall whether [REDACTED] had told [REDACTED] to use [REDACTED] telephone or the radio to summon assistance for the victim.

ID/OIOS interview with [REDACTED]

43. When interviewed by ID/OIOS on [REDACTED] – utilizing the services of an interpreter as [REDACTED] is non-existent - [REDACTED] stated that [REDACTED] was seated in the back seat of the UN vehicle and at the time of the collision was paying attention to a bag, which was on the seat next to [REDACTED]. [REDACTED] stated that [REDACTED] did not see the cyclist, but realized that something had happened when [REDACTED] heard the impact; that [REDACTED] looked up immediately, but did not see what the vehicle had struck; that [REDACTED] then noticed a movement in the bushes next to the roadway, but did not see what caused it.

44. [REDACTED] stated that [REDACTED] did not see the cyclist either before or after the collision. [REDACTED] said that it became apparent to [REDACTED] that they had hit a person when [REDACTED] and [REDACTED] talked about it and when [REDACTED] later had the opportunity to inspect the damage to the right front of the vehicle. [REDACTED] said that at the time just prior to the accident [REDACTED] saw two vehicles

approaching from the other direction, but they did not contribute to the collision and the UN vehicle passed them shortly after the collision.

45. [REDACTED] stated that [REDACTED] slowed the vehicle but did not stop. [REDACTED] said that [REDACTED] said that [REDACTED] could not stop for "security reasons" and that there were no inhabitants in the area and that they should keep going. [REDACTED] said that [REDACTED] heard [REDACTED] ask [REDACTED] if [REDACTED] should stop. [REDACTED] said that [REDACTED] and [REDACTED] then had a conversation but that [REDACTED] did not hear what was said and [REDACTED] did not contribute to the conversation. When further questioned by ID/OIOS about this conversation, [REDACTED] maintained that [REDACTED] did not hear what was said despite being seated immediately behind [REDACTED] and [REDACTED].

46. [REDACTED] stated that [REDACTED] did not suggest any course of action to [REDACTED] or [REDACTED] as they were two [REDACTED] and as such, [REDACTED] could not tell them what to do. [REDACTED] said that [REDACTED] did not tell [REDACTED] to stop nor did he make any suggestions at all concerning the use of phones or radios to summon assistance or to notify the authorities. [REDACTED] said that [REDACTED] own reaction was one of shock and that [REDACTED] was scared.

47. [REDACTED] said that he did not have a mobile phone himself, however, he saw [REDACTED] try to use his mobile phone as they approached the [REDACTED] checkpoint where they were stopped. He said that [REDACTED] appeared to enter numbers and put the phone to his ear however he did not hear him have a conversation on the phone until after they had been stopped by the Police at the checkpoint.

48. [REDACTED] said that nobody in the vehicle used the vehicle's [REDACTED] to notify the authorities or to summons assistance. [REDACTED] said that he had never received any training in the operation of the [REDACTED] and that [REDACTED] did not know the technical requirements of transmitting a message on the [REDACTED]. [REDACTED] stated that he did not know any destination identification codes necessary to be able to transmit a message nor did he know how to enter a destination identification code on the [REDACTED]. [REDACTED] stated that the only way he could have transmitted a message on the [REDACTED] was to have followed the instructions in a manual written in his [REDACTED].

49. [REDACTED] stated that [REDACTED] did not hear [REDACTED] or [REDACTED] having any discussion about stopping to report the matter to the Police prior to being stopped at the checkpoint. [REDACTED] stated that they later accompanied the Police to the Police Station and then back to the scene of the collision.

Technical and mechanical inquiries and verifications

50. An examination of the [REDACTED] for UN vehicle number [REDACTED] shows that the start time for [REDACTED] trip was [REDACTED] and the end time was [REDACTED] thus equating to a trip of one hour and 36 minutes. The [REDACTED] recorded the average speed as being [REDACTED] and the maximum speed reached was [REDACTED]. Throughout the trip the speed limit of [REDACTED] was exceeded for [REDACTED]. The [REDACTED] records do not allow a determination as to what times during the trip the vehicle travelled at excessive speed, nor when the speed of 122 km/h was reached.

51. ID/OIOS reviewed the call records for [REDACTED]'s [REDACTED]-issued mobile telephone. The records indicate that [REDACTED] made his first call - following the collision - at [REDACTED] to [REDACTED] in [REDACTED], being about [REDACTED] after the approximate time of the collision, and [REDACTED] after he stopped [REDACTED] car at the [REDACTED] checkpoint, namely at [REDACTED] according to the [REDACTED]. The police stated that they stopped [REDACTED] at the checkpoint, whereas [REDACTED] stated that he made his call while queuing to pass the checkpoint in a line-up of [REDACTED] buses. In ID/OIOS' experience, UN vehicles do not normally stop at the checkpoints, as the police do not check UN vehicles and personnel. From this point in time [REDACTED] made a number of other telephone calls, namely to [REDACTED] the [REDACTED] office in [REDACTED] the [REDACTED] in [REDACTED] and to other non-[REDACTED] numbers.

52. A mechanical examination of the UN vehicle, subsequent to the accident, was conducted [REDACTED] examinations. The UN vehicle was found to be in good working order.

53. ID/OIOS interviewed [REDACTED], the [REDACTED] [REDACTED] and asked [REDACTED] to examine photographs of damaged UN vehicle number [REDACTED] is a vehicle [REDACTED] and [REDACTED] with [REDACTED] of experience with [REDACTED] in various [REDACTED] duties and experience include, but are not limited to, the maintenance of Transport Section's asset inventory and damage discrepancy analysis. [REDACTED] opined, based on the photographic evidence, that the UN vehicle struck the bicycle from behind at a speed of not less than [REDACTED] however, in the absence of skid marks [REDACTED] was unable to give a probable speed at impact. [REDACTED] stated that damage to the bonnet indicates that, following the impact, the victim had landed heavily on the bonnet before being propelled away. However, considering the distance of the victim's body from the point of impact, [REDACTED] did not discount the possibility that the victim had been carried on the vehicle for a short distance before being projected from the vehicle.

[REDACTED] - Driving experience and geographical area familiarity

54. [REDACTED] holds a national driving licence issued by the Government of [REDACTED] on [REDACTED] and a [REDACTED] driving permit issued on [REDACTED] [REDACTED] was also issued with a United Nations driving permit in [REDACTED] when he served with the [REDACTED] [REDACTED]. [REDACTED] is an experienced driver, both in his home country and in two United Nations peacekeeping missions in [REDACTED]

55. ID/OIOS interviewed [REDACTED] the [REDACTED] regularly traveled by vehicle to military installations in the East and West [REDACTED] outside [REDACTED] in order to provide technical assistance. [REDACTED] stated that [REDACTED] undertook such travel usually for one week per month. In driving to either the [REDACTED] [REDACTED] would have traveled the highway to [REDACTED] and then the road between [REDACTED] to [REDACTED]. [REDACTED] stated that there was no other route available to [REDACTED]

access the [REDACTED] consequently [REDACTED] would have been familiar with the road on which the fatal accident occurred.

56. ID/OIOS interviewed [REDACTED] the [REDACTED] and [REDACTED] s direct supervisor. [REDACTED] corroborated the evidence of [REDACTED]. Queried about checkpoints along the road on which the fatal accident occurred, [REDACTED] told ID/OIOS that there were many checkpoints between the locale of the fatal accident and the place that police stopped [REDACTED] s vehicle. [REDACTED] further stated that there were two checkpoints at the entry and the exit of every village on the road, and that there were several such villages on this part of the route. [REDACTED] explained that these checkpoints are not mobile and that they are always operational.

57. ID/OIOS interviewed [REDACTED] ([REDACTED]), the [REDACTED]. He corroborated the evidence of [REDACTED] and [REDACTED] with respect to [REDACTED] s duties and his frequent travel to the [REDACTED] during his two and a half months of mission service prior to the fatal accident. [REDACTED] stated that there were numerous checkpoints between the accident scene and the place where police stopped [REDACTED]. [REDACTED] stated that [REDACTED] would have known the location of these checkpoints by virtue of [REDACTED] frequent travel along the subject route.

58. ID/OIOS reviewed [REDACTED] records as to [REDACTED] s travel to the sectors. In particular, the [REDACTED] records show that the [REDACTED] trip - the date on which the fatal accident occurred - was [REDACTED] s [REDACTED] trip along that road during the period [REDACTED] to [REDACTED].

59. ID/OIOS established that there are small villages situated along the road on which the accident occurred. The nearest villages to the accident scene are [REDACTED], which is located approximately [REDACTED] to the south, and [REDACTED], which is approximately [REDACTED] to the north. The nearest [REDACTED] s [REDACTED] - the northern limit of which is approximately [REDACTED] south of the accident scene. A police post services [REDACTED], which is located on the main road approximately [REDACTED] south of the accident site. [REDACTED] further south of the police post is a police checkpoint.

60. ID/OIOS investigators traveled to the scene of the accident and found good mobile telephone communications signal strength in the area of the accident.

Victim compensation claim

61. The [REDACTED] of [REDACTED] has informed ID/OIOS that the mother of the victim has filed a compensation claim following this accident, and that [REDACTED] the vehicle insurance provider for [REDACTED] - is currently processing this claim.

VI. FINDINGS

62. It was established that at about [REDACTED] on [REDACTED] UN vehicle number [REDACTED] driven by [REDACTED] struck [REDACTED] from behind as the latter

rode [REDACTED] bicycle along the roadway about [REDACTED] north of [REDACTED], [REDACTED], and that both the UN vehicle and the cyclist were heading in the same southerly direction. [REDACTED] sustained fatal injuries as a consequence of having been struck by the UN vehicle and died on impact.

63. ID/OIOS found that [REDACTED] commenced the journey on [REDACTED] at [REDACTED] and it ended at [REDACTED] during which time the average speed was [REDACTED] and a maximum speed of [REDACTED] was attained. Moreover, throughout the trip the speed limit of [REDACTED] was exceeded for [REDACTED] and [REDACTED]. However, ID/OIOS is unable to establish at what times during the trip the vehicle traveled at excessive speed, nor when the speed of [REDACTED] was reached. [REDACTED] stated that at the time of the collision, he was driving at [REDACTED] which is corroborated by the testimonies of [REDACTED] and [REDACTED]. [REDACTED] vehicle [REDACTED] and [REDACTED] opined in [REDACTED] professional capacity that the UN vehicle was travelling at a speed of not less than [REDACTED] at impact.

64. In [REDACTED] evidence to the local police on the day of the accident, [REDACTED] stated that the victim suddenly appeared on the roadway "from the jungle". However, in subsequent interviews with the [REDACTED] and with the [REDACTED] [REDACTED] conceded that the victim was riding [REDACTED] bicycle along the roadway in the same direction as the UN vehicle. In [REDACTED] interview with ID/OIOS, [REDACTED] stated that [REDACTED] saw the victim from a "little distance" and when [REDACTED] did see the victim, [REDACTED] - was at a "point of no return", meaning that [REDACTED] could not avoid collision with the victim. However, ID/OIOS found that pursuant to examination of the accident scene and police evidence of weather conditions and visibility at about the time of the accident, the victim would, or should, have been visible to [REDACTED] for up to [REDACTED] prior to the point of impact.

65. ID/OIOS found that [REDACTED]'s interview with ID/OIOS did not provide any probative evidence about the collision, as [REDACTED] claimed to have been concentrating on a bag next to [REDACTED] on the rear seat and did not see the UN vehicle strike the victim, nor did [REDACTED] see the victim either before or immediately after the collision.

66. [REDACTED] gave evidence to the local police that the victim suddenly appeared "from the jungle". However, in [REDACTED] subsequent interview with ID/OIOS, [REDACTED] conceded that the victim was riding his bicycle along the extreme right of the roadway. [REDACTED] gave evidence that [REDACTED] moved the UN vehicle to the right shortly before impact with the cyclist. [REDACTED] opined that [REDACTED] moved the vehicle in anticipation of the on-coming cars, misjudged the distance and moved too far to the right. ID/OIOS found that this lateral movement resulted in the UN vehicle striking the victim as [REDACTED] rode [REDACTED] bicycle along the roadway's shoulder.

67. In [REDACTED] evidence to ID/OIOS, [REDACTED] opined that [REDACTED] might not have seen the cyclist prior to impact. ID/OIOS found that [REDACTED]'s opinion is supported by the evidence of [REDACTED] [REDACTED] who, in explaining to the [REDACTED] why [REDACTED] did not see the victim prior to impact, stated that [REDACTED] failed to see the cyclist because of a lack of concentration due to boredom. Tests conducted at the scene of the accident by ID/OIOS demonstrated that in terms of visibility on the day of the accident, it was evident that the cyclist would have been visible to [REDACTED] [REDACTED] prior to the point of impact. ID/OIOS found that [REDACTED]

█'s lack of concentration whilst driving resulted in █ allowing the UN vehicle to veer or wander to the right and in so doing, █ struck and killed the victim. ID/OIOS found that █ failed to exercise that degree of care and attention required of the driver of a motor vehicle, more particularly – that required by UN personnel driving UN vehicles. Furthermore, █ knew the road very well as a result of █ trips on the same road over a █ period prior to the accident.

68. In █ statement to the local police on the day of the accident, █ stated that having struck the cyclist, █ continued driving because █ thought that nothing serious had happened. ID/OIOS found this assertion unbelievable considering the extent of the damage caused to the UN vehicle and the evidence of █ who opined that in light of the damage caused to the vehicle's bonnet, the victim had landed on the bonnet before being propelled forward.

69. In their statements to the local police on the day of the accident, and in their interviews with ID/OIOS, █ and █ both stated that █ did not stop the vehicle for fear of the prevailing security situation whereupon they felt threatened and feared to stop. This assertion was subsequently adopted by █ in █ evidence to the █ to the █ and, lastly, to ID/OIOS. █ asserted to ID/OIOS of █ being possessed of a "perception of danger" at the time of the collision, however, █ conceded that there was no immediate or imminent threat present at the time of the collision or thereafter. █ the Police Traffic Section in █ gave evidence that █ had been wise to leave the scene, as any villagers or local drivers passing by could have killed him in reprisal if the victim had been found seriously injured or dead. However, █ gave evidence that █ could have sought refuge at the nearest police station or safe place and reported the accident.

70. Several witnesses, including █ gave evidence that █ was familiar with the road upon which the accident occurred and was familiar with the location of the police posts and checkpoints, a number of which were in relatively close proximity to the accident scene – certainly closer than the █ checkpoint, where █ subsequently stopped, some █ from the accident scene. Consequently, ID/OIOS found that whether or not a security threat actually existed, and no evidence has been adduced that it did exist, █ should have stopped the vehicle and rendered assistance to the victim. Moreover, █ should have immediately reported the accident via █ mobile telephone or the UN vehicle's █ ID/OIOS found that if █ in fact felt threatened, █ could and should have stopped at any of the nearby police posts or checkpoints and further reported the accident.

71. ID/OIOS found that having collided with the victim at a speed that one could reasonably conclude had caused, at the minimum, serious injuries, █ panicked and decamped the accident scene without stopping and rendering any assistance to the victim. ID/OIOS found that a reasonable inference can be drawn that █ did so, not as a result of any real or perceived security threat, as █ variously attested, but in the realization of having negligently seriously injured or killed the cyclist and, possibly, also the realization of the legal repercussions of having done so.

72. ██████ told ID/OIOS that he stopped at the ██████ checkpoint at which time he reported the accident. ██████ suggested that he made the report at this time, as it was a safe location to do so. ██████ gave evidence that the police, having received a report of the 'hit and run' accident from an unidentified third party, stopped ██████ at the checkpoint. ID/OIOS found that a reasonable inference can be drawn that ██████ reported the accident at the ██████ checkpoint solely because he was stopped by police who queried, or were apparently about to query him, about the accident, which would have been visually corroborated by the damage to the UN vehicle. ID/OIOS found that having already traveled 83 kilometres from the accident scene and with a time lapse of about one hour after the accident, a reasonable inference could be drawn that ██████ only reported the accident because he was stopped by police. Had he not been so stopped, it can only be speculated as to when, and if, ██████ was intending to report the accident.

73. ID/OIOS found that whilst ██████ allegedly gave advice to ██████ to stop the vehicle after the accident and detailed ██████'s responsibilities, he failed to take further appropriate action available to ██████ to report the accident on ██████'s behalf, namely reporting the accident via ██████'s own personal mobile telephone, via the UN-issued telephone in ██████'s possession or via the UN vehicle's ██████. Though he asserted that he had no knowledge of how to operate the ██████ in the vehicle, ID/OIOS finds this assertion unacceptable as familiarization with ██████ and operating procedures is a part of mission personnel's induction program. Notwithstanding this, ██████ did not seek guidance from ██████ - the ██████ - with respect to the ██████'s operation if he was, in fact, unfamiliar with the ██████'s operation.

74. ID/OIOS found that ██████ did not make any attempt to persuade ██████ to stop the vehicle after the incident and render assistance to the victim. However, being subordinate to ██████, ██████ had no authority over ██████ and could not compel ██████ to stop. It is the view of ID/OIOS that ██████ simply accepted the decision taken by ██████ superiors. Given these circumstances, ID/OIOS concluded ██████ had no actual responsibility in this incident.

VII. CONCLUSIONS

██████████

75. ID/OIOS concludes that ██████ caused the death of the victim, ██████, by failing to observe the latter riding ██████ bicycle along the roadway; striking the rear of the bicycle and causing fatal injuries to ██████. ID/OIOS concludes that ██████'s failure to observe the victim and take appropriate action to avoid collision was due to a lack of concentration by ██████ consequently ██████ was negligent in that ██████ failed to exercise the due care and attention required of the driver of a vehicle, more specifically that required by UN personnel driving UN vehicles. However, ID/OIOS concludes that ██████'s negligent driving does not reach the standard of recklessness or danger to which ██████ refers.

76. ID/OIOS concludes that [REDACTED]'s failure to render all necessary assistance and first aid that [REDACTED] was qualified to administer to the victim or to call for such assistance, was a breach of [REDACTED] being regulations governing the use of [REDACTED] vehicles and [REDACTED] [REDACTED]'s conduct was also in breach of Section [REDACTED]. Moreover, ID/OIOS concludes that [REDACTED]'s lack of respect and regard for the victim placed [REDACTED] in breach of [REDACTED]

77. ID/OIOS further concludes that [REDACTED]'s negligence in killing [REDACTED] and then [REDACTED] subsequent lack of truthfulness through the investigative process with respect to explaining [REDACTED] actions or inactions, to be conduct unbecoming of a [REDACTED]

78. ID/OIOS concludes that [REDACTED] being a [REDACTED] endowed with authority delegated to [REDACTED] by the [REDACTED] failed to follow the "letter and spirit" of the "[REDACTED] [REDACTED]". Thus, ID/OIOS concludes that [REDACTED] failed in [REDACTED] duty as a [REDACTED]

79. ID/OIOS further concludes that [REDACTED]'s failure to act in accord with his mandate as a [REDACTED] and his failure to take the initiative to [REDACTED] immediately report the accident was conduct unbecoming of a professional [REDACTED]

80. ID/OIOS further concludes that [REDACTED] had no direct responsibility in the incident under investigation, was subordinate to [REDACTED] and accepted [REDACTED] decision to continue after the accident. Therefore, [REDACTED] cannot be held accountable for actions taken, or not taken, by [REDACTED] in regard to not stopping or rendering assistance to the victim.

VIII. RECOMMENDATIONS

81. In view of the findings of this investigation, ID/OIOS recommends the following:

Recommendation 1: It is recommended that [REDACTED] provide a copy of this report to the Permanent Mission of the [REDACTED] to the United Nations for appropriate action in respect of [REDACTED] (ID Rec. No. IV06/0629/01)

Recommendation 2: It is recommended that [REDACTED] provide a copy of this report to the Permanent Mission of the [REDACTED] to the United Nations for appropriate action in respect of [REDACTED] (ID Rec. No. IV06/0629/02)

Recommendation 3: It is recommended that [REDACTED] advise the [REDACTED] [REDACTED] to the United Nations that [REDACTED] and [REDACTED] will not be accepted in any present or future peace keeping mission. (ID Rec. No. IV06/0629/03)

Recommendation 4: It is recommended that in light of [REDACTED]s and [REDACTED]s assertions that they were unfamiliar with the use of the radio fitted to the UN vehicle in which they were passengers, [REDACTED] and [REDACTED] make it mandatory for all [REDACTED] personnel authorized to drive UN vehicles to undergo appropriate training on the use of radio hardware and radio operating procedures as part of the [REDACTED] induction program and to ensure refresher training on radio usage is also offered at some point later in their assignment to the [REDACTED] (ID Rec. No. IV06/629/04)

Recommendation 5: It is recommended that [REDACTED] provide a copy of this report to the [REDACTED] to the United Nations with respect to [REDACTED] but do not seek any further action against [REDACTED] for his role in this matter. (ID Rec. No. IV06/0629/05)

