



Joint United Nations Programme on HIV/AIDS

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**Report of the
UNAIDS Expert Panel on HIV Testing
in United Nations Peacekeeping Operations**

28–30 November 2001
Bangkok, Thailand

Executive summary

1. The United Nations is committed to ensuring that its peacekeeping operations are effective and instil confidence in the international community and the public at large, and that UN peacekeepers truly benefit the populations that host them. The UN seeks to promote the health and safety of these host populations, as well as peacekeepers and their families, and to protect and support them in the context of the HIV/AIDS epidemic. At the end of 2001, some 40 million people worldwide were living with HIV/AIDS.

2. In response to concerns expressed by UN Security Council Members with regard to HIV testing policies for UN peacekeeping operations, and in view of the number and complexity of the issues, the Executive Director of the Joint United Nations Programme on HIV/AIDS (UNAIDS), in close consultation with the UN Department of Peacekeeping Operations (UNDPKO), appointed an Expert Panel on HIV Testing in UN Peacekeeping Operations. This report presents the advice and recommendations of the Expert Panel.

3. The Expert Panel was comprised of individuals with a wide range of expertise in the area of HIV/AIDS and peacekeeping operations, including four senior military officers, a representative of the UNDPKO on secondment from the military of a troop-contributor nation, as well as persons with experience in medicine, law and social sciences, and HIV/AIDS policy and programme implementation. The Panel's membership included one individual with experience both in military service and as a person living with HIV.

4. The Panel considered the most effective way, if any, to employ HIV testing in the context of UN peacekeeping operations and, specifically, whether the UN should require mandatory HIV testing of troops offered or provided as peacekeepers by troop-contributor nations so as to establish their HIV status before, during or after their peacekeeping deployment.

5. The Expert Panel's recommendations were unanimous and based upon careful review of the empirical evidence (including three detailed papers—on medical and related policy issues, HIV counselling and testing, and on law and human rights issues—specially commissioned for the Panel from experts in those fields), current testing policies, documented best practices in HIV/AIDS, and applicable principles.

6. After considering the evidence and background information, the Expert Panel unanimously endorsed voluntary HIV counselling and testing (VCT) for UN peacekeeping operations. The Panel concluded that VCT, with its combination of counselling and voluntary testing, is the most effective means of preventing the transmission of HIV, including among peacekeepers, host populations, and the spouses and partners of peacekeepers. The Panel stressed that VCT should be provided to peacekeeping personnel within a comprehensive and integrated package of HIV prevention and care services. For a number of important reasons detailed in the report, no member of the Panel supported mandatory HIV testing by or for the United Nations as a means of preventing HIV transmission in the context of peacekeeping operations. The Panel further recommended that “fitness to perform the duties of peacekeepers during deployment” should be the standard for recruitment, deployment and retention of peacekeepers. The Panel determined that “fitness for work” as a peacekeeper could and should be determined through an individualized medical assessment, and that a HIV test is not necessary to make this determination.

7. Although the Panel's advice on HIV testing in the specific context of UN peacekeeping operations may be useful to governments in fashioning national policy and practice, the Panel was not mandated to provide advice on the broader issue of HIV testing in the context of national uniformed services.

Introduction

1. This report presents to the Executive Director of UNAIDS the advice and recommendations of the UNAIDS Expert Panel on HIV Testing in United Nations Peacekeeping Operations.
2. The report is structured as follows:
 - a) Introduction;
 - b) Background;
 - c) Establishment of the Panel;
 - d) Methodology of the Panel deliberations;
 - e) Objectives;
 - f) Panel conclusions and recommendations regarding HIV testing in the context of peacekeeping operations;
 - g) Panel conclusions and recommendations regarding the standard for recruitment, deployment and retention of peacekeepers;
 - h) Support for the Panel's conclusions and recommendations (medical considerations, medical costs, voluntary counselling and testing and mandatory HIV testing, and human rights and law);
 - i) HIV-related interventions to protect peacekeepers and local populations from HIV transmission; and
 - j) Suggested follow-up for UNAIDS.

Background

3. Since 1948, the United Nations (UN) has mounted 53 peacekeeping operations throughout the world. The UN depends upon its Member States to contribute peacekeeping personnel, including armed and uniformed personnel, to peacekeeping operations. Hundreds of thousands of individuals, most of them soldiers, have been contributed by UN Member States and have served in these operations. UN peacekeeping operations have drawn upon troops contributed from over 80 countries around the world. Peacekeeping personnel are usually deployed for an average of 6–12 months as UN peacekeepers¹.
4. Since the advent of the HIV/AIDS epidemic, concern has been expressed that the incidence of HIV infection has increased during, and as a result of, UN peacekeeping operations. In some cases, it has been claimed that UN peacekeepers have transmitted HIV to members of host populations. In others, it has been alleged that host populations have transmitted HIV to peacekeepers, and that these peacekeepers have then brought HIV infection back home to their families and communities.
5. These concerns are heightened in situations where there are great differences in the rates of HIV seroprevalence between the populations from which peacekeepers are recruited and the host populations among which they serve. In particular, concern has been raised with regard to the possibility, or likelihood, of transmission to host populations in operations where peacekeepers come from countries with high HIV seroprevalence and are sent to countries with low HIV seroprevalence. It should be noted, however, that no causal linkages between the presence of peacekeepers and increased rates of HIV in host countries have been conclusively established. Such assertions have been based on anecdotal reports only.
6. Nevertheless, these concerns have raised calls for the mandatory HIV testing of UN peacekeepers as a means of preventing, or reducing, the transmission of HIV by peacekeepers to host populations. Under such a policy, all peacekeepers would be required to undergo a HIV test and establish their HIV seronegativity before being recruited, deployed or retained in UN peacekeeping operations.
7. Other reasons have also been given as justifications for a policy of mandatory HIV testing of UN peacekeeping troops. They include the following assertions:
 - a) A HIV-positive person is not able to perform the duties of peacekeeping; therefore a HIV test is necessary to establish fitness to work as a peacekeeper.
 - b) The health of HIV-positive peacekeepers will be compromised by the vaccinations necessary for peacekeeping operations.
 - c) The health of HIV-positive peacekeepers will be compromised by the harsh psychological and physical conditions of peacekeeping.
 - d) HIV-positive peacekeepers pose a threat of HIV transmission to others through blood transfusions occurring during peacekeeping operations.
 - e) HIV-positive peacekeepers pose a threat to others because of possible HIV-related cognitive impairment while performing highly skilled operations, such as piloting.

¹ See UN DPKO website at <http://www.un.org/Depts/dpko>.

- f) The health-care costs related to the deployment of HIV-positive peacekeepers would be prohibitive.
 - g) For HIV-negative peacekeepers, repeated mandatory testing creates an incentive to engage in safe behaviour so as to remain HIV-free.
8. Similarly, the above-mentioned reasons have been given as justifications for the mandatory testing of military personnel in national armed and uniformed services, and the exclusion of HIV-positive personnel in whole or in part from such services. It should be noted that some of these rationales, if considered valid, might also be extended to others serving in international situations, such as staff of the UN, humanitarian aid organizations, diplomatic and bilateral missions, and nongovernmental agencies.
9. The United Nations is concerned that UN peacekeeping operations be effective and instil confidence, and that UN peacekeepers truly benefit the populations that host them. Furthermore, the UN seeks to promote the health and safety of peacekeepers, their families and host populations, and to protect and support them in the context of the HIV/AIDS epidemic.
10. Towards this end, the United Nations Security Council in its Resolution 1308, 17 July 2000, focused attention on the need for greater efforts to address HIV/AIDS in the context of UN peacekeeping operations. It called for a number of measures, including the development by UN Member States of long-term strategies for HIV/AIDS education, prevention, voluntary and confidential testing and counselling, and treatment for their uniformed personnel².
11. At present, the UN Department of Peacekeeping Operations (UNDPKO) policy on HIV/AIDS provides, as follows:

“D. HIV/AIDS”

“1. Many troop-contributing countries screen their military personnel for HIV infection prior to sending them on overseas assignments. The national policies regarding enlisting and employing HIV-positive individuals in the military vary.”

“2. In UN peacekeeping operations, HIV-positive individuals who do not show clinical manifestations of AIDS are not precluded from peacekeeping service. It is, however, recommended that such individuals should not be selected, as treatment available within the Mission area may not be adequate to meet their special requirements. Exposure to endemic infections and exhaustive immunization requirements may also be detrimental to their health. In addition to the individual’s health concerns, there is also the risk of his or her transmitting HIV to medical personnel, fellow peacekeepers and sex workers in the mission area.”

“3. Should a known HIV-positive individual be deployed in a UN mission, his/her status should be made known to the FMedO (Force Medical Officer) and attending doctor, to ensure that proper medical precautions are taken and adequate medical care provided. This information should be kept strictly ‘medical-in-confidence’.”

“4. Any individual who develops clinical AIDS, or its complications, should be repatriated to his home country for further treatment once the diagnosis has been made. The UN medical support system is not obliged, and does not have the resources, to manage this condition”³.

² See S/Res/1308 (2000).

³ For full text, see “Medical Support Manual for United Nations Peacekeeping Operations”, 2nd ed., 1999, pp 46–48. Dr Christen Halle, Senior Medical Officer, UNDPKO, was a Member of the Expert

12. The UN HIV/AIDS Personnel Policy provides, in relevant part, as follows:

- a) The only medical criterion for recruitment into the UN is fitness to work.
- b) HIV infection does not, in itself, constitute a lack of fitness to work.
- c) There will be no HIV screening of candidates for recruitment.
- d) HIV testing with the specific and informed consent of the candidate may be required if AIDS is clinically suspected.
- e) HIV infection or AIDS should not, of itself, be considered a basis for termination of employment.
- f) If fitness to work is impaired by HIV-related illness, reasonable alternative working arrangements should be made.
- g) Voluntary testing with pre- and post-counselling and assured confidentiality should be made available to all UN staff members and their families⁴.

Establishment of the Panel

13. In view of the number and complexity of the issues relating to HIV testing in UN peacekeeping operations, and in response to concerns expressed by UN Security Council Members, the Executive Director of the Joint United Nations Programme on HIV/AIDS (UNAIDS) decided that the UNAIDS Secretariat, in close consultation with UNDPKO, should undertake a comprehensive review of United Nations policy in this area. In order to assist UNAIDS in this effort, the Executive Director appointed an Expert Panel on HIV Testing in UN Peacekeeping Operations. The Panel was comprised of individuals with a wide range of expertise in the area of HIV/AIDS, peacekeeping operations, and work with HIV-affected communities, as well as in the military, medicine, law and social sciences (see Annex 1, List of Members).

14. The Expert Panel met 28–30 November 2001 in Bangkok, Thailand. Justice Michael Kirby (Australia) served as Chair of the Panel⁵. The role of the Panel was to review relevant materials, identify key issues, and advise the Executive Director of UNAIDS regarding HIV testing in peacekeeping operations. The Panel considered the general issue of what is the most valuable way, if any, to employ HIV testing in the context of peacekeeping operations. In particular, the Panel considered whether the UN should require mandatory HIV testing of troops being offered as peacekeepers so as to establish their HIV status and inform decision-making related to their deployment.

15. At the meeting, the Panel considered three papers—on medical and policy issues, legal and human rights issues, and voluntary counselling and testing (VCT) issues (see *infra*

Panel. Dr Halle advised the Panel that these policy provisions are under review and that DPKO practice currently complies with the UN Personnel Policy (see *infra* para 12).

⁴ For full text, see *AIDS and HIV Infection, Information for United Nations Employees and Their Families*, UNAIDS/99.31E, Geneva, 1999, pp 7–9 (United Nations HIV/AIDS Personnel Policy).

⁵ There had been two earlier meetings of relevance. On 12 June 2001, a preparatory meeting was held among UN staff from WHO, DPKO and the UNAIDS Secretariat with the Chair of the Expert Panel, Justice Kirby. The other was an Expert Strategy Meeting convened by UNAIDS in SWEDINT, Sweden, on 11–13 December 2000, which addressed a broad range of issues concerning HIV/AIDS in peacekeeping operations.

paras. 21-40)—prepared as background documents for the meeting, as well as a list of principles prepared by the Chair. The Panel also considered a number of other relevant sources (see Annex 2, List of Selected Background Documents). In its discussions, the Panel was presented with, and recognized, a wide range of current practices regarding HIV testing among nations contributing troops to UN peacekeeping operations and among national militaries. Although the Panel was not mandated to provide advice on the broader issue of HIV testing in national uniformed services, the Panel's advice may be useful to governments in fashioning national policy and practice for HIV testing in these contexts.

Methodology of the Panel's deliberations

16. The Panel employed the following approach in reaching its conclusions and recommendations:

- a) The Panel based its views on currently available empirical and qualitative data provided in the background documents commissioned for the meeting and in other relevant sources and international standards.
- b) The Panel determined that, in the interests of full transparency, the background documents commissioned for the meeting should be shared as widely as possible, including on the UNAIDS website (www.unaids.org).
- c) The Panel discussed the issues from the perspectives of the military, medicine, law, social sciences, human rights, the experience of people living with HIV, as well as that of government, and nongovernmental and international organizations.
- d) The Panel explored the particular qualities and realities of the military context, and the variety of practices in troop-contributing nations. The Panel recognized that HIV-testing policies and practices vary among troop-contributing nations, with some employing voluntary HIV counselling and testing, others employing mandatory HIV testing, and some employing no HIV testing at all.
- e) The Panel recognized that its conclusions are based on currently available data, particularly in the areas of HIV counselling, testing, treatment and care, and that there is an ongoing need for research and for monitoring and evaluation of practices and programmes in these areas.
- f) The Panel recognized that any UN policy regarding the HIV testing of peacekeepers would likely have implications for others serving in similar situations and conditions, such as UN staff, humanitarian aid workers, diplomatic staff, bilateral and NGO staff.
- g) In its deliberations, the Panel used the following definitions:
 - i) **Peacekeepers:** all personnel associated with a UN peacekeeping mission who fall under a UNDPKO mandate, including: (i) uniformed personnel, including military and police; and (ii) UN civilian staff, including medical and diplomatic staff.
 - ii) **Mandatory HIV testing:** (i) when HIV testing is a precondition for obtaining a service or benefit, including recruitment, deployment, and retention in peacekeeping service; or (ii) when a HIV test is performed through coercion or without the knowledge of the individual.

- iii) **Voluntary HIV counselling and testing (VCT):** a confidential process by which an individual undergoes counselling, enabling him or her to make an informed and voluntary choice about being tested for HIV, the results of which are also kept confidential. In comprehensive VCT, confidential post-test counselling also takes place.

Objectives

17. The Panel identified the following as the main objectives that guided the Panel in reaching its conclusions and recommendations:
 - a) To ensure the effectiveness of UN peacekeeping operations;
 - b) To uphold the reputation of UN peacekeepers as those who do good among host communities in the service of peace and security;
 - c) To uphold the basic principles of the UN, including the protection of human rights and human dignity;
 - d) To protect host populations, including women, children and other vulnerable groups among host populations, from HIV infection;
 - e) To protect peacekeepers and their spouses and partners from HIV infection.

Panel conclusions and recommendations regarding HIV testing in the context of peacekeeping operations

18. All Members of the Panel endorsed voluntary HIV counselling and testing (VCT) in the context of UN peacekeeping operations. The Panel concluded that VCT, with its combination of counselling and voluntary testing, is the most effective means of preventing the transmission of HIV, including among peacekeepers, host populations, and the spouses and partners of peacekeepers.
19. No member of the Panel favoured mandatory HIV testing by or for the United Nations as a means of preventing the transmission of HIV to or by peacekeepers. The Panel concluded that mandatory testing is not the most effective means of preventing the transmission of HIV in the context of peacekeeping, and that HIV tests in and of themselves do not effectively prevent the transmission of HIV.
20. The Panel considered VCT to be a necessary and essential part of an effective response to HIV/AIDS among peacekeepers. It stressed that VCT should be provided to peacekeeping personnel and should be provided within a comprehensive range of integrated HIV prevention and care programmes (see *infra* paras. 42–43). It also stressed that, in order to be effective, VCT must be provided in a context of non-discrimination and access to care and support.

Panel conclusions and recommendations regarding the standard for recruitment, deployment and retention of peacekeepers

21. The Panel recommended that “fitness to perform the duties of peacekeepers during deployment” should be the standard for recruitment, deployment and retention of peacekeepers. Such fitness should be established through an individualized medical assessment. A HIV test is not necessary to establish fitness to perform the duties of peacekeepers, and should not be conducted for this purpose. For those who are fit to

work, HIV positive status should bear no negative consequences with regard to recruitment, deployment and retention in peacekeeping operations⁶.

22. HIV testing, with the person's specific and informed consent, may be recommended along with other tests for the care and treatment of the individual if immunosuppression is suspected after clinical examination⁷. Necessary referrals and follow-up in terms of care should be conducted (e.g., laboratory work and decisions regarding the need for prophylaxis for opportunistic infections, and antiretrovirals). Neurological screening for cognitive impairment (not HIV testing) should be performed on those engaged in highly skilled or potentially dangerous functions to ensure safety and effectiveness.

Support for the Panel's conclusions and recommendations

23. The Panel's recommendations are based on the following empirical and qualitative considerations:

Medical considerations⁸

24. It is recognized that HIV is a chronic, viral infection involving a long period during which there is no disease and no symptoms, and where there is good health and normal functional capacity. For many individuals, this period of normal functional capacity can last a decade or more after the point of infection and, with current antiretroviral therapy, can last longer. Thus, the designation 'HIV-positive' is not indicative of an individual's physical fitness or fitness to work; and HIV status is not an appropriate indicator of whether a person is fit, or can or cannot perform certain duties. This consideration applies to the duties involved in physically demanding activities such as the armed and uniformed services, including peacekeeping.
25. Therefore, while it is essential that voluntary counselling and testing (VCT) for HIV be made available (see *infra* paras 32–36) and that peacekeepers should be encouraged to avail themselves of their right to be tested, mandatory HIV testing to establish fitness to perform peacekeeping duties is neither valid nor necessary. Furthermore, the weight of currently available medical evidence leads to the conclusion that mandatory HIV testing of UN peacekeepers is not justified for the protection of the health of HIV-positive peacekeepers or others in terms of blood safety issues, cognitive impairment, vaccinations, or conditions of deployment.
26. With regard to blood safety, current practices regarding the procurement and use of blood and blood products no longer employ the concept of the 'walking blood bank' among soldiers. Reliance on a 'walking blood bank' among soldiers or other personnel is outmoded and, in contemporary circumstances, unsafe, not only for reasons of potential HIV transmission. Blood screening precautions recommended by the World Health Organization (WHO) and reflected in current practice within UNDPKO are adequate to safeguard the blood supply in use during peacekeeping operations. Universal precautions developed by WHO, the US Centers for Disease Control and other agencies should be

⁶ The Expert Panel noted that the current DPKO policy, which advises against the deployment of HIV-positive personnel, is not consistent with this recommendation.

⁷ Moreover, where AIDS is suspected upon clinical examination, the UN HIV/AIDS Personnel Policy provides, as follows: "HIV testing with the specific and informed consent of the candidate may be required if AIDS is clinically suspected. (*AIDS and HIV Infection, Information for United Nations Employees and their Families*, UNAIDS, Geneva, 1999, p. 9)

⁸ See background document prepared for the Panel: Feldman, Eric and Friedland, Gerald, "United Nations Peacekeeping Operations and Mandatory HIV Testing", Revised August 2001, available on the UNAIDS website: www.unaids.org.

followed and should provide adequate protection in the provision of medical care and emergencies involving blood during peacekeeping operations.

27. With regard to cognitive impairment, asymptomatic HIV infection is not a marker for cognitive impairment, so it should not disqualify an individual who meets standards of performance. Screening for cognitive impairment, rather than testing for HIV, is the safest and most accurate and effective way to ensure that all individuals charged with high-performance, stressful jobs (e.g., piloting an aircraft) are able to fulfil their duties effectively and safely. Concerns about neurological impairment are not unique to peacekeepers. For example, physicians, surgeons and others who perform functions requiring high degrees of cognition are not subjected to mandatory HIV testing. Employment decisions concerning drivers and other technically complex jobs do not routinely require HIV testing. There is every reason to subject individuals charged with high-performance, stressful jobs to frequent formal examination and tests for cognitive and functional impairment, as well as tests that identify substance abuse and emotional instability, since a number of neurological diseases, as well as behavioural and substance-abuse practices, may also impair cognition. However, since asymptomatic HIV infection *per se* is unlikely to result in such impairment, HIV-positive status alone should not disqualify a person who otherwise meets the standards of performance.
28. With regard to vaccinations, the weight of the literature in tropical medicine and infectious diseases, embodied in current immunization practice for international travellers and, by analogy, peacekeepers, is that the potential benefit of most vaccines outweighs the theoretical risk to a HIV-positive person. In the context of HIV infection, it remains preferable to prevent or reduce the likelihood of acquiring the diseases for which immunization is provided than not to give otherwise warranted immunizations.
29. More specifically, it appears that asymptomatic non-immune-suppressed HIV-positive individuals can be safely immunized with live measles vaccine and with mumps and rubella vaccine. With regard to yellow fever vaccinations, the WHO 2001 booklet on *International Travel and Health* advises that HIV-positive individuals who are asymptomatic should be vaccinated against yellow fever if travelling to areas where yellow fever is endemic⁹.
30. With regard to harsh psychological and physical conditions of peacekeeping, there is currently insufficient evidence available to support the position that the stress of peacekeeping will have a negative impact on the health of those living with HIV. Furthermore, generally recommended infection-prevention measures, such as clean food and water, avoidance of insect bites, and preventive therapy for tuberculosis for those who are known to be at risk, should adequately protect all personnel, including HIV-positive peacekeepers, from harsh conditions prevailing in peacekeeping operations.

Medical costs

31. Under current UNDPKO guidelines, potential peacekeepers undergo pre-deployment medical examination to verify fitness to perform the particular peacekeeping duties envisaged. Where immunosuppression is established through case history and clinical examination and this indicates lack of fitness to work, deployment in peacekeeping operations is precluded for that individual. Furthermore, the average length of deployment is six months to one year, during which time it is unlikely that a HIV-positive peacekeeper who has passed his/her pre-deployment medical fitness examination will

⁹ *International Travel and Health*, World Health Organization, Geneva, 2001, p. 66, para. 5.4.1.

become immunosuppressed¹⁰. Thus, the most likely scenario for HIV-positive peacekeepers who are deployed is that they will remain asymptomatic and the UN will incur no expense in providing them with HIV-related medical care. Even in the unlikely possibility that a HIV-positive peacekeeper developed a HIV-related health complication that the UN would need to treat, such a situation would be analogous to other health problems that arise during service. Although the costs of treating opportunistic infections would be included in UN reimbursement to the troop-contributing nation for the provision of medical care, there are no data to suggest that HIV-related health care expenses are consuming a disproportionate or even significant share of medical resources during peacekeeping missions, or that HIV represents a disproportionate share of health-related repatriations.

Voluntary counselling and testing and mandatory HIV testing¹¹

32. Voluntary counselling and testing (VCT) has been shown to be more effective than mandatory HIV testing in promoting safe sexual behaviour and reducing other risks involved in transmitting HIV or becoming infected with HIV. The key component that makes VCT more effective than mandatory testing is the provision of high-quality counselling. HIV counselling supports people and encourages them to learn about and, most importantly, to practise, safer sexual and other relevant behaviour. For those who are HIV-negative, this means practising abstinence or safe sex to avoid being infected, and for those who are positive, this means practising abstinence or safe sex to avoid infecting others or re-infecting themselves with different strains of HIV.
33. Counselling also provides encouragement and emotional support for undergoing HIV testing and for understanding and dealing appropriately with the results of the test, whether HIV-negative or -positive. Where appropriate, counselling can guide individuals into couple or family counselling, which is the most effective means by which to protect spouses and sexual partners from HIV infection. For those who are HIV-positive, counselling can steer them into better nutritional practices and into available care and treatment, as well as supporting them to cope and to plan for their own and their family's future. Supporting the ability of those who are HIV-positive to access care and treatment will assist them in maintaining their fitness to work, reducing the likelihood that the UN will incur medical and other costs that may be associated with immunosuppression.
34. For VCT to be effective, it must be coupled with strategies involving non-discrimination and access to ongoing psychosocial care and support, without negative consequences for those who test positive. HIV status should be kept confidential; HIV-positive people should not face stigma; and if they are fit to work, they should be allowed to continue to do so as long as they can perform the duties required of them. Care and support should be provided for their health needs (e.g. immune assessment, prophylaxis and treatment for opportunistic infections, and antiretrovirals). The availability and accessibility of such care also acts as an incentive to get a HIV test for personal health and encourages HIV-positive people to protect others from infection.
35. There is a widespread, but misinformed, view that HIV testing prevents the spread of HIV or guarantees, where the test is negative, that HIV infection is not present. This is so neither at the time that a test is performed nor immediately thereafter (see *infra* para 35

¹⁰ According to UNAIDS, the likelihood of immunosuppression would be approximately 5% for the usual six-month period of deployment.

¹¹ See background paper prepared for the Panel: Baggaley, Rachel, "Voluntary counselling and testing (VCT), Paper for the UNAIDS Expert Panel on HIV Testing in United Nations Peacekeeping Operations" available on the UNAIDS website: www.unaids.org.

(d)). Furthermore, mandatory HIV testing has not been shown to have demonstrable individual or public health benefits and may result in significant negative outcomes for those testing positive. In particular, mandatory testing may have the following negative outcomes:

- a) it does not in itself help people to make changes in their behaviour so as to protect themselves from infection or not infect others;
- b) it can lead to stigma, discrimination and, where there is no counselling, to depression and suicide among those who test HIV-positive;
- c) it discourages people from accessing health care services, including HIV prevention and care services;
- d) it may involve false negatives for those in the window period prior to manifestation of antibodies detectable by a HIV test; such people then do not realize they need to seek care and to protect others from infection;
- e) it may lead to a false sense of security that a 'HIV-free' environment has been created and thus there is no need to take precautions; this could be especially significant if it were supposed that UN peacekeepers, by virtue of a policy of mandatory testing, were universally 'HIV-safe'; and
- f) it can divert funds from more effective interventions.

36. In the context of UN peacekeeping, as elsewhere, HIV prevention and care strategies must be comprehensive, must be implemented in ways that are effective, and must avoid reliance on one strategy alone, such as HIV testing. VCT is one effective component of a comprehensive HIV strategy for prevention and care. High-quality VCT should be promoted and provided to peacekeepers. Attitudes among peacekeepers to HIV and to VCT should be addressed to ensure that the benefits of VCT are understood and that HIV-positive peacekeepers will not be discriminated against. VCT approaches should be tailored to the realities of the military/peacekeeping context; should be developed with the involvement of peacekeepers themselves; should be developed with a realistic appreciation of the command structures of military forces; and, where appropriate, should involve peer counselling by peacekeepers themselves. Where peacekeepers are candidates for post-exposure prophylaxis (PEP)¹², VCT should be offered in conjunction with PEP.

Human rights and law¹³

37. The protection of human rights is one of the four principal purposes of the United Nations, as stated in the UN Charter. Resolutions issued by the UN Security Council recognize the need to comply with international human rights law in the conduct of peacekeeping operations, including addressing the problems presented by HIV/AIDS. The United Nations promotes human rights in the context of HIV/AIDS not only for moral

¹² Post exposure prophylaxis (PEP) should be offered when a person has been exposed to HIV through a 'needle stick' injury or an injury with a HIV-infected sharp instrument that has penetrated the skin, or from rape. It consists of a course of antiretroviral drugs given as soon as possible after the exposure. The person receiving PEP should be counselled and offered testing as soon as possible after the exposure, and again six weeks later.

¹³ See background paper prepared for the Panel: Stoltz, Lori (Canadian HIV/AIDS Legal Network) "HIV Testing of UN Peacekeeping Forces: Legal and Human Rights Issues" (9 September 2001, revised) available on the UNAIDS website: www.unaids.org.

and legal reasons, but also because it is considered the most effective way to achieve public health goals (i.e., to prevent HIV infection and to provide care).

38. The human rights that are most relevant in the context of HIV/AIDS and in the context of peacekeeping for both peacekeepers and host populations are:
- a) The rights that enable people to avoid infection by HIV—the rights related to education, information, privacy, health and health care, non-discrimination, and for women and children particularly, freedom from rape, sexual violence and exploitation.
 - b) The rights that enable people already infected by HIV to live fully and cope with the impact of HIV/AIDS—the rights related to privacy, health and health care, employment, social assistance, and non-discrimination and reasonable accommodation, including in workplaces such as the armed forces and the United Nations.
39. Relevant authorities, including legal cases arising from the military context, provide guidance as to how best to balance the rights of peacekeepers and those of host populations. A decision to exclude or restrict a person from serving in UN peacekeeping operations would not be discriminatory if that person was not fit to perform the duties of peacekeeping. Current medical evidence, as discussed above and recognized by various courts of law of several countries, however, indicates that HIV status is not, as such, an indicator of fitness to perform duties even in the military setting. Many HIV-positive people are able to perform on a level equal to those who are HIV-negative.
40. Thus, use of a HIV test to bar otherwise fit HIV-positive people from peacekeeping duties would be unacceptably discriminatory. A standard medical examination, medical history, standard laboratory tests (hematology, biochemistry) and chest X-ray, on the other hand, would be effective in establishing fitness to work, whether HIV-negative or HIV-positive. As a person's HIV status is not necessary to assess fitness for the duties of peacekeeping, then neither mandatory HIV testing nor exclusion from service can be justified on this basis¹⁴.
41. Because information about a person's HIV status often gives rise to very serious stigma and discriminatory treatment, including in employment, courts in some jurisdictions have recognized the importance of offering a high degree of protection to the privacy of such information.
42. For these reasons, mandatory HIV testing could be legally justified only if it were necessary and the most effective and least restrictive means by which to protect peacekeepers and host populations from HIV infection. There is no evidence, however, that mandatory HIV testing is either a necessary or effective way to achieve the public health goals of the prevention of HIV transmission and the provision of care. In fact, as discussed above, mandatory HIV testing may hinder the achievement of these goals.
43. Based on long-standing experience in HIV interventions, voluntary counselling and testing is not only a more effective but also a less intrusive means by which to prevent transmission by peacekeepers to their spouses or sexual partners, including those

¹⁴ The Panel recognized that mandatory testing and exclusion from service of HIV-positive individuals is the policy and practice of a number of countries. Although the Panel's mandate was to advise on UN policy in this area and did not include the broader issue of HIV testing in national uniformed services, the Panel's report may be useful to governments in considering national policy. (See above para 15.)

among the host populations with which they come in contact. Furthermore, VCT is a more effective means by which to protect HIV-negative peacekeepers from becoming infected. VCT is also preferable to mandatory HIV testing in that it is less prejudicial to the rights of HIV-positive peacekeepers to privacy of information about their HIV status and non-discrimination in employment. Thus, from the point of view of the human rights of peacekeepers or of host populations, the mandatory testing of UN peacekeepers is neither necessary nor justified.

HIV-related interventions to protect peacekeepers and local populations from HIV transmission

44. The Panel concluded that an effective response to HIV in the context of peacekeeping operations must be comprised of comprehensive and integrated programmes of HIV prevention and care, which include VCT. The Panel emphasized that VCT is an essential component of HIV prevention and care services for UN peacekeepers, that peacekeepers should be encouraged to avail themselves of it, and that resources must be made available to ensure that this is possible. Though the Panel was not expressly mandated to detail such programmes, the Panel suggested a number of measures to help prevent the transmission of HIV and provide HIV-related care and support in the context of peacekeeping.
45. Possible measures by which to reduce the risk of HIV infection among, and by, peacekeepers and provide for their care and support would include:
 - a) HIV-prevention education for peacekeepers and their spouses and partners, including education about sexual health, and risks involved in injecting drug use;
 - b) Access to male and female condoms;
 - c) Access to treatment for sexually transmitted infections;
 - d) Access to care and treatment for HIV/AIDS, including immune assessment, prophylaxis for opportunistic infections, and antiretrovirals;
 - e) Workplace policies and procedures against HIV discrimination and to protect confidentiality of status;
 - f) HIV/AIDS peer education and, where appropriate, counselling by peacekeepers and people living with HIV/AIDS;
 - g) Provision of post-exposure prophylaxis where there is possible exposure to HIV via infected blood or instruments, or through rape; and
 - h) HIV advisers posted to each peacekeeping mission.
46. Possible measures by which to reduce the risk of HIV infection among host populations and provide for their HIV-related care and support would include:
 - a) Sensitivity training for peacekeepers on local cultural norms; gender awareness; prohibition of sexual violence and coercion; non-exploitation of women, men and children; sexual and health responsibility; and the ethical duty to do no harm;
 - b) Enforcement of UNDPKO Codes of Conduct;

- c) Promotion of HIV education, condoms and injecting-drug-use [interventions](#) in host communities, including among sex workers and drug injectors;
- d) HIV prevention and care community efforts conducted by peacekeepers for host populations;
- e) Mechanism by which to monitor conditions and hear complaints and to redress those found to be justified.

Suggested follow-up for UNAIDS

47. The Panel suggested the following areas for follow-up activity by UNAIDS:

- a) Continue to promote a comprehensive HIV prevention and care package in the context of UN peacekeeping to benefit both peacekeepers and host populations;
- b) Define more clearly the content and extent of HIV-related care to be made accessible to UN peacekeepers;
- c) Promote the review and modification, as necessary, of UNDPKO policies regarding HIV-related testing, standards for fitness to perform peacekeeping duties, and deployment;
- d) Promote the harmonization of all UN-related employment policies with the ILO *Code of Practice on HIV/AIDS and the world of work* (Geneva, 2001);
- e) Promote operational research into HIV-related issues for UN peacekeepers, including VCT, immunizations, access to care and treatment, and implementation of codes of conduct.

Annex I

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UNAIDS Expert Panel on HIV Testing in Peacekeeping Operations Bangkok, 28–30 November 2001

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Annex II

List of selected background documents provided to the Expert Panel

1. *AIDS and the military*, UNAIDS, Point of View, May 1998, Geneva.
2. *An ILO code of practice on HIV/AIDS and the world of work*, (Geneva, 2001), International Labour Office, Geneva.
3. *HIV/AIDS and Human Rights, International Guidelines*, HR/PUB/98/1, United Nations, New York and Geneva, 1998
4. *Opening up the HIV/AIDS epidemic*, UNAIDS/WHO, Key Material, November, 2000
5. *Voluntary Counselling and Testing (VCT)*, UNAIDS Technical Update, May 2000, Geneva
6. *The Role of Name-based Notification in Public Health and HIV Surveillance*, UNAIDS Key Material, 2000, Geneva
7. Security Council Resolution 1308 (2000) S/RES/1308
8. Security Council Resolution 1325 (2000) S/RES/1325