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| **Virtual consultation of councillors  starting 9 June 2020** |  |
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|  | **Document VC\8-E**  **29 May 2020**  **Original English** |

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| **Name of the submitting Member State(s):** | **United States of America** |
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| **Document title:** | **Proposal of New Investigation Function Terms of Reference and Process** |
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| **Ref. to draft agenda of the virtual consultation:** | [**Document C20/60**](https://www.itu.int/md/S20-CL-C-0060/en) |
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**Comments relating to Document** [**C20/60**](https://www.itu.int/md/S20-CL-C-0060/en)

In response to the Union’s proposal in Document C20/60: Creation and Funding of a New Investigation Function, and taking into account Document [CWG-FHR-11/15](https://www.itu.int/md/S20-CWGFHR11-C-0015/en): Contribution by the United States - Proposal for a New Investigation Function and Process, the United States proposes for Council’s consideration terms of reference for the new investigation function and reforming the investigation process that reflects best practice in the UN system.

The new investigation function would be an additional oversight mechanism in the organization, complementary to the current oversight offices in ITU: Internal Audit Unit and the Ethics Office. To operate effectively, and conduct its work independently, this new function requires the same protections as ITU’s other oversight mechanisms, and should follow best practice of other investigation functions in the UN System. According to best practice of other UN organizations, the organization’s oversight charter should include the terms of reference of the investigation function[[1]](#footnote-1) ITU’s current Internal Audit Charter should be amended to include the investigation function’s terms of reference and mandate. The terms of reference would also reflect the new function’s authority and role as it relates to the investigation process.

**Proposed way forward**

The United States proposes that based on JIU recommendations and best practice in the UN system, the Internal Audit Charter include the following terms of reference for this new function[[2]](#footnote-2):

1. The new investigator has sole responsibility for the conduct of all investigations in ITU and the authority to initiate investigations;
2. The investigator exercises operational independence in the conduct of his/her duties; S/he shall remain free from any interference, including regarding the selection, scope, procedures, frequency and timing of the investigation function's activities, access to records and the communication of results;
3. The investigation function has free and unrestricted access to the Independent Management Advisory Committee (IMAC), ITU Council, Internal Auditor, and the External Auditor;
4. The appointment of the position will be made on the advice of IMAC and after consultation with the ITU Council. The appointment of the Investigator can only be terminated for cause after consultation with IMAC and ITU Council;
5. A clear process for handling any conflicts of interest with a potential investigation, including any allegations of wrongdoing that may involve an ITU senior elected official;
6. Taking into account confidentiality, the ITU Investigator shall submit annually a report to ITU Council on any investigations of wrongdoing undertaken during the year --specifically what has been alleged as well as the findings and outcomes --including administrative actions taken;
7. A reformed investigation process as described in #2 of “[CWG-FHR-11/15](https://www.itu.int/md/S20-CWGFHR11-C-0015/en): Contribution by the United States - proposal for a new investigation function and process.”

These terms can be incorporated into the Internal Audit Charter for Council’s decision at the next session, as well as any other relevant changes or additions to the Charter for the new function and investigation process. Therefore, Council should consider amending the decision language in **Document C20/60 ADM 27** to include requesting that the Secretariat incorporate in the Internal Audit Charter the new investigation function terms of reference as proposed above for Council consideration.

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1. See recommendation 2 from the JIU Report, “[*The Investigations Function in the United Nations System (A/67/140”)*](https://www.unjiu.org/content/reports) and as examples of best practice: the [World Intellectual Property Organization’s Internal Oversight Charter](https://www.wipo.int/about-wipo/en/oversight/iaod/index.html) and [Food and Agriculture Organization’s Charter](http://www.fao.org/about/who-we-are/departments/office-of-the-inspector-general/en/) of the Office of the Inspector General. [↑](#footnote-ref-1)
2. Propose terms align with recommendations 2 and 4 from JIU report [The Investigations Function in the United Nations System (A/67/140*)*](https://www.unjiu.org/content/reports) and recommendation 7 from [Oversight Lacunae in the United Nations system](https://www.unjiu.org/content/reports), as well as UN system best practice, see [World Intellectual Property Organization’s Internal Oversight Charter](https://www.wipo.int/about-wipo/en/oversight/iaod/index.html) and [Food and Agriculture Organization’s Charter](http://www.fao.org/about/who-we-are/departments/office-of-the-inspector-general/en/) of the Office of the Inspector General. [↑](#footnote-ref-2)