

Government Accountability Project

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March 31, 2009

Secretary-General Ban Ki-moon
United Nations
Room S-3800
New York, NY, 10017

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RE: OIOS and JIU

Dear Secretary-General Ban Ki-moon:

I am writing on behalf of the Government Accountability Project (GAP), a U.S. nonpartisan, nonprofit public interest group that promotes free speech and ethical conduct in government, corporations and Intergovernmental Organizations (IGOs). GAP helped draft the 2005 United Nations whistleblower policy and has advised numerous witnesses to misconduct in the UN system.

GAP believes that impartial investigatory bodies and procedures are crucial to ensuring that a whistleblower is vindicated and that corruption is addressed. Therefore, we were disheartened to learn about recent developments at two United Nations investigative units that could potentially reduce their independence.

According to an article in *The Washington Post*, Robert Appleton, the former chairman of the UN Procurement Task Force, has been "blocked...from taking up an appointment as chief of the UN investigations division... Top UN officials applauded Appleton's work but cited the lack of female or non-U.S. candidates on the short list for the job."¹ While we appreciate the need for a diverse applicant pool, GAP was disturbed to learn that an apparently qualified candidate would be "blocked" from an appointment. It is our understanding that there has been a two-year long search process for the director position at the Office of Investigations Division of the Office of Internal Oversight Services (OIOS). We believe that this is a crucial position and that it should not have been vacant for this long, especially if there is indeed a qualified candidate.

We also find this lack of appointment troubling given that a 2006 Joint Inspection Unit (JIU) investigation found that there were problems across the United Nations system with the procedures for appointing heads of internal oversight services and that some appointments were "being made by the executive head without prior consultations." As JIU concluded, "such

¹ Lynch, Colum. "Ex-U.N. Official Spent Development Funds on Luxury Items, Probe Says." *The Washington Post*. 2009 March 27: A11.

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practices can undermine the independence and effectiveness of the internal oversight head, and hence the function.”²

GAP was also troubled to learn that JIU itself has experienced interference with the appointment of its executive head. Like the OIOS Investigations Division, the appointment of JIU’s executive secretary has been pending since 2007. According to the “Report of the Joint Inspection Unit (JIU) for 2008 and Programme of Work for 2009,” when JIU recommended a candidate for director, your office apparently violated JIU’s statutes and 40 years of practice by modifying appointment procedures. According to paragraph 128 of that report, “The Unit strongly objects to the illegal action of the Senior Review Group and deeply regrets that the Secretary-General, as the Chief Administrative Officer of the United Nations, and thus in charge of promoting accountability as a key element for good management, has not yet taken any action to remedy this uncomfortable situation that negatively affects the operations of the Unit.” We urge you to remedy this situation.

The JIU report also mentions proposals to supplant JIU with the United Nations Evaluation Group (UNEG). It appears that UNEG is less independent and impartial than JIU, as it ultimately reports to the top executives of the various UN funds, agencies and programs, and its budget and agenda comes directly from these organizations. The JIU, on the other hand, reports to the UN General Assembly. Such independence was recommended by the Independent Inquiry Committee into the United Nations Oil-for-Food Programme. According to that Committee, “member states must have reliable and direct communication with the organization’s oversight bodies (‘Oversight’). Oversight must be sufficiently independent of executive management to allow for an open, unmediated dialogue with the General Assembly...The oversight functions and entities must be properly funded to ensure reasonable, objective and consistent standards, and should not be subject to executive management approval.”³ GAP believes that JIU plays a vital oversight role and that it should not be replaced by UNEG, which does not appear to be sufficiently independent of executive management.

Finally, GAP is concerned about a general lack of oversight of UN investigative bodies. For example, a whistleblower has informed GAP that serious allegations of abuse of authority and harassment by members of the Inspector General’s Office of the United Nations High Commissioner for Refugees’ (UNHCR) were never investigated. This failure to investigate serious allegations of misconduct highlights the lack of a monitoring/peer review system over the UN investigative units. As a 2006 JIU report found, “the question of ‘who is watching the watchers?’...applies equally to the internal oversight functions, and there are serious accountability issues to be addressed. There is a clear need for periodic independent assessment of the performance of the internal oversight entities, and the Inspectors are of the view that this could be done through peer review.”⁴ Similarly, the Independent Inquiry Committee into the United Nations Oil-for-Food Programme recommended that “the United Nations establish an

² “Oversight Lacunae in the United Nations System (JIU/REP/2006/2).” 2006. United Nations Joint Inspection Unit. para 40.

³ “The Management of the United Nations Oil-for-Food Programme: Volume IV – Report of Investigation.” 7 September 2005. Independent Inquiry Committee into the United Nations Oil-for-Food-Programme.

< http://www.iic-offp.org/documents/Sept05/Mgmt_V4.pdf >, p. 180 & 183.

⁴ “Oversight Lacunae in the United Nations System.” para. 44.

independent Oversight Board with an independent Chairman and a majority of independent members with functional responsibility for all independent audit, investigation, and evaluation activities – both internal and external – across the Secretariat and agencies substantially funded by the United Nations and subject to the Secretary-General's appointment of their leadership, the so-called funds and programs.”⁵⁶ GAP believes that the UN should comply with these recommendations and should also task this committee with investigating complaints against investigators and investigative units and reports of management interference with investigator appointments.

GAP is respectfully requesting a response to this letter that 1) reconfirms the Secretary-General's commitment to JIU and to maintaining an independent oversight body that can conduct system-wide investigations and evaluations and 2) details: a) a timeline setting out when and how an appointment to head OIOS ID and the JIU will be made; b) how complaints against investigators or investigative units will be handled; and c) the Secretary-General's thoughts about creating the independent oversight board recommended by the Independent Inquiry Committee into the United Nations Oil-for-Food Programme.

Thank you for your attention to these issues.

Sincerely,

A handwritten signature in dark ink, appearing to read "Beatrice Edwards". The signature is fluid and cursive, with the first name "Beatrice" and last name "Edwards" clearly distinguishable.

Beatrice Edwards
International Program Director

⁵ “The Management of the United Nations Oil-for-Food Programme: Volume IV – Report of Investigation.” p. 180.

⁶ It should also be noted that the Committee recommended “the merger of OIOS with the oversight departments of the Organizations’ funds and programs.”