

## Reform of the UN System

### Management Reform and Mandate Review

In 2008 the United Nations, supported actively by the United States and other member states, focused a great deal of attention on improving UN management practices, including by following up on the management reform agenda from the September 2005 UN World Summit. Throughout 2008 delegations worked on a broad range of initiatives to improve the management of UN Secretariat; strengthen oversight, ethics, and accountability systems; and review UN program mandates. In addition to these efforts, the United States continued to advance its system-wide United Nations Transparency and Accountability Initiative (UNTAI).

### Administration of Justice

In 2005 General Assembly Resolution 59/283 called for the Secretary-General to form a panel of external and independent experts to consider redesigning the system of administration of justice for the United Nations' 30,000 staff members. In July 2006 this expert body, known as the Redesign Panel, published a report containing over 30 recommendations intended to improve the United Nations' internal justice system, which it found to be outmoded, dysfunctional, ineffective, and lacking independence. The panel's recommendations called for a decentralized, professional, well resourced, timely, and independent internal justice system to reduce conflicts within the United Nations through informal dispute resolution and the expedited resolution of cases.

The current system under which UN employees can seek redress for grievances was instituted 50 years ago and has evolved into a system that has been severely criticized by both UN administration and staff. A 2007 General Assembly Resolution (62/228) established the framework for a new system of administration of justice to replace the current one. This framework included the establishment of an informal dispute resolution mechanism and a two-tier formal system comprised of a UN Dispute Tribunal (UNDT) and a UN Appeals Tribunal (UNAT). The UNDT was to operate as the initial chamber to hear cases, and the UNAT was to operate as the appellate chamber. However, the details of the new system remained to be negotiated in the Fifth and Sixth Committees. These details included the statutes for the new two-tier formal system (i.e., the UNDT and the UNAT), which would have to address the critical issues of the scope of the new system and the legal standards and procedures for resolving claims as well as for reviewing decisions on appeal. They also included transitional measures for phasing out the old system and implementing the new system and the precise role to be played by the new Office of Staff Legal Assistance.

During meetings in April and July, an ad hoc working group of the Sixth Committee initially considered draft statutes that would govern the operations of the UNDT and UNAT since the statutes involve not only administrative elements but also complex matters of legal jurisprudence. The Sixth Committee met again at the start of the 63rd session and completed its work on the statutes in October, sending a revised draft of the statutes to the Fifth Committee for final consideration. The U.S. Mission to the United Nations and Department of State worked together in successfully pursuing U.S. objectives in both committees.

Building on this framework resolution as well as on the work of the Sixth Committee prior to and at the start of the 63rd General Assembly, the Fifth Committee (which deals with administrative and budgetary matters) approved a new administration-of-justice system that improves significantly both the informal and formal processes for dispute resolution. The system is scheduled to be fully operational by July 1, 2009. Based on the Committee's recommendations the General Assembly adopted Resolution 63/253 that approved a complete overhaul of the organization's internal justice system for resolving employment-related disputes. The new two-tier formal system will be governed by statutes that were adopted as Annexes to Resolution 63/253. During these discussions the United States, with help on various issues from key allies, was successful in substantially improving various aspects of the Secretary-General's proposals, which were initially supported by many member states.

Further work on the issue of the transitional arrangements will be taken up by the General Assembly again and finalized in 2009. By the end of 2009, it is expected that all elements of the previous formal system will cease to exist and the new system will be fully staffed and operational. The expansion of the ombudsman's office, the creation of the Office of Mediation, and the requirement that all disputed actions be subject to administrative review should reduce the percentage of cases resolved via the formal, tribunal-based mechanism. This in turn should result in more expeditious processing of cases that reach the formal system.

## **Ethical Conduct and Integrity**

On January 3, 2006, the UN Ethics Office began operations. The 2008 annual report for the Ethics Office covers the period from August 1, 2007 through July 31, 2008. The report indicated that 2,329 staff members participated in the financial disclosure program for the 2007 filing period. In reviewing the financial disclosure statements, the consultant found that 21 staff members had a potential conflict of interest, 19 of whom accepted the advice regarding the appropriate handling of this situation. The remaining two staff members were referred to the Ethics Office, which upheld the consultant's recommendations. A total of 172 staff members failed to submit financial disclosure statements and were referred to the Office of Human Resources Management for disciplinary action.

The Ethics Office received 45 separate complaints of retaliation taken against whistleblowers. Of these, 18 claims warranted further review. The Ethics Office conducted a preliminary review to determine whether it could find independent information to substantiate the complaints and found that a prima facie case of retaliation could not be established for seven of the cases. The remaining 11 cases were still under review at the end of 2008.

The report also provides information on the activities of the UN Ethics Committee, which was established in December 2007 by a Secretary-General's bulletin. The Ethics Committee is comprised of the ethics directors of UN funds and programs and chaired by the UN Ethics Director. The committee is responsible for harmonizing the ethics standards and policies of the UN Secretariat and its funds and programs. In addition, the chair may consider appeals from staff of UN funds and programs concerning rulings and decisions made by the ethics office of their organization. The chair received two such cases. In the first case, the chair recommended that remedial actions be taken by the organization. These recommendations were accepted. In the second case, the chair agreed with the ruling of the organization concerned.

While some specialized agencies have appointed ethics officers, they are not required to follow the UN ethics framework and do not participate on the Ethics Committee. To harmonize standards for ethics and integrity across the UN system, the UN Ethics Office proposes inviting the specialized agencies to participate on the Ethics Committee. General Assembly Resolution 63/250 (2008) endorsed this proposal, which it is hoped will lead to a unified ethics framework across the UN system.

## **Independent Audit Advisory Committee**

In Resolution 61/275 the General Assembly adopted the terms of reference for the Independent Audit Advisory Committee (IAAC), establishing it as a subsidiary body of the Assembly to provide expert advice on UN oversight functions, risk management, internal controls, and financial practices. The General Assembly will review the terms of reference in the fall of 2010.

Members of the IAAC serve in their personal capacity and are appointed by the General Assembly on the basis of extensive senior-level expertise in audit, accounting, finance, and/or oversight, with due consideration given to equitable geographic distribution. In a significant departure from established practice, the General Assembly determined that equitable geographic diversity would be reflected on the IAAC by a single member from each of the five geographic groups. IAAC members select their chairman and vice-chairman. On January 1, the first members of the IAAC began their appointments: David M. Walker (United States), chairman; Vijayendra Nath Kaul (India), vice-chairman; Vadim Vadimovich Dubinkin (Russia); Adrian Patrick Strachan (Jamaica); and John F.S. Muwanga (Uganda), members.

The first report of the IAAC covers January 1-July 31, 2008. The report includes observations and recommendations on the proposed

reorganization of the investigations division of the Office of Internal Oversight Services (OIOS); OIOS' work-planning process; implementation of International Public Sector Accounting Standards; and the Secretary-General's report on accountability, risk-management, internal controls, and results-based management. Annexed to the IAAC report are its rules of procedure, which were adopted at the Committee's first meeting in February. In a statement to the Fifth Committee, the U.S. Delegate commended the IAAC for accomplishing so much in its initial year.

General Assembly Resolution 63/265 of December 24, endorsed the IAAC's recommendations related to coordination and cooperation among UN oversight bodies and the OIOS budget and annual workplan. Resolution 63/265 also called for the IAAC to assist the General Assembly with the upcoming review of the OIOS mandate by providing advice concerning "the effectiveness, efficiency, and impact of the audit activities and other oversight functions of the Office of Internal Oversight Services." The General Assembly will conduct this review in fall 2009.

## **Mandate Review**

From December 2007 to February 2008, Co-Chairs New Zealand and Namibia of the Informal Plenary on Mandate Review consulted with member states and the UN Secretariat to develop a methodology for continuing the review. At a February 28 plenary meeting, member states endorsed the methodology, which would assess whether mandates reflect current needs and are delivered effectively and efficiently, based on information provided by implementing agencies and advice from member states.

From March through July 2008, this methodology was used to review mandates relating to the humanitarian assistance and African development-activity clusters. Analysis of the humanitarian cluster of 279 mandates resulted in a decision to classify 35 mandates for discontinuation, 26 for consolidation or strengthening, 54 as completed or inactive, and 155 as current and relevant to requirements. In the case of the African development cluster of 52 mandates, eight were classified for discontinuation, 18 as current and relevant to requirements, and two as completed. It was not possible to reach a decision on how to classify three of the mandates. In each cluster the outstanding balance is accounted for by errors in the Secretariat's mandate registry.

On August 8, 2008, the co-chairs released a status report on the results achieved by member states during the 62nd General Assembly session. The co-chairs' report identified the disconnect between the mandate cycle and the budget cycle as a key obstacle to mandate review and proposed to (1) continue the review only if the mandate cycle/budget cycle disconnect could be addressed and if member states were prepared to renew their level of commitment; or (2) to discontinue mandate review in its current format. The co-chairs also suggested that member states consider undertaking a comprehensive analysis of the mandate cycle, including implementation, evaluation, and reporting of results.

The President of the General Assembly invited member states to convene on September 4 to provide comments on the co-chairs' report. At that meeting the U.S. delegate supported the efforts of the co-chairs while recognizing the "disappointing results" of mandate review. The U.S. delegate offered two potential courses of action: (1) stop the current process and move on to address the mandate generation cycle; or (2) address the mandate generation cycle along with a continued review of pre-existing mandates. All member states concurred that there remained real obstacles associated with the review of mandates. France and Switzerland expressed interest in the U.S. proposal to address mandate generation. Although the United States requested further deliberation of the agenda item, on September 15 the General Assembly passed Resolution 62/278, which merely took note of the final report of the co-chairs of the mandate review process. Most member states viewed the resolution as effectively ending the review effort called for by the 2005 World Summit Outcome document. However, the United States maintains that the resolution leaves open the possibility for resuming mandate review in some form.

### **Office of Internal Oversight Services**

UN General Assembly Resolution 48/218B states that the purpose of the Office of Internal Oversight Services (OIOS) is to "assist the Secretary-General in fulfilling his internal oversight responsibilities in respect of the resources and staff of the organization" through monitoring, internal audit, inspection, evaluation, and investigation. OIOS is based in New York with offices in Geneva, Vienna, and Nairobi, and has auditors and investigators resident in peacekeeping missions. In July 2005 Inga-Britt Ahlenius (Sweden) was appointed by the Secretary-General, following consultation with the General Assembly, to a five-year, non-renewable appointment as the Under-Secretary-General for Internal Oversight Services.

OIOS reports to the General Assembly are available on the Web site [http://www.un.org/Depts/oios/pages/other\\_oios\\_reports.html](http://www.un.org/Depts/oios/pages/other_oios_reports.html). Reports to program managers are made available to member states upon request. A list of these reports can be found in the annual report and on the OIOS Web site.

In 2008, the General Assembly's Fifth Committee considered several OIOS reports, including the annual report for the year ending June 30, 2008. Between July 1, 2007 and June 30, 2008, OIOS produced 305 reports to program managers, seven reports to the General Assembly, and 28 closure reports. These reports contain 1,755 separate recommendations aimed at improving the functioning of the United Nations, 804 of which were classified by OIOS as critical. OIOS reports identified \$12 million in potential cost savings. Actual cost savings and recoveries during the reporting period were \$4.2 million.

During Fifth Committee discussions of the annual report, the United States called for strengthening OIOS' operational independence. The current funding structure for OIOS limits its ability to determine where resources will be deployed, which can restrict the scope of its internal audit, investigation,

monitoring, evaluation, and inspection functions, particularly in regard to UN funds and programs. In a statement to the Fifth Committee in October, the U.S. Delegate stressed, “The United States believes the operational independence of OIOS is crucial to its effective function, and we want OIOS to have sufficient resources to perform its core functions, free from any real or perceived influence by the very bodies or officials it is intended to oversee.”

The Fifth Committee also considered the reports of the Procurement Task Force (PTF). OIOS created the PTF in January 2006 to look into allegations of fraud and malfeasance in the UN procurement service, following the investigation of the Oil-for-Food program. By July 31, 2008, the PTF had completed 222 separate investigations with an aggregate contract value of over \$2 billion. These investigations uncovered 20 different schemes to defraud the United Nations, tainting \$630 million in contracts and resulting in the misappropriation of more than \$25 million. The cases mostly involved allegations of vendor misconduct, bid rigging, and collusion. The PTF made recommendations to require all vendors to cooperate with UN investigations, strengthen the vendor selection process, improve removal and sanctions systems such as the vendor watch list, and disclose sanctions decisions to the public. The PTF also recommended that the United Nations should seek recovery of losses and monetary damages.

The PTF was established as an *ad hoc* body, and its mandate was scheduled to expire on December 31. To ensure an ongoing capacity to investigate allegations of procurement fraud, corruption, and misconduct, OIOS outlined a plan to transfer the remaining PTF caseload to its investigations division with the intention of establishing a financial crimes unit to handle these cases. In a statement before the Fifth Committee, the U.S. Delegate emphasized that the Investigations Division lacked sufficient qualified staff to take over the PTF caseload upon expiration of its mandate. “In this regard, we consider it imperative that the Financial Crimes Unit is staffed with investigators who each possess extensive experience in this particularly specialized field.”

During negotiations in the Fifth Committee, members of the Group of 77 and China (G-77) and the Russian Delegation called for banning PTF investigators from working in OIOS for six months. OIOS objected because the Investigations Division would be deprived of the expertise needed to investigate allegations of procurement fraud. After considerable deliberation the General Assembly adopted by consensus Resolution 63/265, which endorsed the transfer of the PTF caseload to the OIOS Investigations Division and stipulated that OIOS should have the expertise and capacity to investigate allegations of fraud, corruption, and misconduct in procurement.

## Procurement

General Assembly Resolution 62/269 reaffirmed “the need for the procurement system to be transparent, open, impartial, and cost-effective, based on competitive bidding....” During 2008 the United Nations continued to make incremental improvements to its procurement practices. The

Secretary-General's comprehensive report of November 2007 on UN procurement activities recorded significant improvements during the previous year in staff training (especially related to ethics), vendor registration, and contracting opportunities for vendors from developing countries and countries with economies in transition.

Because the Secretary-General's comprehensive report was issued late in 2007 the General Assembly deferred substantive discussion until spring 2008. The United States had hoped to see full implementation of an independent bid protest system designed to promote transparency and fairness in the awarding of contracts. Overall, progress on this initiative was limited, though a pilot program began in 2008.

Future reports on procurement issues by the Secretary-General are expected to include proposals for improving the management and organizational structure of the UN procurement service, as well as clarifying the relationship between headquarters and peacekeeping procurement. The United States has been working with other member states and the UN Secretariat to improve the vendor registration process as well as the coordination between the Secretariat and UN funds and programs so that violators of the UN supplier code of conduct are disqualified from bidding.

Member states took important first steps by providing additional resources for staff training and calling for full implementation of an independent bid protest system. Further changes in the procurement function are needed to ensure rapid delivery of critical services and supplies in a cost-effective manner. The United States is waiting to see if the Secretary-General's forthcoming reports will help guide its efforts to improve procurement management and organizational structure at the United Nations, and to clarify the relationship between headquarters and peacekeeping procurement activities.

## **Staff Contract Reform and Harmonization of Conditions of Service**

To address problems related to recruitment, retention, and low morale of staff in the field, the UN Secretary-General proposed aligning conditions of service for UN Secretariat field staff with those in UN funds and programs, at an estimated annual cost of \$345 million. In the March 2008 session of the General Assembly, a widely-supported compromise package, costing nearly \$90 million per year was developed, that standardized the benefits for international staff at UN non-family duty stations. During negotiations several states expressed fiscal and technical concerns about both the Secretary-General's and the compromise proposals. The United States and Japan did not believe that all options had been explored for addressing contract streamlining and harmonization of conditions of service. In not agreeing to the draft resolution, the United States stated that it would more closely review the compromise proposal and, if not acceptable, would develop an alternative proposal for consideration before the fall session.

Over the summer the United States developed a proposal that, like the Secretary-General's and March proposals, called for a single set of rules governing contracts, and which would establish three types of contracts – temporary, fixed-term, and continuing. However, the U.S. proposal called for conditions of service to vary according to the type and duration of appointment. Under the U.S. proposal, allowances and benefits would increase as staff moved from temporary to fixed-term to continuing appointments. The United States argued that its proposal, while satisfying the desire to make changes to improve the recruitment and retention of field personnel, would be less costly than the March proposal, due primarily to a reduction in the level of benefits provided to temporary employees.

Although a number of countries, including Japan, Russia, and Singapore, expressed support for elements of the U.S. proposal, the overwhelming majority rejected the approach and supported reconsideration of the March compromise proposal. In the face of this opposition, the United States joined consensus on the Human Resources Management resolution. The United States did succeed in obtaining a number of key concessions that addressed the concerns underpinning the U.S. proposal, including an express affirmation that staff members should have no expectation of renewal of their contracts; an end to abuses in the use of temporary contracts at UN Headquarters; assurance that staff on so-called 300 and 200 series (restricted) contracts would not immediately receive 100 series (unrestricted) contracts; and agreement on the need for a disciplined approach to implementing continuing contracts.

## **UN Transparency and Accountability Initiative**

In 2007, the United States launched its UN Transparency and Accountability Initiative (UNTAI) to address systemic weaknesses in financial management, program oversight, and ethics. UNTAI draws upon reforms already adopted by the UN Secretariat and seeks to apply them at 22 separate UN entities (UN funds and programs, specialized agencies, and related organizations). Specifically, UNTAI's goals are:

- Operational independence of the internal oversight function;
- Disclosure of internal audit and oversight reports to member states on request;
- Public access to relevant information related to an organization's operations;
- Independent ethics function;
- "Whistleblower" protections against retaliation for reporting misconduct and/or cooperating with the internal oversight function;
- Financial disclosure program;
- Full implementation of International Public Sector Accounting Standards; and
- Transparent administrative support costs for voluntarily funded projects.

As a result of sustained and intensive diplomacy, most UN entities made considerable progress in 2008 to reform financial management and program oversight. However, some agencies still have not adopted formal policies on the disclosure of internal audits. In addition, several agencies still do not have a system to promote integrity and ethical conduct.

(The table below has details on the progress by UN organizations as of December 2008.)

Goal	Progress by UN Organizations			
	Little/None	Some	Extensive	Complete
Operational independence of the internal oversight function	0	7	11	4
Disclosure of internal audit and oversight reports	7	4	6	5
Access to information related to operations	0	7	13	2
Independent ethics function	7	7	4	4
Whistleblower protections	6	3	10	3
Financial disclosure program	5	4	8	5
International Public Sector Accounting Standards	0	11	11	0
Transparent administrative support costs for voluntarily funded activities	1	13	5	3

## Security Council Reform

Throughout 2008 the United States reiterated its openness to considering expansion proposals that would preserve the UN Security Council's efficiency and effectiveness, achieve the broadest possible political support, occur in the context of broader reform of the United Nations, and keep the Security Council modest in size.

The UN General Assembly's "Open Ended Working Group (OEWG) on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council," chaired by the President of the General Assembly, held debates on

April 10, June 17, several dates between September 2 and September 15, November 11, November 17, and December 5. The General Assembly held an open plenary debate on UN Security Council reform on November 18-20. frameworks and modalities for continued discussions of Security Council reform. The Group of Four (G-4: Germany, Japan, Brazil, India) and their supporters, frustrated by the lack of progress in the OEWG, called for immediate commencement of intergovernmental negotiations in informal plenary sessions of the General Assembly. However, the Uniting for Consensus group (UFC: led by Italy, South Korea, Mexico, and Pakistan) and others continued to insist that all discussions of the issue remain within the framework of the OEWG. On September 15, the last day of the 62nd UN General Assembly, General Assembly President Srgjan Kerim (Macedonia) crafted a compromise calling for an end to OEWG deliberations by January 31, 2009, and the start of intergovernmental negotiations no later than February 28, 2009. This was written into Decision 62/557, which the General Assembly passed by consensus, with the United States joining.

However, the debate over frameworks and modalities continued. In October, 63rd General Assembly President Miguel D'Escoto Brockmann (Nicaragua) called for the start of intergovernmental negotiations on November 21, to be chaired by the Afghan Permanent Representative Zahir Tanin. Much of the membership, including the United States, called on President D'Escoto to follow the spirit of Decision 62/557 and commence intergovernmental negotiations in February, which he agreed to do. In the meantime, three OEWG meetings on November 11, November 17, and December 5 continued to focus on modalities for negotiations, with the UFC calling for documented guiding negotiating principles and the G-4 stating that Decision 62/557 was sufficient for this purpose.

Member states also continued to debate the substantive issues regarding Security Council reform. The debates demonstrated continued widespread interest among UN members in Security Council reform, including expansion, although they also highlighted significant differences regarding the number of new members, whether the new members should be nonpermanent or permanent, and whether any new permanent members should be extended the right of the veto. Member states also differed over an "interim solution," whereby additional nonpermanent members could be elected for longer terms than the current two years, with a review mechanism at the end of the period to consider their possible permanent membership.