S. Hrg. 109–957

U.N. HEADQUARTERS RENOVATION: NO ACCOUNTABILITY WITHOUT TRANSPARENCY

HEARING

BEFORE THE

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JUNE 20, 2006

Available via http://www.access.gpo.gov/congress/senate

Printed for the use of the Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

29–504 PDF WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

SUSAN M. COLLINS, Maine, *Chairman*

TED STEVENS, Alaska
GEORGE V. VOINOVICH, Ohio
NORM COLEMAN, Minnesota
TOM COBURN, Oklahoma
LINCOLN D. CHAFEE, Rhode Island
ROBERT F. BENNETT, Utah
PETE V. DOMENICI, New Mexico
JOHN W. WARNER, Virginia

JOSEPH I. LIEBERMAN, Connecticut
CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
THOMAS R. CARPER, Delaware
MARK DAYTON, Minnesota
FRANK LAUTENBERG, New Jersey
MARK PRYOR, Arkansas

MICHAEL D. BOPP, *Staff Director and Chief Counsel*
MICHAEL L. ALEXANDER, *Minority Staff Director*
TRINA DRIESSNACK TYRER, *Chief Clerk*

FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE

TOM COBURN, Oklahoma, *Chairman*

TED STEVENS, Alaska
GEORGE V. VOINOVICH, Ohio
LINCOLN D. CHAFEE, Rhode Island
ROBERT F. BENNETT, Utah
PETE V. DOMENICI, New Mexico
JOHN W. WARNER, Virginia

THOMAS CARPER, Delaware
CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
MARK DAYTON, Minnesota
FRANK LAUTENBERG, New Jersey
MARK PRYOR, Arkansas

KATY FRENCH, *Staff Director*
SHEILA MURPHY, *Minority Staff Director*
JOHN KILVINGTON, *Minority Deputy Staff Director*
LIZ SCRANTON, *Chief Clerk*

CONTENTS

	Page
Opening statements:	
Senator Coburn	1
Senator Collins	6
Prepared statement:	
Senator Carper	33

WITNESSES

TUESDAY, JUNE 20, 2006

Hon. John R. Bolton, U.S. Permanent Representative to the United Nations	8
Anne Bayefsky, Senior Fellow, Hudson Institute; Professor, Touro Law Center; and Editor, www.EYEontheUN.org	16
Claudia Rosett, Journalist-in-Residence, The Foundation for the Defense of Democracies	19
Thomas Melito, Director, International Affairs and Trade, U.S. Government Accountability Office	22

ALPHABETICAL LIST OF WITNESSES

Bayefsky, Anne:	
Testimony	16
Prepared statement	41
Bolton, Hon. John R.:	
Testimony	8
Prepared statement	34
Melito, Thomas:	
Testimony	22
Prepared statement	74
Rosett, Claudia:	
Testimony	19
Prepared statement	65

APPENDIX

Chart entitled "Capital Master Plan Funding (in millions)"	94
Chart entitled "Capital Master Plan"	95
Questions and responses for the Record from:	
Mr. Bolton	96
Ms. Bayefsky	103
Mr. Melito	104

U.N. HEADQUARTERS RENOVATION: NO ACCOUNTABILITY WITHOUT TRANSPARENCY

TUESDAY, JUNE 20, 2006

U.S. SENATE,
SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT,
GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Tom Coburn, Chairman of the Subcommittee, presiding.

Present: Senators Coburn and Collins.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. The Subcommittee on Federal Financial Management of the Governmental Affairs and Homeland Security Committee will now come to order.

I would announce at this time that the Senate has scheduled two votes at 2:45 p.m. We will make every effort to get through with our first panel, and then hold thereafter, and then vote, and then come back and resume.

Less than a year ago, we had a hearing on this same topic concerning the $1.2 billion renovation fee concerning the United Nations Headquarters in New York City. Since that time, the price of the proposal, referred to as the capital master plan, has increased in price by 45 percent, is now at $1.7 million, and it comes in at almost $700 per square foot for renovation.[1]

To put it in perspective, the Ronald Reagan Building in Washington, DC, ground, land, every cost associated with it cost $263 a square foot. As you can see on our poster transparencies, the first principle of accountability, it has been almost impossible to get an itemized accounting on the money that has been spent thus far, as well as the cost projections that are coming from that.

I would give credit to Fritz Reuter, in terms of the work he has done on materials, and costs associated with that. The people who have been advising this Subcommittee has felt that he has done a marvelous job in terms of his assessment of that. He pointed out, in addition to the already astronomical price, there are hidden execution costs that the United Nations has yet to consider.

[1] The chart entitled "Capitol Master Plan Funding (in millions) appears in the Appendix on page 94.

For example, there is no plan for the increased flow of traffic for security for hundreds of security workers. There is no plan for setting up a base of operations within the limited grounds areas. And there are no plans for inevitable delays in the nature of floor-by-floor renovations.

In short, there is a lot missing from the proposal that could cause the project to take up to three times as long and cost at least twice as much. Even if the capital master plan price tag remains constant, and that is a big if, the U.S. share of the cost is going to be a half a billion dollars. That is on top of the regular dues of $423 million annually, plus all special contributions on the order of $2.4 billion. What is more, the United Nations is putting the cart before the horse a little bit. Despite the fact that the U.N. General Assembly has yet to formally approve the renovation proposal, the U.N. Budget Committee has gone ahead and asked for another $100 million to start the project.

Even if the capital master plan is workable, it will still be carried out by the same system that is responsible for the Oil-for-Food scandal, the largest financial scandal in history. Not one thing has changed in the U.N. procurement system since the world learned about the horrific and criminal misuse of funds intended to feed and medicate desperate Iraqis suffering under Saddam Hussein. Instead, the funds were diverted to kickbacks, illegal oil vouchers, corrupt officials, Saddam's palaces and cronies, and a slew of U.N. officials and vendors.

You would expect with revelations of this nature, the United Nations would have fired those responsible, that all involved would have been indicted and prosecuted, and that massive reform would have been undertaken internally. Instead, the United Nations has not changed anything about how it does its business.

The United Nations has not fired anyone responsible for the massive abuse of power, and global taxpayer dollars associated with the Oil-for-Food program. To make matters worse, recent media reports and internal U.N. audits suggest the entire U.N. procurement system is plagued by corruption. In fact, as of last month, some of the vendors involved in the unfolding scandal are still doing business with the United Nations. Incredibly, a majority of the U.N. Member States have dug in to maintain the inexcusable status quo. Ironically, on the same day in April when the U.N. Budget Committee authorized more spending on the renovation project, the committee also voted down Secretary Kofi Annan's very modest and meager reform package.

I note that the countries who voted down these reforms contribute 12 percent of the U.N. budget. The 50 nations who voted for the reforms contribute 87 percent. Those of us who pay most of the bills were outvoted by those who contribute much less to U.N. operations.

And yet, some of these developing countries are the very ones that are most dependent on U.N. programs and who, in theory, should most want efficient, transparent, effective, and honest United Nations operations. For planning, design, and pre-construction of the renovation project, the United Nations has appropriated $152 million, and spent $36 million to date. It has been impossible to find out where that money has been spent.

We were here last year asking the same questions about the $20 million or so that was supposedly spent on planning and design. We have now spent twice that and we cannot get access to the contracts, the actual outlay, the disbursements, telling us what we bought for this money.

I would note that all industry experts tell us that planning and design should never exceed 6 percent of the total cost of the budget. We are at that. And we are not anywhere near beginning.

Lack of transparency with spending on the capital master plan is only an example. From the little we do know from leaked audit documents and investigative reporting, internal U.N. auditors themselves have complained that the lack of transparency in procurement and management is leading to gross problems and waste, fraud, and other criminal activity.

They have found that nearly a third of the $1 billion in contracts that they looked at—they only looked at $1 billion—was lost to mismanagement and corruption. The equivalent of the entire U.S. portion of this procurement was lost to corruption. If we could save our peacekeeping donations to this waste and fraud in just 2 years, it would more than fund the U.S. portion of the capital master plan.

Thanks in large part to our witness, Ambassador John Bolton, we have a window of opportunity to bring about reform in the United Nations. The Ambassador and our allies insist that the United Nations adopt important reforms before the entire biannual budget is approved. The deadline is fast approaching when the money will run out, and instead of passing the reforms required to improve the rest of the budget, the United Nations has voted down the reforms.

Mr. Ambassador, I have to tell you, I am not sure how I can go back to Oklahoma and tell the people that we should just let it go and send more of their hard earned money to a system that is plagued by corruption, waste, and fraud.

Monday, I traveled to the United Nations and met with Representatives from G–77 countries, including Chile, Egypt, India, Pakistan, Singapore, and Thailand. When I made the case for full transparency within the entire U.N. system, something similar to the Freedom of Information Act, and online availability of contracts, each of these Representatives wholeheartedly agreed that the United Nations must become transparent.

This position was especially heartening, considering that the G–77 represents the overwhelming majority of the U.N. Budget Committee where such changes originate. On this same trip, I met with U.N. Deputy Secretary, General Mark Malloch Brown. Mr. Brown not only fully endorsed my call for transparency, but he also stated that he believes that the United Nations is well on its why to this type of accountability.

Before I traveled to the United Nations, I met with the Ambassadors of the top donors of the United Nations, Japan, Germany, and Great Britain. These countries, combined with the United States, contribute over 56 percent of the operating budget, and each represented and agreed that the United Nations must become transparent.

With such overwhelming agreement from the U.N. Secretariat, the top U.N. contributors, and key representative of the largest block of the United Nations, it is possible to immediately enact a resolution that would completely bring a full and complete transparency to the United Nations.

I hope that officials that I met with are true to their word at next week's U.N. budget meeting. And despite the possibility that reforms are undermined again, it will, at the very least, enact some type of freedom of information.

Without full transparency, there will never be full accountability at the United Nations. There is a rumble growing outside of Washington. People are fed up with this Congress, writing blank checks and not demanding performance and accountability. American people are demanding that elected officials safeguard their money better than we have done thus far.

Today, a year after our hearing on this topic, there has been a little bit of improvement on transparency, for how money gets spent. The U.S. taxpayer is the largest donor to the United Nations, and Congress must demand the following: First post every contract and disbursement related to every contract for the capital master plan on a publicly accessible website.

Second, publicly commit to and begin working on expanding that level of transparency to all U.N. contracts, grants, and internal procurement.

Once we see a commitment to transparency, we can talk about approving the capital master plan and the rest of the U.N. budget. We are not even asking it for reform, or to clean up the mess, or prosecution of corrupt individuals or vendors at this point. All that we expect to come.

All that we are asking today is for sunshine. Transparency, opening up the books so that the public, the press, the Member States, and the United Nations itself can see and know what is going on.

In my field of medicine, we cannot treat a disease until we diagnose it. That is just the first step. And without this fundamental commitment to accountability, Americans and indeed, all global taxpayers cannot, in good conscience, continue writing blank checks to the U.N. system.

We will work with the U.N. Appropriations Committee as well in the future. I want to thank all of the witnesses to being here today, and I look forward to hearing your testimony, and I would recognize now our Chairman of our full Committee, the Hon. Senator Collins.

[The prepared statement of Senator Coburn follows:]

PREPARED STATEMENT OF SENATOR COBURN

Last July, this subcommittee held a hearing concerning the then $1.2 billion renovation proposal for the United Nations headquarters in New York City. Since that hearing, the price of the proposal, referred to as the Capital Master Plan, has grown 45 percent and is now priced at $1.7 billion. For a worksite that is over 2.5 million square feet, this would be $697/sq. ft. To put this into perspective, the Ronald Reagan Building here in Washington, DC only cost $263/sq. ft., but this was for a brand new building—not what should be a cheaper renovation.

As you can see on our poster, transparency is the first principle of accountability. It has been almost impossible to get an itemized accounting for where these cost projections come from. So I have sought advice from construction experts in New York City to get their take on the project. They have pointed out that, in addition

to the already astronomical price tag, there are hidden execution costs that the United Nations has yet to consider. For example, there is no plan for the increased flow of traffic through security for the hundreds of construction workers, there is no plan for setting up a base of operations within the limited grounds area, and there is no plan for inevitable delays due to the nature of floor-by-floor renovations. In short, there is a lot missing from the current proposal that could cause the project to take up to 3 times as long to complete at a cost many times higher than the current $1.7 billion price tag.

Even if the Capital Master Plan's price tag remains constant—and that's a big "if"—the U.S. share of the cost would be $485 million. That's on top of regular dues of $423 million annually plus all the special contributions, on the order of $2.4 billion. What's more, the United Nations is putting the cart before the horse a bit—despite the fact the U.N. General Assembly has yet to formally approve the renovation proposal, the U.N. budget committee has gone ahead and asked for another hundred million dollars to start the project.

Even if the Capital Master Plan were workable—it will still be carried out by the same system responsible for the Oil for Food scandal—the largest financial scandal in history. Not one thing has changed in the U.N. procurement system since the world learned about the horrific and criminal misuse of funds intended to feed and medicate desperate Iraqis suffering under Saddam Hussein. Instead, the funds were diverted to kickbacks, illegal oil vouchers, corrupt officials, Saddam's palaces and cronies, and a slew of U.N. officials and vendors.

You would expect with revelations of this nature, the United Nations would have fired those responsible, that all involved would have been indicted and prosecuted and that massive reform would have been undertaken internally. Instead, the United Nations has not changed a thing about how it does business. Not a thing. The United Nations has not fired anyone responsible for the massive abuse of power and global taxpayer dollars associated with the Oil For Food program. To make matters worse, recent media reports and internal U.N. audits suggest the entire U.N. procurement system is plagued by corruption. In fact, as of last month, some of the vendors involved in the unfolding scandal are still doing business with the United Nations.

Incredibly, a majority of U.N. member states have "dug in" to maintain the inexcusable status quo. Ironically, on the same day in April when the U.N. Budget Committee authorized more spending on the renovation project, the committee also voted down Secretary General Kofi Annan's modest management reform package. I note that the countries who voted down these reforms contribute 12 percent of the U.N. budget. The 50 nations that voted for the reforms contribute 87 percent. Those of us paying most of the bills were outvoted by those who contribute much less to U.N. operations. And yet some of these developing countries are the very same ones most dependent on U.N. programs, and who in theory should most want efficient, transparent, effective and honest United Nations operations.

For planning, design, and pre-construction of the renovation project, the United Nations has appropriated $152 million and spent $36 million to date. You would not believe how difficult it is to find out how that money has been spent. We were here last year, asking the same questions about the then-$20 million or so which was supposedly spent on planning and design. Now it's twice that, still being spent on planning and design, and we can't get access to the contracts, the actual outlays and disbursements telling us what we bought for this money. I note that industry experts tell us, as they told us a year ago, that design work should cost no more than 6 percent.

Lack of transparency with spending on the Capital Master Plan is only an example. From the little we do know through leaked audit documents and investigative reporting, internal U.N. auditors themselves have complained that the lack of transparency in procurement and management is leading to gross problems with waste, fraud, and other criminal activity. They found that nearly a third of the $1 billion in contracts that they reviewed was lost to mismanagement and corruption—the equivalent of the entire U.S.-paid portion of this procurement was lost to corruption. If we could save our peacekeeping donations from this waste and fraud for just two years, it would more than fund the U.S. portion of the Capital Master Plan.

Thanks in large part to the hard work of our witness, Ambassador John Bolton, we have a window of opportunity to bring reforms. The Ambassador and our allies insisted that the United Nations adopt important reforms before the entire biennial budget is approved. The deadline is fast approaching when the money will run out, and instead of passing the reforms required to approve the rest of the budget, the United Nations has voted DOWN the reforms. I have to tell you, Mr. Ambassador, I'm not sure how I go back to Oklahoma and tell people that we should just let that go, and send more of their hard-earned money into a black hole.

Last Monday, I traveled to the United Nations and met with representatives from G77 countries including Chile, Egypt, India, Pakistan, Singapore and Thailand. When I made the case for full transparency within the entire U.N. system—similar to the Freedom of Information Act here in the United States—each of these representatives wholeheartedly agreed that the United Nations must become transparent. This admission was especially heartening considering the G77 represents the overwhelming majority on the U.N. budget committee where such changes originate.

On this same trip, I also met with U.N. Deputy Secretary-General Mark Malloch Brown. Mr. Brown not only fully endorsed my call for transparency, but he also stated that he believes the United Nations is well on its way to this type of accountability. Furthermore, before I traveled to the United Nations, I met with the ambassadors of top donors to the United Nations—Japan, Germany, and Great Britain. These countries, combined with the United States, contribute over 56 percent of the U.N. operating budget, and each representative agreed that the United Nations must become transparent.

With such overwhelming agreement from the U.N. Secretariat, the top U.N. contributors, and key representatives of the largest voting block at the United Nations, it is possible to immediately enact a resolution that would bring complete transparency to the United Nations—a Freedom of Information resolution where member states, the press, and the general public have the right and ability to see exactly how the U.N. system is spending its money and conducting its business. I hope that the officials I met with are true to their word in next week's U.N. budget meetings and, despite the possibility that reforms are undermined again, will at the very least enact a Freedom of Information resolution.

Without full transparency, there will never be accountability at the United Nations. There is a rumble growing outside the Beltway. People are fed up with Congress writing blank checks and not demanding performance and accountability. American people are demanding that their elected officials safeguard their money better than we have been. Today, a year after our first hearing on this topic, there has been little improvement in transparency for how money gets spent. The United States tax payer is the largest donor to the United Nations, and Congress must demand the following:

- First, post every contract and disbursement related to every contract for the Capital Master Plan on a publicly-accessible web site.
- Second, publicly commit to and begin work on expanding that level of transparency to all U.N. contracts, grants, and internal procurement.

Once we see a commitment to transparency, we can talk about approving the Capital Master Plan and the rest of the U.N. budget. We're not even asking yet for a reform or clean-up of the mess or prosecutions of corrupt individuals or vendors at this point—although we expect that to come. All we're asking for today is sunshine—opening up the books so that the public, the press, Member States and even the United Nations, itself, can see what is going on.

In my field of medicine, we can't treat a disease until we diagnose it. This is just a first step, and without this fundamental commitment to accountability, Americans, and indeed, all global taxpayers, can not, in good conscience, continue writing blank checks to the U.N. system. We will be working with the Appropriations Committee on this problem as well. I want to thank all the witnesses for being with us here today. I look forward to hearing your testimony.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. First, let me thank you for convening this hearing today and giving us the opportunity to further examine how American tax dollars are being spent and, in some cases, misspent, by the United Nations.

Given that the United States contributes so much to the U.N. budget, it is our responsibility to continually push for management reforms and transparency in U.N. processes and spending.

Senator Coburn, I know that you share my fondness for Justice Brandeis' quote about "sunshine being the best disinfectant." And I think that the work that you are doing is trying to shine more light into the dark corners of the United Nations. I hope that this hearing will help keep the pressure on the United Nations to be

more transparent in its actions because a lack of transparency and a lack of oversight provide fertile ground for waste, corruption, and scandal, which will in turn further undermine the credibility of the United Nations at a time when we need to work to restore it.

Let me indicate that I understand that the 54-year-old headquarters is badly in need of renovation. That is not the issue. I know that it is riddled with asbestos, that it lacks fire detectors, a sprinkler system, and other emergency safety devices. I know the United Nations has been working for some 6 years on a renovation plan for the building. But I am very concerned about the escalation of cost and I am particularly concerned by the Subcommittee's findings that the square foot cost for the U.N. renovation is in the neighborhood of $697 per square foot, nearly three times the cost per square foot of building new State Department offices across the street from the U.N. building in New York.

I am also concerned when I hear well-known developers tell us that the U.N. renovations can be accomplished at a fraction of the current cost estimate. So those are very troubling to me. I do not dispute that the building is in need of substantial renovations, but I am very troubled when I hear of escalating, apparently out of control, cost estimates, the difficulty in finding out exactly what is going on, which the Chairman has alluded to, and the fact that the cost estimates seem so high when compared to other building projects.

So, I very much appreciate that the Ambassador is here personally today to shed some light on these very troubling issues. And I commend you, Mr. Chairman for pursuing this issue.

[The prepared statement of Senator Collins follows:]

OPENING STATEMENT OF SENATOR COLLINS

Senator Coburn and Senator Carper, I would like to thank you for convening this hearing today, giving us an opportunity to further examine how American tax dollars are spent—and sometimes misspent—by the United Nations. Given that the United States contributes so much to the United Nation's budget, it is our responsibility to continually push for management reforms and transparency in U.N. processes and spending.

Senator Coburn, I know you share my fondness for Justice Brandeis' quote that a little "sunshine is the best disinfectant." I appreciate the work from you and Senator Carper in trying to shine more light in the dark corners of the United Nations.

I hope that this hearing will help keep pressure on the United Nations to be more transparent in its actions, because a lack of transparency and oversight provides fertile ground for corruption and scandal, which will further undermine the credibility of the United Nations, rather than restore it.

Let me indicate that I understand the United Nations headquarters is badly in need of renovation. I know that it is riddled with asbestos, and that it lacks fire detectors, a sprinkler system, and other emergency safety devices. I know the United Nations has been working on a renovation plan. But I am very concerned about the escalation of cost. I do not dispute that the building is in need of substantial renovations, but I am very troubled when I hear of escalating cost estimates, the difficulty in finding out exactly what is going on, and the fact that the cost estimates seem so high when compared to other building projects.

I thank you again for holding this hearing. I look forward to the light our witnesses can shine on management practices at the United Nations, particularly concerning the renovation of the U.N. headquarters.

Senator COBURN. Thank you, Senator Collins. I should make something clear. It has been stated that Secretary Mark Malloch Brown stated that Americans do not value the positive contribu-

tions that the United Nations makes. Nothing could be further from the truth.

We recognize this, but that is not an excuse to not ask that our money be spent wisely, appropriately, so that the things that the United Nations can do, in terms of making a difference in millions of peoples lives all over the world, will be more effective. And so that statement I took both personally as in error, but also somewhat insulting to the people of this country. We want the United Nations to be effective. We value its purposes and its goals.

Let me introduce our first witness, Ambassador John Bolton was appointed by President Bush as the U.S. Permanent Representative to the United Nations on August 1, 2005. Prior to his appointment, he served as Under Secretary for Arms Control and International Security from May 2001, to May 2005.

He spent many years of his career in public service with the Departments of State and Justice, as well as the USAID.

Ambassador Bolton, we welcome you to the Subcommittee. As I said, we will try to get through with your testimony and you are now recognized.

TESTIMONY OF THE HON. JOHN R. BOLTON,[1] U.S. PERMANENT REPRESENTATIVE TO THE UNITED NATIONS

Ambassador BOLTON. Thank you very much, Mr. Chairman, for holding this hearing today, and the opportunity to testify today and Madam Chairman, I appreciate your coming by, as well.

Mr. Chairman, I have a written statement, if I could submit that for the record, and try and summarize it.

I have to say, starting off, that I am very pleased with your chart up there, starting with the word accountability and going down through transparency and some of the other words that are exactly what we have in mind for our overall U.N. reform program, and I appreciate the Committee's and the Subcommittee's interest in the subject because it is entirely legitimate and we welcome the oversight and scrutiny that we get in support of this reform effort.

Specifically, today, with respect to the capital master plan, there is no question that the existing U.N. buildings are in need of renovation. They do not meet the health and safety and fire standards that are required of other buildings in the State of New York, 4,300 people, roughly, work in the complex, and there are some 300,000 tourists a year that go through, 40 percent of them are Americans. So, I think the case is made for the renovation. We are the U.N. largest contributor. We are the host country, so we have a lot of direct interest in insuring that what the United Nations calls the capital master plan, which is the name for the renovation, is carried out expeditiously and in a cost effective and transparent manner.

The U.N. General Assembly is currently debating a number of proposed strategies as to how to accomplish the renovation of the existing buildings and we favor what is called Strategy IV, which involves building a temporary structure on the North Lawn of the U.N. Building and premises, so that the renovation of the office

[1] The prepared statement of Ambassador Bolton appears in the Appendix on page 34.

building and the conference space can be accomplished several floors at a time over a defined period.

The estimate, as you said, for this Strategy IV, is approximately $1.8 billion, which we would bear 22 percent. What we did in evaluating the United Nations estimates was set up a U.S. Government-wide task force with representatives from the State Department, including the overseas building office, which is the entity within the State Department which has expertise on these matters, to evaluate the estimates and the task force's conclusion was that option 4 was the option to support.

Now, we have worked within the General Assembly to try and provide the initial funds that the United Nations has needed to begin pre-construction work on the renovation. Approximately $20 million has been spent from the funds authorized by the General Assembly last month. Before further expenditure is allowed we think we need a decision from the General Assembly on which strategy to pursue.

Our sense, as of this day, and literally, the Fifth Committee is meeting this week on this subject, but our sense as of today is that Strategy IV will be the one that is accepted. What we can and will do during the implementation of the renovation is to watch closely how the process unfolds, work with experts in our overseas building office and Members of Congress to try and provide the kind of transparency that I think would be necessary to insure that estimate is not exceeded.

And that is a concern that we have and that we have expressed because we feel that it is important to try and accomplish this work in a cost effective manner. It is also, I might say, Mr. Chairman, consistent with our overall U.N. reform efforts. We are in the middle, right now, of a substantial effort on both management reform and on reviewing all of the U.N. actual programs, the so-called mandate review.

We have not had success, to date, in the management reform area. A number of reforms, as I think you mentioned, proposed by the Secretary-General were defeated in a vote by the Fifth Committee a few months ago. But we continue to reach out to the countries within the G–77. We think that this is important to try and explain to them that reform is not simply a U.S. interest, but that it is in the interest of all of the member governments of the United Nations, because if the organization can become more effective, more efficient, more agile, more able to deal with contemporary problems, we and other countries are more likely to turn to it for the solution of those problems.

We have also reached out in some unprecedented directions to try and get a better understanding on how these reforms will play out. Last week, I met with the leadership of the United Nations Staff Union, the first time to our knowledge that an American Ambassador has met with representatives at the Staff Union. They had some very interesting things to say that tied directly into concerns that we had about procurement reform and the like.

The Staff Union is very concerned that the new whistle blower protection regulations and the new ethics office that has been created by the Secretary are not sufficient to provide real protection for potential whistle blowers. And the point they made was entirely

congruent with our own thinking, and I think the thinking of the Committee and the Subcommittee, is that, at bottom, the problem with the procedure is that there simply is not enough transparency to protect U.N. Staff employees who might come forward with whistle blowing kinds of suggestions.

The reforms that we are talking about are far reaching, there is no question about it. But let me just read, very briefly, a couple of sentences from Secretary-General Kofi Annan that I think exactly summarize our views. The Secretary-General, in presenting his management reform suggestion, said, "The earlier reforms address the symptoms more than the causes, of our shortcomings. It is now time to reach for deeper, more fundamental change. What is needed, and what we now have a precious opportunity to undertake, is a radical overhaul of the entire Secretariat—its rules, its structures, its systems—to bring it more in line with today's realities, and enable it to perform the new kinds of operations that Member States now ask expect of it."

That is a very good statement of the U.S. position, Mr. Chairman, because of the importance that we see in that kind of radical overhaul of the entire Secretariat. And I will just close with one area of particular interest to us, and that is strengthening the independence and capabilities of the Office of Internal Oversight Services at the United Nations (OIOS), which was set up in the early 1990's as a result of then Under Secretary-General Dick Thornburgh's work. He was trying, as President Bush 41, last high appointment in the U.N. system trying to create an Inspector General for the United Nations, something that we are all familiar with in the U.S. Government. He was not able, despite really Herculean efforts, to get a truly independent inspector general's office. OIOS is what has resulted and it is this office that we are going to try and improve, strengthen and make more independent.

Now, I will just read to you the estimate of David Walker, the Controller General of the United States of the GAO's assessment of the OIOS because I think this is important. The Controller General said, U.N. funding arrangements constrain OIOS's ability to operate independently as mandated by the General Assembly and required by international auditing standards OIOS has adopted. OIOS depends on the resources of the funds of the entities that it audits. The managers of these programs can deny OIOS permission to perform work, or not pay OIOS for services. U.N. entities could thus avoid OIOS audits and investigations and high-risk areas can be and have been excluded from timely examination.

This is exactly the kind of problem identified by Paul Volcker in his role as an independent Commissioner examining the mismanagement and corruption found in the Oil-for-Food program. We think these are very necessary reforms that are needed generally, but I think would be particular helpful as the capital master plan unfolds in its implementation.

Thank you very much, Mr. Chairman, Senator Collins. I would be very pleased to try and answer any questions you may have.

Senator COBURN. Well, let us talk about OIOS for a minute, and in fact, it makes the presentation that it is an auditing agency, but it is at the mercy of whoever it audits; is that correct?

Ambassador BOLTON. That is essentially our conclusion. We think it really needs to be made independent, like inspector general offices are. I have seen, I can tell you of my own personal knowledge, examples of senior U.N. administrators who have blocked OIOS investigations and they have argued, well, you are interfering with our ongoing operations.

I think there is a legitimate concern that operations not be interfered with, but there is no legitimacy to saying that OIOS cannot investigate allegations of mismanagement or corruption and that is something that needs to be instilled throughout the U.N. system.

Senator COBURN. Is there anybody that you talked with in the United Nations that will verbalize the reason why they might object to sunshine and transparency on the operations of the United Nations?

Ambassador BOLTON. Well, I think nobody would say so in so many words. Nobody would say, we want to do all of this in the dark. But I think the unspoken obstacle that we find is that we are talking about practices that have built up over a 60-year period. None of this happened overnight. It is a way of operating that has been essentially without significant external oversight and transparency for a very long period of time.

For example, a number of people have commented that the investigation that former Federal Reserve Chairman Paul Volcker did of the Oil-for-Food program overstated the extent of the problem because after all, what happened in the Oil-for-Food program was not untypical of the way other U.N. programs are managed. And I think that is true, and that is Chairman Volcker's central insight.

Senator COBURN. Well, that is very telling.

Ambassador BOLTON. Exactly.

Senator COBURN. Because if you are comparing to a very low standard, that it is not very surprising that nobody is reacting to it the way we are.

Ambassador BOLTON. The most important think Chairman Volcker said was that the problems, the mismanagement and the corruptions of the Oil-for-Food program did not begin with the Oil-for-Food program. They reflect practices and personnel that came from the central U.N. system and therefore, reform from Chairman Volcker's point of view was not simply fixing some problems from the Oil-for-Food program, but went directly to changes that needed to be made in the central U.N. management structure. And we concur with Chairman Volcker's analysis.

Senator COBURN. Well, how does that fit with the billion dollars audited on peacekeeping operations where they found a third of it was on waste, fraud, and abuse?

Ambassador BOLTON. Well, this is a significant study, and this was an OIOS study. It was fairly limited, actually. It considered a little bit over a billion dollars worth of contracts over a 5-year period—just concluded—and if you add up the OIOS conclusions about fraud, waste, mismanagement, and effective spending, the range that they came up with out of that roughly one billion dollars of expenditures was somewhere between $268 and $310 million. And, as you pointed out in your opening statement, U.S. share of peacekeeping expenses is 27 percent. So, 27 percent of a billion dollars is $270 million, which means that the potential area of waste,

fraud, and abuse is exactly equal to the entire American contribution.

It is a hard point to make to American taxpayers that our 27 percent somehow got wasted. Now, there are various responses that have been made to OIOS. And look, they are not perfect any more than any other inspector general office in the U.S. system is. If people have different information, I think they should bring it forward and we can debate it. But whether it is $268 million, or maybe it was just $258 million that was potentially misspent, this is a significant amount of money.

One of the highest U.S. priorities is peacekeeping, so this is a matter of considerable concern to us, and I think appropriately so.

Senator COBURN. Ambassador Bolton, does anybody have any idea what the total budget is for the United Nations?

Ambassador BOLTON. Well, there are ways of looking at the various agencies and components of the U.N. system and trying to aggregate their budgets, but even the United Nations, itself, would tell you, even the central U.N. financial office would tell you that they cannot give you a total figure. An analogous problem is that we cannot give you a total figure on what the U.S. contributions to the various—to the U.N. system as a whole as we can define. And, in some cases, the assessed contributions and the voluntary contributions funded under the 150 accounts—but because many departments of the U.S. Government make their own contributions separately and aggregated those contributions into one number—I am not aware at the moment that we have such an aggregate number.

Senator COBURN. I would just advise you that this Subcommittee has already asked the GAO for that. We are going to have that and we are going to know what it is.

Ambassador BOLTON. I would be very interested to know myself. Senator Coburn. I think it is just symbolic of the problems that nobody can ask you anywhere in the United Nations what the budget is for the United Nations. Nobody knows, and you cannot run any organization if somebody is not in charge and somebody does not know what the budget is.

I am going to defer, for a moment, to the Chairman of my full Committee, Senator Collins.

Senator COLLINS. Well, I just want to second your comment about the overall budget. The only other entity that the Federal Government devotes considerable resources to and the budget is not made public is for our intelligence agencies, and I would argue that the aggregate number for that should be made public to promote more accountability.

I want to return, Mr. Ambassador, to the issue of the OIOS because that is supposed to be the U.N. equivalent of an inspector general. The Inspectors General throughout the Federal Government are the watchdogs for waste, fraud, and abuse. It seems to me what you have at the United Nations is a watchdog that is toothless, that has to get permission in order to investigate an act. And indeed, your written statement is even stronger than your oral testimony. You describe the office as itself becoming part of this opaque and inbred system.

What specifically is the U.S. mission doing to promote true independence for the OIOS?

Ambassador BOLTON. There are several aspects, Senator. The first is that its budget has to be independent. It cannot go to the programs that it wants to inspect or audit and ask that its operations be funded.

Second, it needs to be able, when it requires documents, computer disks, interviews with personnel, it needs to be able to get access to that information.

Third, it needs to be able to operate without command influence from higher U.N. management, and I can say, I have been a senior official to a number of government departments, IG inspections can be difficult and people recognize that, but unless the inspector general can really operate independently, if top management can sit on their request, they are never going to be able to succeed.

So, there are a range of things that we are trying to do. We have tried to promote more open access for the Under Secretary-General who is in charge of the office. And I just give you one example of how that has been frustrated when the Under Secretary was President of the Security Council in February, I invited Under Secretary-General Ahlenius to come and tell us about the audit on the procurement fraud and the then Chief of Staff, Mark Malloch Brown, now Deputy Secretary-General, prevented her from speaking to the Security Council. I was quite concerned about that. I remain quite concerned about that.

We, the members of the United Nations, the governments, the people who are paying the bills, should have direct access to OIOS reports and personnel so that we can understand better what the problems are so that we can try to fix the problems.

Senator COLLINS. I hope that you will continue to push on that. I cannot help but think that if the United Nations had an independent IG, a real IG, that the Oil-for-Food scandal would have been discovered a lot sooner and that a lot of the procurement abuses also would have been detected earlier.

So, I think this has to be a priority. In some ways, having an office that supposedly is the watchdog, but in fact is beholden to the people in the programs it investigates, is almost worse than nothing because it creates the appearance that is totally at odds with reality.

Ambassador BOLTON. I agree with you entirely. I think that is a real problem. I do not think it benefits the United Nations not to have a fully independent OIOS or inspector general, whatever one might want to call it.

No institution is perfect. The U.S. Government certainly is not perfect. The IG offices perform an important function and it may cause some temporary embarrassment to individual employees who are not doing their jobs. But again, for the member governments, and this is a member government organization. This is not for the benefit of the Secretariat, we need these kinds of tools.

We need other things that, for example, Chairman Volcker recommended, a really effective outside auditing capability, able to go in and oversee the existing internal audits and insure that the audit function is being carried out in a responsible fashion. These are not oppressive changes. They are changes that I think most

people looking at any large organization would say are the absolute minimum that should be accomplished.

Senator COLLINS. Is the OIOS looking at the cost growth in the renovations planned, and why the cost per square foot is so much higher than for what appears to be comparable renovation projects?

Ambassador BOLTON. I am not aware that they are looking into it. Their mandate so far has been simply looking at things that have already occurred, as opposed to more forward-looking kinds of investigations. But again, as we have seen, inspector generals can come up with all kinds of useful recommendations on reorganizations, restructurings of our cabinet departments, and I think a more independent OIOS could engage in some of these broader, more helpful activities.

Senator COLLINS. I agree. Thank you, Mr. Chairman.

Senator COBURN. I would just note for the record that it took an outside reporter to discover the Oil-for-Food scandal. It was not discovered within—and that is one of our witnesses today.

Ambassador, should it be the U.S. position, in terms of funding the capital master plan, that there ought to be transparency and accountability and competitive bidding on this project?

Ambassador BOLTON. I think we ought to be able to find a way to do this. I have heard from many people in New York, and I would say that they undoubtedly have commercial interests of their own, but any number of people who say this could be done in different, more efficient, lower cost ways.

Now, one of the reasons we turned to our overseas building office in the State Department is that they do have expertise in this matter, but I think that we need to keep them engaged. I hope we can keep them engaged over the life of the renovation so that the costs do not escalate.

With Mr. Reuter departing, I think that is an unfortunate circumstance. Probably good for him personally but unfortunate for the organization. And I think that it is important that Chris Burnham, who is doing, in my view, an outstanding job as Under Secretary-General for Management, gets support from us and other major contributors to keep a tight rein for expenditures on the project.

If the transparency were demonstrated, I think there would be confidence that if the program did run into difficulties that it was not through malfeasance or corruption, but that the difficulties were legitimate. So, I think it would strengthen support of the project to have it open and transparent.

Senator COBURN. At the end of this month, the budget cap is probably going to come up for debate as our position that we are going to take in terms of increasing the OIOS office. Are the things that we are going to be demanding happen if this thing ends up being released? Are we going to make any progress, and how are we going to get there?

Ambassador BOLTON. Well, we are down really to a few days before the likely effectiveness of the budget cap. The European Union, Japan, and the United States have expressed very similar views on how we see this playing out. We all said it at a meeting of the G–77 conference, the developing countries, last week, where our view is that the best outcome would be that we all agree by

consensus to lift the budget cap with significant reforms having been agreed to by June 30, and with a road map laid out in terms of the end of the year of how to accomplish the rest of the work.

It is not realistic to think that we are going to accomplish everything by June 30. We understand that. We are not insisting on it. We think that we can have a plan of work for the rest of the year.

We have identified three broad areas where we would like to see reform. First is the management area, what I call the traditional management tools, procurement, personnel, information technology, and so on.

Second is the accounting, auditing, oversight, transparency area.

Third is the program review area.

We would like to see progress in all three areas or at least some combination that really gets us a good start. The major contributing countries hold that view. We are in negotiations now. It could go right to the last minute, but we are going to pursue these reforms because we think they are important.

Senator COBURN. I want to ask you, just as our representative to the United Nations, that you can assure the American people that there is an accountability view, in terms of their dollars. Can you assure us that?

Ambassador BOLTON. I do not think I can, Senator. I mean, what I think I can assure you is that we are going to work very hard as the U.S. mission and State Department and the U.S. Government to achieve that. But right now, the problems identified by Chairman Volcker and the Oil-for-Food scandal largely remain. The reforms we would like to see put in place have not been put in place and we need to work to continue to achieve those reforms.

Senator COBURN. Is there transparency at the United Nations?

Ambassador BOLTON. Not sufficiently. Not at all. And that is not just the American view. I think that if you have a chance to read that report by the Staff Union's Council, it makes for very interesting reading.

Senator COBURN. And finally, I guess the key will be whether or not the United Nations is responsive, is on the basis of what happens in the next couple of weeks in terms of moving toward some of these changes of accountability.

Ambassador BOLTON. Well, it is a test for the United Nations, Senator. There is no question about it. And I hope that you and Senator Collins and other Members of the Committee will have the opportunity to stay involved in this issue because I know it is important to many Members of Congress on a bipartisan basis and it should be. It is important for all of us and the more work we do together I think increases the chances that we will be successful.

But the grade so far is incomplete, at best.

Senator COBURN. One final question. In my mind, the United States, given the size of this capital master plan, should put a maximum limit on what it will contribute to this. And if it is 23 percent of $1.8 billion, or whatever it is, but knowing how things work, $1.7 billion will soon become $2.2 billion, will soon become $2.5 billion, and I think it is a very important that we send a signal to the United Nations that we want transparency. We want open and honest accountability of this project. And we are going to insist on it.

One of the ways we are going to insist is we are going to limit the amount of money that we are going to contribute to it, knowing that we are talking about, at a minimum, $700 per square foot to renovate a building.

Ambassador BOLTON. Well, I certainly hope they hear you in New York, Mr. Chairman.

Senator COBURN. Well, I assure you that it is going to be on our Appropriations Bill. Mr. Ambassador, thank you. We have a vote on, which I have to take. We will take it very quickly—we have actually two votes. I will get there and hopefully we will be back in about 15 minutes. We will resume the hearing then. The hearing is in recess until that time.

[Recess.]

Senator COBURN. The Subcommittee will come to order. Because of some flight delays and problems, I am going to introduce in the order in which I am going to ask for testimony. Dr. Anne Bayefsky is a Senior Fellow with the Hudson Institute, Professor at the Touro Law Center, editor of the website www.EYEontheUN.org.

Before joining Hudson, she was an adjunct Professor and associate research scholar at Columbia University Law School, and has done extensive human rights work for many years.

Claudia Rosett is a Journalist-in-Residence at the Foundation for the Defense of Democracy. She writes on international affairs with a focus on democratic movements and despotic regimes. She has been widely credited for breaking the Oil-for-Food scandal and other aspects of waste, abuse, and corruption at the United Nations.

Currently based in New York, Ms. Rosett has reported from Asia, the former Soviet Union, Latin America, and the Middle East.

Thomas Melito is the Director of International Affairs and Trade Team at the U.S. Government Accountability Office. He is responsible for GAO's review of international finance, both collateral institutions, including the United Nations, the World Bank, and the International Monetary Fund.

His education includes a B.S. in Industrial Labor Relations from Cornell University, an M.A. and Ph.D. in Economics from Columbia University.

Dr. Bayefsky.

TESTIMONY OF ANNE BAYEFSKY,[1] SENIOR FELLOW, HUDSON INSTITUTE; PROFESSOR, TOURO LAW CENTER; AND EDITOR, WWW.EYEONTHEUN.ORG

Ms. BAYEFSKY. Thank you very much. I appreciate your invitation and I think the subject of the matter of today's hearing is of great importance. I appreciate your holding it.

Today's headline is that the crisis at the United Nations has been averted. Secretary-General Kofi Annan has made a formal request for the spending cap to be lifted, and most observers assume that he has done so with the blessing of Secretary of State Rice, who has assured him that the United States will not vote against a resolution to this effect. At a news conference late last week,

[1] The prepared statement of Ms. Bayefsky appears in the Appendix on page 41.

Annan said that "the cap on the budget will be lifted. There will be no crisis."

To put the current situation into perspective, therefore, the whole dynamic has changed 180 degrees since the U.N. September summit, where world leaders committed themselves to U.N. reform. 10 months later, the crisis became the spending cap, not the failure to reform. The crisis was not the inability of an international organization dedicated to protecting us from threats to international peace and security to declare Iranian nuclear ambitions a threat and to sanction its government. The crisis was not a human rights commission, which had some of the world's worst human rights abusers deciding what counted as a human rights violation, replaced by a council with the likes of Cuba, China, and Saudi Arabia right back on. The crisis was not the Oil-for-Food scandal in which billions were stolen from people in need and used to maintain despotism at its worst. The crisis was not the sight of U.N. peacekeepers that raped their wards. The crisis was not the failure to stop genocide in Sudan by an institution founded on "never again." The crisis was not a U.N. renovation plan, hundreds of millions of dollars more than independent developers thought was necessary to do the job. The crisis was not 9,000 different mandates created by the United Nations haphazardly over decades, which have never been reviewed, consolidated or rationalized.

No, the crisis was the G–77, the U.N. majority, the Secretary-General, and his Deputy, Mark Malloch Brown, was the so-called "artificial leverage" of linking the obligation to pay for the corruption and mismanagement to the corruption and mismanagement itself.

So, what happened after the pages of ambiguous promises made in last year's summit? Faced with the prospect of endangering an entrenched culture of blank checks, and entitlements flowing in one direction, the U.N. majority and its secretariat had a lot to lose. So, they took the offensive and showed not the slightest reticence in making their demands plain:

- Development dollars fully directed by the recipient;
- no cost cutting, any dollar saved anywhere to be redirected to developing countries;
- the retention of 97 percent of U.N. mandates without a question asked, a General Assembly which retains the power to micromanage as it sees fit;
- more representation on U.N. bodies for developing countries;
- more jobs in the U.N. Secretariat for their nationals;
- and a guaranteed piece of the action in the U.N. multibillion dollar renovation plan.

And yet it was not their audacity that attracted attention, it was the attempt by the American U.N. Ambassador and Members of Congress to say enough. American taxpayer deserved better. The deluge of U.N. hate speech which followed was voluminous: The U.S. was responsible for non-cooperation, politicization, conditionality. Deputy Secretary-General, Mark Malloch Brown decided to eschew the Un-eeze. He took direct aim at the ignorance of "Middle America" and the Administration's failure to do an adequate selling job.

The Secretary General and his Deputy were worried about a possible paradigm shift. They even spoke of the United Nations facing a moment of truth. But that moment appears to have come and gone, despite the current state of U.N. "reform."

- Management reform has run into a brick wall with the G–77, majority taking the exceptional measure of using its voting power to tie it up in a never-ending demand for more reports.
- Not a single one of the 9,000 mandates has been reviewed. The G–77 has mired the issue in a process debate, claiming that only 7 percent of the mandates can be discussed at all. Terrorism has yet to be defined. The working group meeting to draft a comprehensive convention against terrorism cannot agree on their next meeting date. The U.N. lead agent, the counter-terrorism committee, has not named a single terrorist, terrorist organization, or State sponsor of terrorism. And the Secretary-General's plan for a counter-terrorism strategy is now subject to a debate about the legitimacy of armed struggle or killing selected men, women, and children.
- Membership on the so-called reformed human rights council does not contain a single criterion other than geography.
- The price tag for the capital master plan continues to go up. Now on the table is a new idea, or an idea for a new building on the North Lawn, with the astronomical cost of over $1,000 dollars per square foot.

From an American perspective, the price of U.N.-led multilateralism appears to be an affinity for self-flagellation. But rather than some kind of harmless predilection, the hatred the U.N. fuels for America does real harm. The membership of the United Nations, where democracies are outnumbered and often work against each other, dooms its capacity to undertake a number of the major challenges of the 21st Century. Until such time as we redefine multilateralism to serve the interests of democracies, we can expect to be undermined and demonized on the world stage.

I hope the prospect of another blank check to those who resist reform will serve as a wake-up call, because the truth is, the crisis of confidence is as real today as it ever was. Thank you.

Senator COBURN. Ms. Rosett, I have introduced you and I want to recognize you, but I want to say something publicly.

Our founders were visionary in recognizing the power of free and open press. And all you have to do is look at the work of this witness to know what we know now what we would not know if we did not have an aggressive, free, and independent press.

And she is a model for those who should be snooping around Washington, as well as New York, to expose to the American people a level of accountability that is not here. We are talking about the United Nations today, and she has done miraculous work in exposing the deficits there. But it is a challenge to everybody in your profession that they do the same type of level of investigative report, and their persistence and hard work and effort that you have demonstrated on your work in the United Nations

Thank you, and you are recognized.

TESTIMONY OF CLAUDIA ROSETT,[1] JOURNALIST-IN-RESIDENCE, THE FOUNDATION FOR THE DEFENSE OF DEMOCRACIES

Ms. ROSETT. Thank you very much for that extremely gracious introduction. And let me tell you a little bit today about what the United Nations still will not tell us. What I want to talk to you about, mainly, is the transparency and try and make it a little more concrete, starting with the fact that promises that Chairman Coburn, and Senators, that I hope will come to care about this issue, because it matters greatly. The promises that are already being made at the United Nations once again about transparency are, unfortunately, entirely disingenuous. And let me give you an idea of why.

The thing that just jumps out over and over in many years covering many places, including corruption scandals in the former Soviet Union, which is where I came to recognize easily some of the patterns that are to this day, manifest at the United Nations. The United Nations bears a much closer resemblance to some of the despotisms I have covered than to any open and democratic system.

And with Oil-for-Food, it is entirely correct that it was, in many ways, a fractal of the U.N. system. One of the many things that was a hallmark from the beginning was the refusal of the United Nations to answer even basic questions. Who were these contractors who were selling detergent to Saddam from Saudi Arabia, Syria, Yemen, and Sudan? What was going on with the amounts, and so on? And the other part of it was the refusal of the United Nations to tell us anything about problems which we now know, due to Chairman Volcker's investigation, and to other materials that have surfaced, they did know about at the time.

Recall, although this is down the U.N. memory hole, in their own version of affairs, that at the end of the program, Secretary-General Kofi Annan praised it and its handpicked director. It was only later—in fact, he delegated it to his own interior audit service, the Office of Internal Oversight Services, first to investigate, before Congressional pressure and pressed revelations finally forced it out into the open.

And to this day, the thing coupled with this lack of transparency, which I want to get to, is this lack of accountability. The two together are a poisonous, really poisonous brew. What you have is after all the investigations into Oil-for-Food, and the allegations by the U.N.'s own probe, that Bennan Sevan, the head of Oil-for-Food, took bribes. He is now living in Cyprus on full U.N. pension and when I queried the U.N. Secretary-General's office, did they pay for his moving expenses back to Cyprus, the answer was that is personal and confidential information and we will not tell you.

Jump now to the U.N. procurement department, the site of many scandals already, if you go today to try and find out information about contracts the United Nations is currently involved with, you will find a list of registered vendors that gives nothing more than the date and country of origin—actually, not even the date in all cases. There are no addresses, no contact names, no further details

[1] The prepared statement of Ms. Rosett appears in the Appendix on page 65.

as to who these vendors really are, why they have been chosen and so on.

On the contracts themselves, the United Nations will give you no more than a line item with the total price, the department, and so on. Basically, at your local grocery store, you would be offered beef with no idea how much, what cut, anything like that. This leaves you sort of looking through these contracts, asking yourself, and what is this arrangement with a Washington firm for consulting services for "barrier removal for the widespread commercialization of energy efficient, CFC-free refrigerators in China, or stationary from Milan."

There is no way to tell. These may be legitimate arrangements. There is no way to judge. When you come to things as important as peacekeeping, these major contracts, which are part of the area now deeply embroiled, we know, in U.N. corruption, have simply vanished from the website altogether. You cannot get information on who is doing what.

We know that one of the few, the only U.N. employee who has actually been arrested and convicted who has been subject to the Federal process all the way through to completion, Alexander Yakolvlev, in the U.N. procurement department, who appears to be the official mentioned in a U.N. internal audit who was involved in something like $2 billion worth of contracts.

The United Nations has never released the full roster of contractors he was involved in dealing with. We know that he was involved in the selection of the Milan architectural firm that did the initial design study for the United Nations because that leaked to the press. The United Nations has never said this.

The archives for the procurement department themselves have simply vanished from the website prior to 2005. These used to be there some years back. For some reason the United Nations has not explained, it uncoupled those within the past year. You cannot look back and even see the line item entries.

May I skip through, in my written testimony, I have gone through some of the problems with the Oil-for-Food. One thing I would like to stress there, though, Mr. Volcker's Committee, for all of its contributions, has become part of the problem, for the reason that it is involved in the same secrecy that characterizes the rest. This is not an academic concern. His reports mention that U.N. agencies, some of the U.N. agencies in Iraq, were rife with corruption, but he says he did not have time and resources to follow the leads.

He has not provided us with the underlying documentation for anyone else to follow them. That leaves large open questions. The other thing is, while Mr. Volcker's Committee put out documentation alleging that more than 2,000 companies had paid kickbacks to Saddam Hussein, he did not provide, again, the underlying documents and what this means is while countries that wish to pursue investigations may request them from the Volcker Committee, the rest of us have no access.

What that means, precisely, is that countries such as China, Nigeria, Syria, Libya, Russia, and Sudan, which are not seriously investigating, get a free pass. In other words, the worst of Saddam's global market of money laundering is concealed. It is vital that

these archives be brought out. The United Nations and Paul Volcker together have deep-sixed this.

And, just a word on the ways in which this now works. The typical regimen at the United Nations is that they will say, yes, we have done something wrong and is that not terrible, but now we have fixed it. And it is not fixed. One of the things that they have done in the name of reform is set up a new Ethics Office.

Three weeks after this was set up, the Secretary-General accepted a $500,000 cash prize from the Administer of the United Arab Emirates. This is a flagrant conflict of interest. You could not do that, say, in U.S. politics, and it was in public view, in some sense, the U.N. Secretary-General's Office announced the honor but not the cash prize. As the press began to dig into details and disclose that two people appointed by Secretary-General Kofi Annan had been on the jury, and one of the other jury members he subsequently appointed to head the U.N. environment program in Nairobi, Achim Steiner, Mr. Annan finally gave up the money to turn it over to relief efforts. He never acknowledged the conflict of interest involved. And here is the problem that leads us on.

We, to this day, have no documentation of what actually happened with the money. We have to take his word for it. We are facing a further problem. The Ethics Office, when I queried them at the time, refused to comment and kicked it right back over to the Secretary-General's Office. It is a loop where there is no final accountability. And the Ethics Office has announced that there will now be, in the wake of all of these scandals, in which you had the head of the Oil-for-Food program depositing money into the bank account of his U.N.-employed wife, that there would now be financial disclosure by top U.N. officials, that they would be filling out financial disclosure forms.

This is an Orwellian use of the term. These will not be disclosed to the public. They will be disclosed with the U.N. bureaucracy, vetted by the U.N. bureaucracy, and then dealt with in whatever way by the same bureaucracy that does not let us see in, does not bring into account people who do wrong.

I have heard that the Secretary-General himself has not filed a financial disclosure form, although he has been making much of the new Ethics Office. I have queried his office about this, and they have not provided me with a simple yes or no. They will get back to me. I have come back to them again. It seems there is no way to get them to even disclose whether the Secretary-General has disclosed his financial interests.

Furthermore, if you then ask, and who, then, vets this, and to whom are any irregularities then reported, it is all extremely unclear. There is no answer so far. This is just a system with no accountability and that leads us to the United Nations dodges and manipulations of the truth.

May I just very quickly read you an exchange?

Senator COBURN. OK.

Ms. ROSETT. It is typical of what happens to those who actually pursue legitimate questions about conflicts of interest, financial problems at the United Nations. This one concerns the rental arrangements from Mark Malloch Brown, the Deputy Secretary-General, who rents, we are told, a house on the estate of George Soros,

outside of New York City. George Soros, according to Mark Malloch Brown himself, has collaborated extensively with the United Nations, including with the United Nations Development Program, while Mark Malloch Brown was running it, about 1½ or 2 years ago.

And we are told that Mark Malloch Brown pays $10,000 a month rent, that this according to Mr. Brown, an arms' length transaction. There are many potential conflicts of interest here. This is somebody who has done business with the United Nations—I believe currently does business with the United Nations. And yet, here is the reply to the *Times of London* correspondent, James Bone, a highly competent, well informed journalist, who has been covering the United Nations very ably for years, who asked about this, was it not a conflict of interest. And Mr. Brown replied, "it is of particular genius for you and your friends to take something which is of open knowledge to everybody is suddenly produced as some great guilty secret. Get back to the plenty of real stories that are around here. I see enough nodding heads in this room to know that there are enough real stories for you to pursue that you can stop dragging down everyone you touch, particularly yourself, by the way that you are behaving."

Mr. Bone had inquired about a potential conflict of interest, actually I think an obvious one, involving a very high ranking U.N. official who has since been promoted, and I will note that while Mr. Brown is talking about the Freedom of Information Act, he himself has never disclosed the forms that would give us any documentation of any of this.

Senator COBURN. Mr. Melito, I am going to get you to close now, and then we can go to questions.

TESTIMONY OF THOMAS MELITO,[1] DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. MELITO. Mr. Chairman, I am pleased to be here today to discuss the United Nations oversight and procurement process in the context of the U.N. capital master plan (CMP). The U.N. Headquarters buildings are in need of renovation. Since they no longer conform to current safety, fire, and building codes, and do not meet U.N. technology or security requirements.

However, effective implementation of the CMP is vulnerable to the range of weaknesses existing in internal oversight and procurement practices. Today, I will share with you the findings of two reports that were released on these topics in April 2006.

First, I will focus on the need to focus on the budgetary independence of the U.N. internal oversight unit, OIOS. We found that current funding arrangements adversely affect OIOS budgetary independence and compromise its ability to affect high-risk areas.

Second, I will also focus on the assessment of the U.N. procurement processes according to key standards for internal controls. We found that to the extent that the CMP relies on current U.N. processes, implementation of the planned renovation is vulnerable to procurement weaknesses that we have identified.

[1] The prepared statement of Mr. Melito appears in the Appendix on page 74.

I will now highlight our main findings. First, U.N. funding arrangements constrain OIOS ability to operate independently as mandated by the General Assembly and required by international auditing standards. OIOS is funded by the U.N. regular budget, and 12 extra budgetary revenue streams. U.N. financial regulations severely limit OIOS ability to respond to changing circumstances by reallocating resources among these various revenue streams.

As a result, OIOS cannot always deploy the resources necessary to address high-risk areas that emerge after its budget is approved. In addition, OIOS is dependent on U.N. funds and programs for resources as compensation for the services that it provides. This is a conflict of interest, because while OIOS has oversight authority over these entities, it must obtain their permission to examine their operations and receive payment for its services.

Moreover, the heads of these entities have the right to deny funding for the oversight work OIOS proposes. By denying OIOS funding, U.N. entities have avoided OIOS audits, including high-risk areas.

For, example, OIOS was prevented from examining high-risk areas in the U.N. Oil-for-Food program, where billions of dollars were subsequently found to have been misused. OIOS funding concerns are potentially relevant to the CMP, since the ultimate number of auditors who will work on the CMP and their funding sources have yet to be determined.

OIOS reported that it had extra budgetary funds from the CMP for one auditor on a short-term basis, but that level of funding is not sufficient to provide the oversight coverage intended by the General Assembly. To increase oversight coverage, OIOS assigned an additional auditor exclusively to the CMP using funds from its regular budget.

Let me now turn to our second finding addressing weaknesses in the U.N. procurement system. To the extent that the CMP will rely on the current U.N. procurement process, it is vulnerable to weaknesses that we identified in our April report. For example, the United Nations has not established an independent process to consider vendor protests.

The lack of an independent bid protest process limits the transparency of procurement by not providing the means for a vendor to protest the outcome of a contract decision. Such a process could alert senior officials of failures by procurement staff to comply with policies and procedures.

In addition, the United Nations has not demonstrated a commitment to improving the capabilities of its professional procurement staff, despite longstanding shortcomings. Furthermore, it has yet to complete action on specific ethics guidance for procurement officers.

Due to significant control weaknesses in the U.N. procurement process, the United Nations has relied disproportionately on the actions of its staff to safeguard its resources. However, recent studies indicate that the procurement staff lacks sufficient knowledge of procurement policies, and the United Nations has made only limited progress towards adopting ethics guidance for its procurement staff.

We also found that the United Nations has yet to incorporate guidance for construction in its procurement manual. In June 2005,

a U.N. consultant recommended that the United Nations develop separate guidelines in the manual for the planning and execution for construction projects. These guidelines could be useful in planning and executing CMP procurements.

In conclusion, the weaknesses in internal oversight and procurement we identified could adversely impact implementation of the CMP. However, these concerns should be considered within the context of the pressing need for renovation of the U.N. Headquarters complex.

Mr. Chairman, this completes my prepared statement. I would be happy to answer any questions.

Senator COBURN. Thank you. I am somewhat taken aback by your last statement. So, regardless of how sloppy it is, you want to do it?

Mr. MELITO. The issue is because of the age of the building and the state of some of the systems in the building, there is threat of catastrophic failures. Last fall they had a failure in the electrical system which caused the system to have part of it fuse, and they had a great threat of a fire, and they had to evacuate the building.

If the electrical system was to fail catastrophically, if the heating and air conditioning system was to fail catastrophically, we would be faced with a situation where we would have to do very rapid renovation, very rapid procurement on the fly. So that just needs to be weighed against the issues of the system.

Senator COBURN. I understand, but that is answering the wrong question. You can do both.

Mr. MELITO. Yes.

Senator COBURN. If construction was started today, it would still take 5 years to finish it.

Mr. MELITO. Yes.

Senator COBURN. Dr. Bayefsky, you painted a pretty dark picture of the United Nations. If you were queen for a day, what would you have us do to try to change, reorganize, improve, and place sunshine on the United Nations?

Ms. BAYEFSKY. I think it is imperative that the United Nations have some competition, that there be an alternative for democracies to move together and work together——

Senator COBURN. Another multilateral body?

Ms. BAYEFSKY. Another multilateral front. It does not mean destroying the United Nations. It means defining what the United Nations can do, and what it cannot do, inherently, because of its membership, which is largely undemocratic.

So, with that demarcation of what the United Nations is capable of doing, we should develop a multilateral alternative, much as Senator Frist has suggested, in fact, with respect to human rights protection, peace and security issues, the War on Terror, some of the major issues of the 21st Century. We come together as democracies and insure that membership is kept to democracies, much like the Council of Europe, a situation where one has to be a democracy in order to enter, but if countries improve their human rights and records of transparency and accountability and so on, can be admitted into the group.

So, we provide an incentive for others to reform themselves in order to join. That is the kind of incentive program that we need to generate.

Senator COBURN. I am going to ask all of you to respond to this. Given what each of you know about the weaknesses of the United Nations, the past history of waste, and what is demonstrated as corruption, that is the word that we should use. We should not call it something other than that. And mismanagement—what effect do you think total and complete financial transparency would have on that institution.

Ms. BAYEFSKY. Well, if I may.

Senator COBURN. Sure.

Ms. BAYEFSKY. I am afraid I am one of those people who thinks that transparency is not the only answer. Yes, it is part of the answer, but the reality is that the composition of the United Nations means what we would see we would not like very much, anyway. There are 191 countries, 132 of them are members of the Group of 77. They hold the majority of power. The single largest voting block in the Group of 77 is the Organization of the Islamic Conference, that is 56 States. And the balance of power is therefore held by developing countries, with a very strong influence from the OIC. We saw how that played out at the Human Rights Council.

Everybody says that the Human Rights Council is reformed. Nothing could be further from the truth.

Senator COBURN. I agree.

Ms. BAYEFSKY. And the consequence, therefore, is that they hold the cards. And so, we have to do more than shine the light of day on the organization. We have to make it clear that it is not good enough to have a body which thinks that the enemy is the United States. And unless we rethink multilateralism to suggest that the United States is at the forefront of democratization and everything that entails or the benefits that can bring, we will not have multilateralism which we can trust to tackle the major issues of our time.

Senator COBURN. Ms. Rosett.

Ms. ROSETT. Well, first of all, if you could actually look into the details of the contract, you might learn more about the electrical failure than that it was some sort of catastrophic event. It is very difficult to prove with that information that is not the only version circulating in the building.

The basic problem you have here is that there is no internal justice system at the United Nations. Top management can do whatever they want and they are not accountable to anybody. They operate under diplomatic immunity, and they are not accountable within their own system. They are completely outside the law. And basically, the problem this raises and says even when you do see something, even when you get transparency, nothing happens.

In all of Oil-for-Food, nobody has been punished. And this has become an occasion for the Secretary-General to roam the globe at the moment saying, "if there was a scandal, it involved maybe one staffer." That is just an absurd interpretation of what happened. But what you would see if you were actually flip on the light is, when you look in—I will guarantee you this, and that is simply what I have been able to discern looking through what they put out

and what you are able to get through leaks and miserable employees lower down the pecking order and things of that kind is that within the U.N. system, you could almost certainly save enough in waste, fraud, abuse, excess, and so on, and then more than pay even for an overpriced renovation plan.

In other words, if they actually stopped looking—the chronic pattern at the United Nations is looking for more money. They had a security council meeting or a General Assembly—they had a big cofab back in 1975 talking about the financial crisis at the United Nations. I do not have right in front of me the names, the mutations of the terminology over the last 30-some years, but basically, every year since then they have discussed—the names change occasionally, it is the urgent crisis, or the financial, or the current crisis. There is always a crisis. There is no accountability on the spending side.

In fact, the U.N. sums for spending are given to us, for the most part, in big round figures for departments and areas—$85 million for the Department of Public Information. People do not spend in big round figures. There is change. Could somebody please just account for that? For the things that would make it real.

Senator COBURN. Is it true that if you really had sunshine.

Ms. ROSETT. Yes.

Senator COBURN. On what was going on in the United Nations, that reform could come from that? Is there no shame associated with this situation and this organization? You could not shame people into behavior, at least on transparency and reform?

Ms. ROSETT. Well, shame and money seem to be the two lovers, and neither one of them has seemed to really have gotten much——

Senator COBURN. But there is no transparency.

Ms. ROSETT. There is no transparency. Well, you can see some things. Again, a point that I tried to make in my written testimony, you can see in U.N. operations the general shape of scams. It is not hard to see how the frauds are probably taking place. They are elementary. They are standard. The difficulty is getting the details that actually tells you who is doing what.

Senator COBURN. That is the transparency.

Ms. ROSETT. Exactly. Yes. Probably it would make some difference, and the difficulty is this. The United Nations will promise you transparency. In fact, they described Oil-for-Food as transparent. They described the procurement department to myself and a colleague in the media, George Russell of *Fox News*—it was our story that brought the name of Alexander Yakovlev into the press as somebody who was clearly engaged in something funny business in the procurement department.

When we first went to see the procurement department, as we began reporting that story, they assured us that the procurement department had been through a reform and that they were transparent. Their website was transparent. They had no major concerns about corruption at all.

Senator COBURN. Which is totally opposite of the testimony of Dr. Melito.

Ms. ROSETT. Yes. That is correct. In fact, they sent us off by saying that we did not ask about Alexander Yakovlev, per se, we went

to ask are there any concerns about corruptions, scams—we were told it is all airtight. It has all been cleaned up. It is all fine.

This is the pattern over and over. So, the test is real transparency, and I would suggest that does not consist of promises. We have had promises for years. It consists of the actual documents.

Senator COBURN. Dr. Melito, your comments on that.

Mr. MELITO. Increased transparency is definitely a worthy goal. In the context of the CMP, it would definitely benefit CMP to be more transparent.

I do want to give just two caveats to that. Certain security arrangements of the CMP would have to remain non-public.

Senator COBURN. That is understood.

Mr. MELITO. And also, certain business proprietary information would probably have to be assured——

Senator COBURN. Give me a good example, because when I was in New York—the idea of proprietary information. Give me a good example of proprietary information that somebody would have who is going to do asbestos removal in the United Nations, or somebody that is going to do the new plumbing, or the new air conditioning units. What is the proprietary information that would allow them to black out the whole contract so that people could not see what we are spending and what we are getting for what we are spending?

Mr. MELITO. It usually comes down to issues of the individual firm's pricing structure in keeping that hidden from its own competitors. It does not necessarily get into their techniques, although it could, but it is usually about how much they are charging for that individual micro-things. But you could definitely release to the public the total cost. Total costs should be brought out.

Senator COBURN. And the costs of their subcontracts.

Mr. MELITO. Again, with some caveats.

Senator COBURN. Well, yes. So, what I hear is proprietary. That is the excuse to not tell you anything, because we have something proprietary. There is no rule within the United Nations today, other than their own rule that says that they have to have that. There is no bylaw in the United Nations that says that——

Mr. MELITO. The risk, though, is that if you are actually telling bidders in advance that their information would be public, they would not bid, which would then greatly inflate the price of the contract, because you would have a very narrow set of bidders, potentially.

Senator COBURN. And by saying that, you are assuming that the price of the contract is not inflated today?

Mr. MELITO. I am saying that we have not made any analysis of that, but if it is a competitive system, you want more bidders.

Ms. ROSETT. If I might add, what we do know is that the G–77, for example, thinks that they are entitled to some of these contracts by the fact of their geography, so that entitlements here are, according to the majority of the U.N. members, is not on the basis of anything remotely resembling the ability to do the job, but, in fact——

Senator COBURN. Who you are friends with.

Ms. ROSETT. Correct.

Senator COBURN. And that is why subcontracts and that is why transparency on contracting, and that is why an ability to challenge a contract, as you mentioned, in terms of, I think you call it a vendor protest, is so critical in the contracting.

Ms. ROSETT. May I just add to that, that there is a tradeoff here. It is not necessary for the United Nations, the State Department, the GAO, or anybody else to be quite so solicitous of U.N. suppliers. If you had a rule across the board that the bids, apart from, yes, something that would reasonably—something that would involve life or death matters immediately and could be—but the bids for things like stationary from Milan should be, simply, openly conducted, completely transparent.

Yes, you might get a somewhat narrower set, but you would probably be eliminating the worst of the lot. And there is a whole element to this that is not being addressed at all, which is that United Nations, in its reach across borders, operates system-wide, beyond the reach of any one press corps, beyond the reach of any legal authority. You can leave for Cyprus, and nobody can bring you back. And one of the things that we have glimpsed, and in this case——

Senator COBURN. And have your retirement, Ms. Rosett. Yes. Precisely. And pay you full pension and refuse to answer any questions about whether or not your moving expenses were paid back to your hometown. But one of the other things that George Russell and I have come across in reporting on the procurement department is that, in looking at a company that was involved with, we know, the guilty, convicted, Alexander Yakovlev, a company he had many connections with, I see services which went through many strange evolutions in its life and involved a number of contractors who still, I believe, were doing business with the United Nations.

That was a company which had, as it turned out, and this took quite a deal of digging to find, connections that went back to the Muslim Brotherhood in Western Europe to contractors all over the place where you had no idea who was actually involved. When you are subcontracting, it may be all very nice, upfront, healthy, good work, but as soon as it becomes extremely opaque, which it is, you also have what Oil-for-Food became, basically, which is an enormous network that can be perverted into a global money laundering network. And you have the United Nations operating in the world's worst trouble spots. When you have corridors of diplomatically immune, opaque money all flowing in good works, this was what Oil-for-Food was.

Under the blue U.N. label, you have enormous risks that start to come in about what else is going on under the U.N. label. And all of this, it would seem to me, argue for transparent bidding, even if it does raise the cost, you are making tradeoffs. Thank you.

Mr. MELITO. It is clear that GAO's position that U.N. procurement system, in general, has serious problems. And it is a systemic problem in terms of lack of investment and training. There is a real breakdown in terms of management's responsibility, who has to do what.

When we reported on these deficiencies in April—I do want to say, though, that it is possible for the CMP to be sort of fire walled from these problems since it is a relatively focused and unique pro-

curement. I do think the United Nations should isolate itself from these larger procurement problems, which would probably take several years, at least, to fix.

Senator COBURN. Well, I want to assure you that the money that this country is going to spend is going to request that type of isolation, that type of control, or each year we will be fighting it on the floor and we just probably will not appropriate it unless we get that kind of assurance.

Dr. Bayefsky.

Ms. BAYEFSKY. I was going to add that there is another part of the puzzle—we have to ask what it is the United Nations has engaged in, the whole issue of so-called mandate review, the duplication issue. In other words, not only is money being spent in ways in which we cannot figure out its destination, but we are unable to determine what it is doing that is duplicative across the board. The mandate review process is very enlightening. The Secretary-General was asked to begin the process of mandate review by the September summit. Instead what he did was dump a list, literally, just a list, of 9,000 mandates that the United Nations does, its program of work.

And to date, when the budget cap is before us and expected to be lifted, not a single, solitary mandate has been reviewed. What does that mean in terms of where the money is actually going? One of the most obvious examples of duplication, which is driven by the interests of a certain number of U.N. countries, is the issue of the Palestinian agenda. There is one refugee agency for Palestinians, and one refugee agency for everybody else. There is one Department of Public Information for the Palestinians, (information on the question of Palestine,) and one Department of Public Information for everybody else. There is one Human Rights database for Palestinians and so the list goes. There is one U.N. division solely for Palestinians and nobody else has a single solitary division devoted to their work. The number of posts of U.N. Staff for the division of Palestinian rights has 16 people. And the number of posts for the entire Asia Pacific Division is 21. So, until we do mandate review, we do not know, clearly, what the United Nations is spending its money on, and what it could do to consolidate, rationalize, to save us an enormous amount of money.

Senator COBURN. I do not know if you heard my opening statement. In visiting with key members of G–77, the Group of 77, Secretary Mark Malloch Brown, as well as our Ambassadors, I got unanimity agreement for transparency. And I did not just say transparency. I defined transparency, open and honest evaluation availability online of everything that you are doing, all the way down through all the subcontractors.

I have to agreement to that. Am I just ignorant or naive in thinking that they would agree to that, and then if we were to make that a condition to our contribution to the United Nations, we would not see some action?

Ms. BAYEFSKY. Well, you raise the whole issue of conditions to our contribution, as such. I mean, the spending cap was the one way to force the issue of this reluctance to reform on multiple levels and everything that has been talked about today——

Senator COBURN. That is the Administration's one way. That is not Congress' one way.

Ms. BAYEFSKY. I hear you and I hope, indeed, that if and when the spending cap is indeed lifted, that there are alternatives. There are, of course, alternatives. Congress has already identified a number of ways in which they can review the budget and insist that it can be changed.

One of the examples that I think bears some time considering is the issue of pedophilia. For example, the Congress put a very major condition on U.S.-U.N. funding and said that contributions for international organizations as a whole, not just the United Nations, are reduced by a $118 million for every fiscal year, unless it can be certified that no U.N.-affiliated agency promotes pedophilia in one way or another. So that certification is required from the Administration.

Other such requirements could be put in place which required a certification that no U.N. NGO, for example, is engaged in the encouragement of terrorism, racism or anti-Semitism. And I think it behooves us indeed, to think creatively about potential ways of accomplishing the kinds of transparency and accountability that you are thinking of, should the spending cap be lifted.

Senator COBURN. Just a thought. We are somewhat schizophrenic. If we were to have such limitations, sometimes our own State Department will fight us on some of those issues.

Do you perceive that as a real issue, a real possibility?

Ms. BAYEFSKY. Unfortunately, I do, yes.

Senator COBURN. OK.

Ms. BAYEFSKY. I see it very directly, day to day. We voted against the Human Rights Council, and the very same day the State Department said we are going to pay for it. The members had not even been elected yet and we are going to pay for it.

Senator COBURN. Yes.

Ms. BAYEFSKY. And now that it is elected, we are going to pay for it even more. Now, Cuba is going to lecture us on human rights. In fact, it did so in Geneva, today.

Senator COBURN. All right. Any other comments. Ms. Rosett.

Ms. ROSETT. Yes. Just in brief. I often get the feeling in this kind of discussion that the fix is in. And it seems worth talking about because an old editor of mine, Bob Bartley, once said that sometimes, even when you see a bus going over a cliff, you cannot stop it but you can at least say, look, a bus is going over a cliff.

And on this, there really are things that matter a great deal, here, as far as what we should be able to see. I have made up just a quick list for you.

Here is what we need to see, and we need to see it in the interest, simply, as an institution with any integrity at all. The United Nations needs to be even more transparent then the best of its Member States, for the reasons that I just mentioned. It operates with nobody's real jurisdiction. It does not have to account to a free electorate. It does not have to account to itself. We should be able to see in full the procurement archives.

I believe that they forfeited any rights to agreements of confidentiality with the degree of corruption we do know exists in there. This should go back until the mid 1990's. That is when some of the

current scams originated. They are huge. They probably involve companies still doing business with the United Nations, which would love to bid in the shadow of the current secrecy arrangements on new contracts.

Second, the archives of the Oil-for-Food investigation. I mean, if they want to winnow out the things where they truly believe that a witness' life is at risk, fine. But at the moment, the investigator who defected criticizing the investigation for going soft on the Secretary-General who has been promising you all of these things is under a 7-year court order, a gag injunction, where he cannot even talk about it.

And we have never seen most of the underlying documents. We have been given a very precise set of conclusions that gives us a very fuzzy view of some of the U.N.'s activities. These archives are huge. They involve established patterns of how the U.N. operates. People who will be carrying forward into the next regime and who you will be depending upon. If they are still there, they occupy crucial roles, or will, where they will have to decide what happens.

You need to see the archives of the Volcker investigation. We all do. Not just you, the Senate, we the public need to see this.

Finally, I think that the least that could be done, in a measure of good faith, would be that these financial disclosure forms, which are supposed to be part of the U.N. compliance with ethics, the public should have full access to the Secretary-General's, the Deputy Secretary-General's, to the Under Secretary-General's—there is a huge roster at this point of people occupying those top three ranks—many Under Secretary-Generals, one of whom turned out to be taking, by his own admission, finally, payoffs from Saddam Hussein while working as Kofi Annan's envoy to Europe. And they roamed many parts of the globe doing many things.

There are conflicts of interest already established, too much to go into now. But these should all be fully disclosed to the public. And the standard there should be that if we are going to have an institution like this, you have got to have that be the standard of transparency. Probably the only way to get that is the kind of competition you described.

But that list, I think, is the minimum of what you should be looking for to have any faith in their promises at all.

Senator COBURN. Put some teeth in the ethics process, because there are no teeth in the ethics process that they put in.

Ms. ROSETT. I think that is the difficult job that you face because there are no teeth in the ethics process right now. The moment in which I sent a note to them asking about the ethics of Secretary-General Annan taking a half a million dollars from the ruler of Dubai via a prize jury packed with his appointees, and they referred me back to the Secretary-General's office, after several rounds of ping pong, it was clear. This was going nowhere. They have no power to investigate. They have no power to enforce. Once again, this is an Orwellian world. This is a world where the labels do not mean what they say.

Senator COBURN. A mirage.

Ms. ROSETT. It is called an ethics office. It is a cover up for not having an ethics office.

Senator COBURN. Any final comments?

Mr. MELITO. I would just like to reiterate that the issues with OIOS really do make the CMP vulnerable. The United Nations needs to make sure that OIOS has the independence to at least oversee that project. And that can be done, because in case of peacekeeping, there is not a short source for oversight for peacekeeping. They can create something for CMP. And similarly, they should create some sort of firewall strategy which eliminates any risk that CMP procurement will have.

Senator COBURN. Thank you. You each will receive some questions from the Subcommittee, if you would not mind answering some of those, within 2 weeks of receiving them, we would very much appreciate it. I do appreciate you preparing testimony and the work that you have done.

The hearing is adjourned.

[Whereupon, at 4:26 p.m. the hearing was concluded.]

APPENDIX

PREPARED STATEMENT OF SENATOR CARPER

Since its establishment on June 26, 1945, the United Nations and its agencies have played integral roles in addressing global issues ranging from electoral assistance in Iraq and Afghanistan to 18 peacekeeping missions around the world and hopefully, in the near future, Darfur.

The United Nations is important not only to the international community, but also right here at home in the U.S. The United Nations employs over 40,000 people, including 1,400 Americans. As a major New York attractions, 40 million visitors having toured the buildings, contributing an estimated $800 million annually to our economy.

The U.N. buildings have not been renovated since they were built in the early 1950s, with current problems including asbestos; lead paint; no sprinkler systems; and spaces that would be inaccessible to firefighters.

And now, when a credible renovation plan is on the table, there are those who would use it as a political tool to force needed management reforms.

In a post 9/11 world—I find it totally unacceptable that there are those who would play politics with people's lives. I understand that the United Nations requires reform and support these efforts, but not at the possible expense of the 40,000 lives of the Americans and others who work at the United Nations. What would happen if a fire were to break out or if there were a terrorist attack?

The U.N.'s renovation plan has been reviewed by GAO twice, and is in the process of a third review. State Department and OMB have also taken part in the review process and all give the plan a clean bill of health. To my understanding the Administration supports the plan, and I look forward to hearing the Administration's position from Ambassador Bolton today.

I, therefore fail to understand why the plan has yet to be implemented . . . and given that renovations will take years, why renovations and reforms simply cannot take place at the same time.

I am also not the first to pose the question of embroiling the renovation's plan in politics. Fritz Reuter, the Executive Director of the U.N.'s renovation plan voiced similar concerns, and ultimately stepped down from his position from all accounts for similar reasons.

It baffles me, Mr. Chairman why in your meeting with Mr. Reuter last week, that you did not insist that he be here today. He has the most knowledge of anyone on this topic and on best ways to move forward.

That being said, I look forward to hearing testimonies from our witnesses today that really address the nuts and bolts of the renovation and any related issues of concern.

Statement of the Honorable John R. Bolton
U.S. Permanent Representative to the United Nations

Introduction

Mr. Chairman, distinguished colleagues, thank you for inviting me to appear before you today. I know the issues we will be discussing today are of profound interest to this Committee and the American people. Americans, regardless of where they may reside, are increasingly aware that the United Nations is in vital need of reform -- and that the lack of reform has a disproportionate impact on us given our role as the institution's largest financial contributor.

At the outset, I would like to extend my warm thanks to you, Mr. Chairman, for your personal dedication and efforts to make the United Nations more accountable, transparent, and effective. I emphasize the words "accountable" and "transparent" because I know those are two words that have figured prominently in your lexicon as well -- and for good reason. We can all acknowledge the need to renovate the aging UN building and the need for meaningful reforms across the panoply of agencies and programs within the UN. Concomitant with that, however, is the justifiable position that Americans are right to demand -- that their hard-earned tax dollars are not being wasted, or lining the pockets of corrupt officials, or even worse, propping up regimes the likes of Saddam Hussein's.

In the short time I have before you today, I would like to discuss three issues, the Capital Master Plan, Management Reform, and the independence of the Office of Internal Oversight Services (or OIOS). I would be happy, of course, to address any questions on other subjects you may have following my remarks.

Capital Master Plan

Mr. Chairman, as is well known, the United Nations headquarters is in need of a major renovation. The building in its present state does not meet the safety and fire standards established by New York City. The United States wants to ensure that there is a safe and secure environment for delegates and staff working at United Nations headquarters.

The need is pressing. Close to 4,300 people work in the complex, about a quarter of whom are Americans. Throughout the year, over 5,000

accredited delegates from all nations come to New York to participate in the work of the General Assembly. And some 40 percent of the well-over 300,000 tourists who visit the United Nations each year are Americans. The United Nations has unique security concerns, given the high profile of the building, the presence of world leaders, and its New York location. Most of the structures involved are well over fifty years old, and have never undergone a major renovation. Laden with asbestos, the buildings within the UN complex are energy inefficient, and have little-to-no flexibility in terms of space utilization.

As both the UN's largest contributor and host country, the United States also has a direct interest in ensuring that the Capital Master Plan, the title of the renovation project, is implemented in the most cost effective and transparent manner possible. We support the UN's recommended Strategy IV which involves a phased construction approach for renovating the existing buildings, including renovating the Secretariat building several floors at a time. This strategy for implementing the CMP has an estimated cost projection of up to $1.8 billion. A U.S. Government CMP Task Force with representatives from the State Department (including OBO) and an expert consultant have determined the project management approach and cost estimating methodology being used are consistent with industry standards. It is the Task Force's assessment that the CMP is appropriately scoped to address the serious safety and security concerns to staff, diplomats, and visitors.

There is some discussion of consolidating UN staff currently in leased space in one building as well. We believe this issue warrants careful consideration, but should be considered separately from the General Assembly's consideration of the Capital Master Plan.

More broadly, though, the Administration is working constructively with others in the current session of the General Assembly to resolve remaining issues on the Capital Master Plan, in particular the critical decision on project strategy. The United States believes that Member States should focus their attention during this resumed session on a decision on project strategy. As we have stated before, this decision is necessary to provide clear direction on the continuation of pre-construction work and on the use of the funds approved by the General Assembly last month. We understand that $20 million has been spent from the funds approved by the General Assembly last month. We are asking for details on progress to-date

using these funds, as well as progress under the approved commitment authority to underscore the importance of transparency.

As the most recent report by the Secretary-General on the CMP makes clear, some issues require further discussion, such as requests for an appropriation for the construction documents phase, overall project financing, the establishment of a working operating reserve fund, and the idea of interest charges for late payments of assessments. We look forward to a thorough discussion of these issues, especially given the sizeable financial and other ramifications of decisions on these subjects.

Creating a safe and secure work environment for the United Nations is critical. We will be diligent about containing costs. Implementing the UN renovation in the most cost-effective manner will help ensure resources are available to fund the UN's many other priorities. We fully understand this Committee's interest in insisting on greater transparency in all aspects of the Capital Master Plan. We share that interest. This is a key theme in our current discussions in New York as negotiations proceed.

Management Reform

In terms of specific priorities, the United States has consistently made clear that management reform is at the top of our agenda. Progress in this regard will have a transcendent impact on a number of issues related to all UN programs, including efficiency, transparency and accountability. Successful management reform is critical for the UN to be able to more effectively and efficiently deliver services to those that need them most around the globe, and to support U.S. policy goals. The United States has joined with others to launch an ambitious agenda of reform--reforms we think are vital to putting the United Nations back on track. This is consistent with Secretary Rice's call last September before the 60th meeting of the General Assembly to "launch a lasting revolution of reform." There have been some successes. We applaud, for example, the recent increase in resources for oversight and the implementation of whistleblower protection within the UN system. We also applaud the creation of an ethics office and the issuance of stricter financial disclosure requirements.

Implementation of these initiatives, however, remains a key priority. Last week I had an interesting meeting with the leaders of the UN Staff Union. They expressed some concern that while the reforms enacted to date

are a step in the right direction, they do not go far enough. We are now working with them along with all interested parties now to help ensure that these reforms are not only enacted, but implemented as well. Interestingly, they raised the issue of transparency – an issue that we have stressed as well on a wide-range of subjects. We concur with the UN Staff Union that integral to the success of management reform, regardless of the specific reforms adopted, is that the process be transparent. This will allow all parties concerned to provide the most productive input into the process.

Obviously, of course, it is Member States that must push for many of these reforms. Already, though, we have seen sharply divided positions emerging on some key issues. Many members of the Group of 77, or G-77 as it is known, have been resisting efforts by the Secretariat to reform and streamline basic managerial structures and practices. They rallied together in response to the March 2006 report by the Secretary-General, which offered a remarkably frank assessment of the situation we face today. His assessment was as follows:

> "The earlier reforms addressed the symptoms, more than the causes, of our shortcomings. It is now time to reach for deeper, more fundamental change. What is needed, and what we now have a precious opportunity to undertake, is a radical overhaul of the entire Secretariat – its rules, its structure, its systems – to bring it more in line with today's realities, and enable it to perform the new kinds of operations that Member States now ask and expect of it....Such a radically expanded range of activities calls for a radical overhaul of the United Nations Secretariat — its rules, structure, systems and culture. Up to now, that has not happened."

Outlined in this report were a number of specific proposals to reform the UN system to increase efficiency. Recently, the Fifth Committee, which is the Member State body in the UN system that handles budgetary and management-related issues, voted against many measures that would have increased the ability of the Secretariat to implement a number of significant and genuine reforms. To be sure, we do not agree with every single reform proposed by the Secretary-General, but we certainly agree with his diagnosis of the problem, and support his efforts.

What was particularly interesting about the Fifth Committee vote on some of the Secretary-General's proposed reforms was the way the vote

split. On one side are a group of 50 nations, including the U.S., who are pushing an ambitious reform agenda, and whose combined contributions happen to total more than 86.7% of the UN budget. On the other side are over 120 nations who contribute 12% of the budget, and are blocking these reforms. We have been working closely with both G-77 countries and larger contributors to bridge this divide. We have been actively promoting reforms as a tangible and positive benefit for all member states. The U.S. is still actively negotiating many of the types of reforms proposed by the Secretary-General, though we must acknowledge it will still be an uphill battle, with a majority of member states expressing their opposition to some of the most basic reforms. This was exemplified just last week when they wrote a letter to the Secretary-General chastising him for issuing reports to the public on his proposals for some reforms he feels are necessary.

It has become apparent that some members of the General Assembly are trying to hinder the Secretary-General from serving in his capacity and duty-bound role as the Chief Administrative Officer of the UN, due to their desire not to cede any authority away from the General Assembly. We agree that the Member States should have the bulk of the authority, but believe that its micromanagement hampers the Secretariat from effectively achieving goals of Member States. And when the G-77 calls for an "accountable" Secretariat, we hope they will be more concerned about ethics, oversight, and transparency than with preserving micro-managerial prerogatives over personnel and other administrative matters.

OIOS Independence

Indeed, closely related to the issue of management reform is the importance of increasing the transparency and accountability of the myriad institutions within the UN system. We remain concerned about the independence and autonomy of the Office of Internal Oversight Services, or OIOS. OIOS is the Inspector General of the UN, the body charged within the UN system to provide internal auditing, investigation and evaluation of all activities under the authority of the Secretary-General. The problem, though, is that in several ways OIOS is potentially beholden to those it is responsible for investigating. This inherently creates a conflict of interest, whether any specific one is identified or not. Just last month, the U.S. Government Accountability Office issued a report that concluded:

"UN funding arrangements constrain OIOS's ability to operate independently as mandated by the General Assembly and required by international auditing standards OIOS has adopted....OIOS depends on the resources of the funds, programs, and other entities it audits. The managers of these programs can deny OIOS permission to perform work or not pay OIOS for services. UN entities could thus avoid OIOS audits and investigations, and high-risk areas can be and have been excluded from timely examination."

~Statement by David M. Walker, Comptroller General of the United States, "United Nations: International Oversight and Procurement Controls and Processes Need Strengthening," United States Government Accountability Office, April 27, 2006.

This situation is untenable and serves as an open invitation to those who may seek to defraud or abuse the system. As another measure to ensure OIOS' independence, we encourage OIOS to continue providing to Member States any and all findings and conclusions it reaches whenever requested, a requirement the United States succeeded in having adopted by the UN General Assembly. OIOS can serve as a valuable tool for Member States to take action or push through reforms that are sorely needed. We will push hard to make sure that the Independent Audit Advisory Committee is fully established to validate OIOS' work and ensure OIOS' independence of the UN Secretariat.

The agreement to provide Member States with copies of all OIOS reports was a positive step toward accountability and transparency. The reports of OIOS should not be for internal consumption only. All interested parties should have access. The website of the U.S. Mission provides a portal and directs any interested individual to OIOS reports to the General Assembly, as well as those requested by the U.S. Mission. To underscore the key theme of this testimony, we have appropriately entitled this new project, "The Transparency Initiative".

Conclusion

Mr. Chairman, in closing, let me again reiterate my thanks for your personal involvement on these matters. I can tell you unequivocally that it has had an impact. Your conversations and trips to New York have served as an important reminder, sometimes forgotten, that the U.S. Congress plays

a critical role in the process. Ensuring that UN operations are transparent is an important step in ensuring that UN agencies are held accountable. This is no doubt a key step to reforming the United Nations, and I thank you for your work to help make that a reality. We are engaged in intensive diplomacy in New York and in other nations' capitals to achieve consensus support in the UN for tangible further reforms in the areas of ethics and oversight, Secretariat management, and review of UN mandates in the very near future. And then we will push on for even more thoroughgoing reform in all those areas in the months to come. I look forward to answering any questions that you or any of your colleagues might have.

Professor Anne Bayefsky

Senior Fellow, Hudson Institute; Touro Law Center;
Editor, www.EYEontheUN.org

1. The Political Landscape at the UN

The world has changed a great deal from the time of the United Nations' birth in 1945, and so has the United Nations. Sixty years ago democracies, both nascent and well-established, comprised the majority of the founding nations of the UN. The UN structure was dominated by the Allied Powers through the framework of the Security Council. The members of the General Assembly were strategically aligned primarily along what would become the lines of the Cold War. America was confident that the UN would be an organization which would work in tandem with American national interests in promoting the welfare of humankind and the basic rights of every human spirit.

But within two decades, global politics and the United Nations had been radically altered. By the mid-60's, UN membership had more than doubled, and the majority of members were not democratic. By 1975, democratic states constituted little more than a third of UN members. There were burgeoning regional organizations of essentially democratic states outside the UN, such as the Council of Europe, the European Economic Community, the North Atlantic Treaty Organization, and the Organization of American States. But the cumulative membership of most of these bodies tended not to operate cohesively *within* the UN framework. Many of these regional units were centered in Europe, with the United States, Canada, Australia and a few others often situated on the perimeter. By contrast, within the UN, an entirely different realignment of power was taking place. Third World states formed a series of regional bodies focused on UN enterprises and outcomes. The Group of 77 (G-77),established in 1964, was composed of 77 developing countries calling themselves the largest Third World coalition in the United Nations. The Non-Aligned Movement (NAM), which held its first gathering of heads of government in 1961, boasted a membership of over 60% of UN states by the mid-60's. The largest subset of both the G-77 and the NAM was the Organization of the Islamic Conference (OIC), established in 1969, to which 30% of UN members belonged. The focus of the OIC, in their words, included "Islamic solidarity" and "non-interference in the internal affairs of member states." Today, UN members number 191, the G-77 numbers 132, the NAM includes 115 member states, and the OIC 56. According to Freedom House, 88 or less than half of UN member states are free or fully democratic.

There are other indicators of major shifts in the dynamics of the UN since its creation. Intergovernmental organizations have associated themselves formally with the UN in order to influence the UN political landscape. Participating as observers in the work of the General Assembly are, for example, the League of Arab States, the Organization of American States, the African Union, the European Community, International Organization de la Francophonie, and the OIC. Only six of these forty-one intergovernmental entities and organizations include the United States.

Moreover, the UN's tectonic plates shifted in the early 1960s into five so-called regional groups. What began as an informal means of sharing the distribution of posts for General Assembly and other committees took on a much more expansive role. Depending on the UN context, regional groups now coordinate substantive policy and form common fronts for

negotiations, in addition to controlling elections to UN-related positions and dividing up the pie on the basis of geographic representation. Although the membership of the regional groups has somewhat shifted since the demise of the Soviet Union, the five groups are the Western European and Others Group (WEOG), the Eastern European Group (or CEIT – countries with economies in transition), Latin American and Caribbean Group (GRULAC), the Asian Group and the African Group. The breakdown of the numbers of UN states in each of these groups is: WEOG 27, EE 22, GRULAC 33, Asian 53 and African 53. (Kiribati has not yet opted to become a member of the Asian group.) The United States does not formally belong to any regional group, but it attends meetings of WEOG and is a member of that group for electoral purposes. As a regional player within the UN infrastructure, therefore, the United States is a member of one subset of five regional groupings. Contrary to the UN Charter, Israel is the only UN member state denied full membership in any regional group. WEOG will only permit Israel to participate temporarily in a subset of UN bodies.

In addition to the five main regional groups, WEOG is sub-divided into Europeans and Others, which partially serves to offset the European Union's tendency to present pre-determined and united positions within WEOG. The others, to which the US belongs, with some additions, are referred to as JUSCANZ. It is usually comprised of 14 or 15 members: Japan, the United States, Canada, Australia, New Zealand, Switzerland, Norway, Iceland, Andorra, Korea, Liechtenstein, Mexico, San Marino, Turkey and sometimes Israel.

The change in membership has had a major impact on the balance of power in the UN. Despite the fact that the United States pays 22% of the UN's annual regular budget of 1,899,456,250 billion dollars, it is often on the periphery of the negotiations and the outcomes of the General Assembly (GA) and its related activities. A striking example of the UN metamorphosis is the so-called Uniting for Peace resolution. In the 1950's the US was sufficiently comfortable with its role in the GA to support the Uniting for Peace resolution. (Resolution 377(V), 1950) The resolution introduced a mechanism for moving beyond a deadlocked Security Council on matters concerning "a threat to the peace, breach of the peace, or act of aggression." But over the decades the procedure's actual use led to something quite different than was originally envisaged; it has been used 10 times to convene emergency special sessions of the General Assembly, six of which have focused on Israel. The tenth emergency special session has now been kept permanently on the agenda of the GA, having been "reconvened" thirteen times since 1997. By contrast, no emergency special session was ever convened to address the genocide in Rwanda, the ethnic cleansing in the former Yugoslavia, or the crimes against humanity in Sudan.

Political realignments had consequences for other voting patterns. Considering the General Assembly's regular sessions, on those issues on which a vote was taken State Department figures indicate the overall General Assembly voting coincidence of all UN members with the United States in 2005 was 23.5%. Of the 119 votes (committee and plenary) taken in the 2005 General Assembly, the United States found itself in the minority 76.5% of the time. At the final substantive session of the Commission on Human Rights in 2005, the United States was in the minority 79% of the time in respect of the 65 votes held. In the first two

decades, the veto power in the Security Council was cast in 106 of 114 times by the Soviet Union, and never by the United States. Over nearly the following four decades, the veto power was cast 80 of 128 times by the United States (and another 29 occasions by the United Kingdom.)

In short, over the lifetime of the United Nations, there has been a crucial shift in the balance of power in the General Assembly and in the coincidence of Security Council activity with American foreign policy interests.

At the same time, most of the resolutions of the General Assembly are adopted by consensus. But it is a consensus between democracies and non-democracies, between rights-respecting cultures and rights-reviling cultures. The dynamic of false consensus – concealing disagreement over fundamental values – is widespread at the UN. Democratic governments often do not believe it is necessary or important to say no, especially when they know they cannot carry the day. This phenomenon can be illustrated by the resolution entitled "Strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity." This resolution began in 1985, when it was first introduced by Angola, Czechoslovakia, Ethiopia, Lao People's Democratic Republic, Syria, the Ukranian S.S.R. and Vietnam, under the title "Inadmissability of exploitation or distortion of human rights issues for interference in the internal affairs of States." With a more opaque title, it was eventually adopted in 1986 by a vote of 154-0 with 1 abstention, the abstention being that of the United States. But since 1990, the resolution has been adopted by consensus, despite the fact that the continuing objection and defeat of country-specific resolutions by the UN system is done in the name of "non-selectivity". Similarly, in the last two decades Western governments agreed on the products of a succession of UN World Conferences that introduced the idea of cultural, religious or philosophical "particularities." Although these themes are the currency of those states opposed to universal human rights standards, Western governments wanted final consensus documents at any cost. The Cuban delegation exemplifies the nature of UN consensus; speaking of the importance of human rights protection during a recent UN General Assembly debate they insisted: "only on the basis of cooperation can we meet the challenges of humanity." Consensus at the UN, therefore, represents the lowest common denominator, a position often at odds with principle.

Consensus or cooperation at the UN has been held up as the model of mutual respect, between democratic and communist societies, between developed and developing. The truth is, of course, that communist countries were never interested in international human rights, and that poverty or freedom from want often serves to justify totalitarianism and oppression. Cultural, religious or philosophical "particularities" are not really about sensitivity, accommodation and respect for difference; they camouflage self-aggrandizement and true isolationism. At the end of the Cold War, the fundamental rifts in the U.N. system simply metastasized. The Cold War conflict of priorities between economic, social and cultural rights on the one hand, and civil and political rights on the other, was recast as development versus democracy.

Though essential differences are masked by constant reference to "interdependence," the

standard that has taken hold is not common dignity but moral relativism. This is the radical shift in values from the original UN mission that consensus has wrought. UN language is deliberately confusing. "Cooperation" is used to mean "criticisms of any specific states' human rights record, particularly my own, are inappropriate." "Politicization" is used to mean "the politics are not my state's politics." But the language cannot hide the fact that by the outset of the 21st century, universal human rights consistent with American values are not the driving force behind so much of what occurs at the United Nations.

These developments can be contrasted this with the Council of Europe, created on May 5, 1949. Its founding documents require that "Every member...accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim..." Any member that has "seriously violated" this condition of membership may be suspended and ultimately removed. The Parliamentary Assembly of the Council, which has 46 members, has put in place mechanisms for evaluating and monitoring its members' willingness and ability to uphold the principles of democracy, the rule of law, and human rights.

The United Nations has no such pre-conditions for membership or participation. UN bodies across the system include representatives drawn from among the least free states in the world today:

- the Human Rights Council (the UN's primary human rights body): Algeria, Azerbaijan, China, Cuba, Russia and Saudi Arabia. (The United States, represented by Eleanor Roosevelt, was Chair of the Human Rights Commission from its inception in 1946 to 1950. The US never served as Chair of the Commission again.)
- The Secretary-General's Advisory Committee of the UN Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law: Iran, Lebanon, Nigeria, Pakistan, and Sudan.
- The Economic and Social Council (ECOSOC), (with broad responsibility in the areas of economic and social development and observance of human rights and fundamental freedoms): China, Cuba, Saudi Arabia, Tunisia, and United Arab Emirates.
- The Commission on Crime Prevention and Criminal Justice: Algeria, Central African Republic, China, Cuba, Egypt, Iran, Pakistan, Russia, and Saudi Arabia.
- The two five-person Working Groups of the Commission on Human Rights on Enforced or Involuntary Disappearances and on Arbitrary Detention both have an "independent expert" from Iran.
- The UN Commission on the Status of Women: Burkina Faso, Ghana, Nigeria, Sudan, and the United Arab Emirates – (all countries with significant incidence of female genital mutilation) - as well as China and Iran.
- The Committee on Non-governmental organizations: China, Côte d'Ivoire, Cuba, Iran, Pakistan, Sudan, and Zimbabwe – (states with severe limits on freedom of association.)
- The Governing Body of the International Labour Organization (dedicated to equality in the workplace): China, Cuba and Saudi Arabia.
- Among the 21 Vice-Presidents of the forthcoming 61st General Assembly are China, Libya, and Zimbabwe.

The UN is clearly not a collection of like-minded democratic states with genuine human rights cultures. It is therefore inevitable that such a composition should profoundly affect its ability to meet the major challenges of our time: the spread of democracy, the protection of human rights, the war against terrorism, and the threat to international peace and security posed by weapons of mass destruction.

It is important to note that not all UN members within the NAM or G-77 are non-democratic. However, these members feel little compunction to vote in the UN in a manner consistent with the interests of the United States and its closest allies. Looking at State Department figures across the board, in the 2005 General Assembly, on those issues on which a vote was taken, the average overall General Assembly voting coincidence with the United States for UN members from the African, Asian and GRULAC (Latin American and the Caribbean) regional groups was 13.5%, 18.7% and 19.7% respectively.

Exacerbating the problem for the United States is the fact that democracies themselves often do not present a common front at the UN. This is because the composition of the UN permits democratic states to further their individual interests by forming tactical alliances with non-democracies. The United States often finds itself on the receiving end of such maneuvers. In the 2005 General Assembly, on those issues on which a vote was taken, the average overall General Assembly voting coincidence with the United States for those UN members from the WEOG regional group was only 46.4%. A desire for enhanced power on the world stage, is a reality that crosses political divides.

Even on issues where democratic states have common interests, however, the UN system increases the tension among them. Since US-led initiatives – regardless of Washington's political stripes - almost invariably antagonize large numbers of UN members, the US is often forced to operate through the European Union. The EU relishes the role of middleman, and spends much of its time pointing helplessly over its shoulder in the direction of the villains. But the half-way point is not where America, or its fellow democracies, ought to be.

2. The Consequences and Output of a Club of Non-Democracies and Democracies

a. Reform

The composition and political make-up of the UN system has inevitable consequences for its output and its inherent ability to change. We are currently witness to the fact that despite valiant efforts by members of Congress and Ambassador Bolton, the UN remains impervious to reform on a number of issues crucial to the original promise of the Organization. On almost every issue of central interest to democratic states, the UN reform effort has predictably failed. What follows is a summary of the state of play in respect of some of the major reform targets.

i) Human Rights

- **The Human Rights Council**

The new Human Rights Council, which replaces the discredited Human Rights Commission as the U.N.'s lead human-rights body, was elected May 9, 2006. The United States quite rightly voted against the resolution creating the Council, whose founding charter did not contain a single substantive criterion for membership, the only qualification being geography. The Council also changed the distribution of seats among the UN's five regional groups, from that of the Commission, to the detriment of democracies. The new distribution reduced the proportional representation of WEOG and gave a controlling interest of 55 percent of the Council's votes to the Asian and African regional groups. Not surprisingly, the election resulted in the selection of some of the world's worst human-rights abusers, such as China, Cuba, Russia and Saudi Arabia. At the same time, the election gave a 62 percent interest in the African and Asian groups to the Organization of the Islamic Conference (OIC), which will now dominate the Council to a greater extent than it did the Commission. Overall, issuing human rights abusers a new license to judge human rights abuse does not constitute not successful reform.

The Council's first session begins June 19, 2006 and an initial draft of the agenda has already been altered in response to pressure from the OIC. The OIC advocated adding "pressing human rights issues" to the agenda – by which it means Israel. As of this writing, the final agenda has not been adopted. It remains to be seen what resolutions would be passed under such an agenda item, and what will ultimately be deemed "pressing." After all, the OIC and the G-77 are in a bit of a bind – they wish to repeat their pastime of using UN forums as platforms for demonizing Israel, but they seek to avoid any criticism of states in the G-77. At the Commission the way out was to have a single agenda item or special session/sitting only on Israel. The technique was highly successful – 30% of the country-specific resolutions critical of a state's human rights record, (over the forty-year history the Commission adopted such resolutions), were directed at Israel alone. No such resolution was ever adopted, for example, on China, Saudi Arabia, Syria or Zimbabwe. We are currently witnessing the OIC and G-77 effort to find a similar scheme for the Council. There is a widespread expectation that the Council – in contrast even to the Commission - will not adopt any resolutions condemning human rights abuse by specific states, with the exception of Israel, in the foreseeable future.

The draft agenda issued on June 15, 2006 allocates time for Working Groups on "Durban" (a short-hand reference to follow-up to the Durban Racism Conference); the right to development; economic, social and cultural rights, the drafting of an instrument on disappearances, and indigenous peoples. Mysteriously omitted are the three existing working groups that name specific states -- on arbitrary detention, enforced and involuntary disappearances, and the "working group on situations" which has the task of specifically identifying states engaged in gross and systematic human rights violations.

As for transparency, the Office of the High Commissioner for Human Rights has

apparently decided that the embarrassing events are best left seen by as few witnesses as possible. Only the opening speeches of high-level diplomats in the first few days (the least important element of the proceedings) will be webcast, despite the fact that if one could travel to Geneva, the sessions are open to members of "civil society."

- **Beyond the Human Rights Council**

While much emphasis has been placed on remedying the UN Commission on Human Rights, the UN human rights system is much broader. The political bodies also include the Commission on the Status of Women, as well as the bodies intended to follow up on their recommendations: the Economic and Social Council (ECOSOC), the Third Committee on Social, Humanitarian and Cultural Issues of the General Assembly, and the plenary of the General Assembly itself.

Considering UN resolutions critical of a specific state's human rights record, at the 2005 General Assembly there were 19 resolutions adopted on Israel, one criticizing the US for the Cuba embargo, and only seven on any of the other 189 UN states – Afghanistan, Burma/Myanmar, the Democratic Republic of the Congo, the Democratic Republic of Korea, Iran, Turkmenistan, and Uzbekistan. Despite millions of dead and displaced, a resolution on Sudan was defeated by a procedural no-action motion that prevented an up-down vote on the merits of the resolution.

At the 2006 Commission on the Status of Women, the UN's highest body dealing with women's rights, only one resolution was adopted that specifically condemned the abuse of the rights of women or girls by any of the 191 UN member states. That state was Israel.

Neither the human rights operations of the General Assembly nor the Commission on the Status of Women has so far been touched, or is likely to be touched, by UN reform.

ii) Management reform

On management reform, efforts at ensuring accountability have run into a brick wall. Secretary-General (SG) Kofi Annan put a minimal reform package (Investing in the United Nations) on the table in March 2006. This package attempted to reduce micromanagement by the General Assembly by allowing the Secretary-General to make certain financial decisions and reallocate posts without GA approval. The General Assembly majority -- which pays a small fraction of the U.N.'s costs -- objected. Instead, for the first time in 19 years, that same majority (the G-77) forced a vote in the U.N.'s budget committee on April 28, 2006, successfully sidelining the subject by requesting a further series of reports from the SG. The 50 countries that voted in the minority, which included the United States, pay 87 percent of U.N. dues.

During the negotiations, the SG made an attempt to mollify the G-77 by taking the extraordinary step of issuing a letter on April 27, 2006 withdrawing two of his proposals. This offer had the predictable effect of whetting the G-77's appetite for more, and the vote setting aside all of the proposals ensued. On June 16, the SG introduced another series of reports intended to respond to the G-77's resolution. The concessions continued. The Assistant Secretary-General, Controller Warren Sachs, stated: "...the five elements originally proposed under proposal 16 have been dropped and two new proposals for limited discretion have been made." While discussion of the report will begin on June 19, 2006, Mexico presaged the G-77's response: "...some of the proposals don't have sufficient clarity or require more development to make it possible for states to take well-informed decisions...My delegation will therefore ask for technical clarifications..." In other words, the G-77 is poised to reject the SG's report as unsatisfactory.

In the meantime, the G-77 has introduced a bargaining chip: a resolution on development issues that they say is a prerequisite to progress on other fronts. A resolution on development is due shortly, though some Western diplomats refuse to acknowledge the linkage, probably because progress on development issues is highly unlikely to translate into progress on other matters.

There are some aspects of the issue of management reform in which the G-77 is keenly interested, such as human resources. Changes in this area could open up more jobs inside the secretariat to their compatriots by redistributing some positions on the basis of geographic representation. In the words of a June 5, 2006 letter "to the United Nations," the G-77 says:

> *"We stress that reform of human resources management...and procurement should reflect the international character of the Organization...[W]e... underscore the need to provide concrete measures to ensure greater market access by businesses from developing countries in United Nations procurement; and stress the need for establishing clear mechanisms to increase the representation of developing countries in the Secretariat."*

For the G-77 "investing in the United Nations" equals investing in the G-77.

In essence, the G-77 is seeking to ensure as much power as possible is vested in the GA

and not in the hands of the Secretary-General or the Security Council. The double-speak they use to describe their effort to retain control – and use it, as the April 28th Fifth Committee vote exemplifies – is equality, inclusiveness, accountability and cooperation. As the Egyptian ambassador said in the Fifth Committee: "We are all equal partners in this organization, regardless of our level of development and contribution to the budget." This is the reality of UN life – non-democracies who do not respect equality at home, but constitute the majority inside the organization, claim they are entitled to control the purse strings and the size of the bill presented to taxpayers in democracies.

iii) Preventing genocide

A UN Commission of Inquiry that reported in January 2005 refused to identify the millions of dead and displaced in Darfur as victims of genocide. It is well known that the conflict has clear ethnic dimensions; the vast majority of the victims of the Sudanese government's military campaign in Darfur are Africans from various tribal groups, and the perpetrators are Arab, government armed forces and Arabic-speaking groups of nomadic people recruited and deployed as *Janjaweed* militia. But the UN's Commission of Inquiry did not find there was genocide because, they said, there was no intent to annihilate a group distinguished on racial or ethnic grounds. This pre-September 2005 Summit failure, along with Sudanese intransigence, African Union reservations, and Chinese and Russian self-dealing, has contributed to the continuing spectacle of U.N. troops still marginalized, despite the carnage.

iv) Mandate review

On March 30, 2006 the Secretary-General handed UN members a list of over 9,000 mandates of U.N. entities with no recommendations for streamlining and elimination. His obvious reticence was likely a result of the delicacies surrounding some of the most obvious anomalies and duplications. For example, there is one U.N. Division within the secretariat for Palestinians and another Division for everyone else in the Asia and Pacific region; there are two refugee agencies, one for Palestinians and one for every other refugee; there are two U.N. human rights websites and databases, one for Palestinians and one for everybody else; there are two parts to the Department of Public Information, one devoted to Palestinians and one for all other subjects.

U.N. member states are still arguing about which mandates ought to be reviewed. Last September's Summit called for a review of all mandates older than five years. The G-77 is claiming that any mandate that has been renewed in the last five years, regardless of when it was first introduced, is exempt – a tactic which would eliminate 93% of the list before review even begins. The other G-77 and NAM tactic has been to challenge all the mandates of the Security Council and to insist they be debated in the General Assembly. This is how the NAM (representing a majority of UN members) perceives the idea of mandate review:

> *"The [mandate review] exercise is not aimed at cutting the costs of the Organization or to reduce the budget levels and fund more activities within the existing resources...Member States should be willing to increase the financial and human*

resources...if the lack of resources hinders the full implementation...Resources that might be freed as a result of a collective decision by the entire membership...would be redirected to...the development field. This exercise is not about the consolidation of reports and/or resources nor is it about biennializing or triennializing the UN resolutions." (May 23, 2006, Malaysia on behalf of the NAM)

Likewise, the G-77, (the NAM states plus a few others) made its position on mandate review clear. In their June 5, 2006 manifesto, they laid down the gauntlet. According to the G-77, the issues of "utmost priority" for the UN begin with "the right to development, [and] environmental and social corporate responsibility." Mandate review

"is not aimed at cutting the costs of the Organization or to reduce the budget levels and fund more activities from within the existing resources...[A]ny savings that may result from the outcome of the exercise should be redirected to the activities of the Organization in the development area."

What mandates are the NAM and the G-77 prepared to discuss? Here's one: a request for a report from the Secretary General on "armed Israeli aggression against the Iraqi nuclear installations" adopted in November 1981.

In the face of G-77/NAM opposition to reviewing more than a fraction of mandates, the Co-chairs of the mandate review process from Canada and Pakistan capitulated. In the last week, they have circulated a letter agreeing that the process "will focus on 5 year old non-renewed mandates and identify other possible areas where there can be agreement." The Pakistani co-chair told member states that there was no agreement on discussing mandates more than five years old that had since been renewed, so the GA could either discuss 7% of the 9,000 mandates or nothing at all. Even the European Union said only that there should be a first phase dealing with five-year old unrenewed mandates, and the rest could come later. American objections that the September Summit document made no mention of the G-77 caveat fell on deaf ears. The G-77 retorted that the Summit document had been drafted deliberately to be ambiguous because there had been no agreement on this very issue. (It was a rare moment of candor; UN consensus = an outcome that means different things to different people.) Consequently, therefore, only 7% of the mandates will be reviewed, and there is no agreement on reviewing anything else.

Furthermore, Algeria and Cuba now claim the entire process of mandate review is subject to a deadline of December 31, 2006. The G-77 has said this is a "one-time review" that "should show due regard for the political sensitivities of mandates and should not be a pretext to eliminate political mandates." In other words, if anything of interest to the G-77 comes up within the 7%, it too will be taken off the table.

So instead of being able to show any progress by the time the budget cap expires, not one mandate has been reviewed.

v) Combating terrorism

On terrorism, the U.N. is no closer to a definition. At the September Summit, world leaders "agreed" to condemn terrorism, but since there is no agreement on what constitutes terrorism the condemnation of itself is an empty gesture. This lacunae is not a theoretical shortfall. Following the Tel Aviv bombing on April 17, 2006, the UN Security Council engaged in negotiations over whether to condemn the attack. But agreement could not be reached, even for a press statement, because Council member Qatar refused consensus. Only a week later, however, the Council had no difficulty adopting a presidential statement condemning "in the strongest terms," as "terrorist acts," the bombings at an Egyptian Red Sea resort.

The UN's lead counter-terrorism agent, the Counter-Terrorism Committee (CTC), established in the wake of 9/11, has yet to name a single terrorist, terrorist organization or state sponsor of terrorism.

The working group charged with drafting a comprehensive convention against terrorism cannot even agree on its next meeting date. Progress on the convention is at a standstill due to the blockading efforts of the OIC; there are two drafts on the table on the main outstanding issue, one from the OIC and the other from the Coordinator on behalf of everybody else. The OIC seeks to add a paragraph stating that "The activities of the parties during an armed conflict, including in situations of foreign occupation....are not governed by this Convention." Or, as the Syrian delegate described the position, the OIC "emphasize[s] the need for a clear definition distinguishing terrorism from the legitimate struggle of peoples against foreign occupation and alien domination."

Meanwhile, the Secretary-General's report on a UN counter-terrorism strategy, produced as part of the reform program, is in the middle of a war of words being waged in informal consultations. The co-chairs of this reform committee from Spain and Singapore circulated on June 9, 2006 a paper containing "draft elements for a possible United Nations counter-terrorism strategy." It contains such suggestions as: "continue to...make...use of the capacities of the UN...taking into account the particular situation of peoples under colonial domination or foreign occupation that often create conditions conducive to the spread of terrorism." Pakistan, Algeria, Syria, Iran, Egypt and Sudan, in particular, are making a concerted effort to redirect attention to the alleged root causes of terrorism: the underlying evils that supposedly drive unfortunates to blow up themselves along with as many Americans, British, Iraqis, or Israelis as possible.

The June 14, 2006 remarks of the Pakistani Ambassador on the development of a UN counter-terrorism strategy sum up very well why UN negotiations have failed for years and why they cannot be expected to empower this institution to make a serious contribution to the war on terror. In Ambassador Munir Akram's words:

> *"...several of the words concepts, actions offered in the draft elements – as also in the Secretary-General's Report – need clarification, legally and politically. For instance, there is no clarity on what constitutes "instigation" of terrorism; "sanctuaries" for terrorists; "victims of terrorism." Some other words are loosely used e.g. "soft targets"; "internationally shared values....General Principles for the Strategy:...It*

> *should address the underlying causes – political, economic and social – which give rise to the phenomenon of terrorism...It should prevent the suppression of legitimate resistance against foreign occupation or for self-determination under the guise of countering terrorism."*

He went on to talk about the "suppression of the rights of peoples to self-determination (e.g. Palestine, Kashmir.)"

Quite simply, the political reality of today's UN is that there are no undisputed internationally shared values. Killing some men, women and children is justified in the eyes of a substantial number of UN states.

As for really dealing with root causes of terrorism, such as hate, bigotry, or anti-semitism, the original text of the Secretary-General called for UNESCO to

> "scale up existing programmes for strengthening the capacity of educational systems worldwide to integrate human rights education, internationally shared values....into...educational systems, including through the development of curriculum standards, the training of teachers and the approval of school textbooks."

But the co-chairs removed from their draft the reference to all the specifics in the last phrase (everything after "systems") following OIC objection to the reference to textbooks.

In short, a UN counter-terrorism strategy is an oxymoron.

vi) Security Council

The UN is currently seeking to expand the range of states which will be entitled to define threats to international peace and security and the reach of self-defense, by increasing the seats on the Security Council. The slogan is to increase the "democratic" nature of the body, supposedly by making the Security Council look more like the General Assembly. Such an expansion of the Security Council would only further incapacitate it. There are various proposals to increase Security Council membership on the table, along with two earlier reports from the Secretary-General and a High-Level Panel which the SG appointed.

None of the proposals specifically require that a country be democratic or abide by the rule of law when governing its own people. The two reports simply speak about countries that will not "impair effectiveness." There is no suggestion that there be a method by which to remove a state which does impair effectiveness. The Secretary-General proposes that "developing nations" are entitled to greater representation. Why is "developing" in and of itself a condition of entitlement? A democracy condition could and should be applied to both developing and developed applicants.

The UN thinks in exactly the opposite direction from the march of history and the understanding that only states motivated to embrace democracy should be entitled to chart its course. The movement to lessen, not increase, the control of democratic states over the United Nations is a move in precisely the wrong direction.

vii) Steps Forward

There have been some very modest successes towards reform:

- A peace-building commission to assist in post-conflict situations has been created, and its organizational committee was finally chosen on May 16, 2006.
- A new ethics office has been established, along with new rules governing ethical behavior for the U.N. secretariat. The rules include reducing the maximum amount for undisclosed gifts to a selected 1,300 U.N. staffers from $10,000 to $250. Since then, the Secretary-General has accepted a (disclosed) $500,000 prize from the U.N. member state of Dubai. This incident raised serious questions about conflicts of interest, among them the fact that a judge on the panel awarding the prize was subsequently named to head the U.N. Environment Program.
- A U.N. Democracy Fund, first proposed by President Bush in 2004, has been established. But little more than a dozen states have made or promised contributions. The current total is less than $50 million, close to half of which is apparently from the U.S. alone.

b. Beyond Reform

The inherent composition of the UN stymies not only reform, but also U.S. initiatives and foreign policy priorities in areas the UN is supposed to consider as a matter of course:

- The International Atomic Energy Agency decided three years ago that Iran had violated the Nuclear Non-Proliferation Treaty and associated legal obligations. The job of the Security Council is to determine the existence of any threat to the peace and to take measures to maintain international peace and security. But the Security Council has yet to adopt a single resolution finding Iranian action to be a threat to international peace and security, let alone adopt serious sanctions before it's too late. Statements by the head of the U.N.'s nuclear watchdog, Mohamed ElBaradei, and Secretary-General Annan have repeatedly sought to scuttle Security Council resolve. Meanwhile, Iran was elected a vice-chair of the U.N. Disarmament Commission in April.

- Having reviewed every 2005 U.N. document, report, and resolution critical of human-rights records of specific states, EYEontheUN.org found that the country subject to the most U.N. condemnations was Israel (35% more than Sudan,) while the U.S. was ninth – on the same level as Afghanistan *(all UN documents cited at www.eyeontheun.org/browse-un.asp?ua+1&sa=1&y=2005&tpa=1&search=1).* Countries subject to less U.N. condemnation for human rights abuse than the U.S. in 2005 included China (11th), Iran (17th), and Cuba (25th). As of May 29, 2006, the top five countries most criticized for human rights abuses in official 2006 UN documents, reports or resolutions in order are Israel, Sudan, the United States, Myanmar, and Russia. *www.eyeontheun.org/browse-un.asp?ua+1&sa=1&y=2006&tpa=1&search=1*

3. The Money Trail

The UN regular budget is 3,798,912,500 dollars for 2006-07 (subject to certain adjustments). The U.S. assessed contribution to this budget is 22%. The US makes a much larger voluntary or extrabudgetary contribution to a wide range of UN Programmes and Funds, Specialized Agencies, Related Organizations, Peacekeeping Operations, International Tribunals, Commissions and Ad Hoc bodies. Such contributions are both monetary and in-kind. Member states of the General Assembly determine priorities; they decide what will be funded from the regular budget and what will be relegated to extrabudgetary resources. Certain activities are allocated to extrabudgetary resources as a result of the constituent instruments of the UN entity.

Funding UN activities under the regular budget ensures that the vast majority of the dollars for the activity come from other states – that the burden is shared. Funding UN activities by way of extrabudgetary resources gives the donor a greater degree of control over its uses. The process of approving the budget involves the consideration of the Secretary-General's recommendations by the Advisory Committee on Administrative and Budgetary Questions (ACABQ.) The comments of the ACABQ along with the Secretary-General's budget are considered and approved by the Fifth Committee of the General Assembly, a committee of the whole, and ultimately rubber-stamped by the plenary of the General Assembly. The ACABQ examines and reports only on the regular and peacekeeping budgets and the accounts of the UN, as well as the administrative budgets of the specialized agencies. Members are appointed by the General Assembly. Of the 16 states represented on the ACABQ, 13 taken together account for only 9.543% of assessed UN contributions to the regular budget.

Given the inability of many G-77 countries to make extrabudgetary contributions, they have a special incentive to insist that their priorities be funded through the regular budget, since otherwise they won't be funded at all. There is, therefore, a constant struggle to decide which activities are assigned to the regular budget. Member states trade off preferred projects against each other: the United States will be able to put Special Political Missions (Afghanistan, Iraq, counter-terrorism, etc) under the regular budget in exchange for the G-77 doing the same with the Department of Economic and Social Affairs (DESA), which includes sustainable development and financing for development.

An examination of the UN annual regular budget reveals the extent to which the G-77, and the largest single bloc within it, the OIC, has gained a chokehold on many UN expenditures and priorities. Regular budget features for the 2006-07 biennium include the following. (Note that funding for some of these UN operations are substantially increased from extrabudgetary resources.)

- two Committees, one Division, and Information activities dedicated to Palestinians only (nothing similar for any other people) $6,805,300
- Counter-Terrorism Committee and Executive Directorate $8,101,500

- Special Committee to Investigate Israeli Practices affecting

the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	$233,100
• Committee on the Elimination of Racial Discrimination (170 states)	$761,200
• Number of posts (UN staff) for the Division for Palestinian Rights	16
• Number of posts (UN staff) for Asia and Pacific Division	21
• "Palestine Refugees"	$35,184,800
• Humanitarian Assistance (humanitarian action and emergency response globally)	$26,140,500
• Electoral Assistance (42 missions)	$4,893,200
• Question of Palestine	$5,876,600
• Prevention, control and resolution of conflicts (62 conflict situations, (post-conflict peacebuilding in 33 member states)	$22,843,000

When the United States objects to a decision to spend regular budget dollars on any specific activity, it has occasionally withheld the amount owed for this activity from its assessed contributions. But such cases are rare. The restrictions on US assessed payments to the UN currently in place concern (a) a 25% payment cap, *("Contributions to International Organizations," Department of State and Related Agency Appropriations Act, 1973, (P.L. 92-544), as amended (22 U.S.C. 287e note))* (b) the International Criminal Court, *(Section 705, Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (Pub. L. 106-113)* (c) PLO standing, *(Section 414, Foreign Relations Authorization Act, FYs 1990-1991 (P.L. 101-246)* (d) statehood, *(Section 410, Foreign Relations Authorization Act, FYs 1994-1995 (P.L. 103-236)* (e) interest, *("Contributions to International Organizations," Division B, Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2004, Consolidated Appropriations Act, 2004 (P.L. 108-199)* (f) pedophilia, *(Section 102(g), Foreign Relations Authorization Act, FYs 1994-1995 (P.L. 103-236)* (g) Palestinian UN bodies and projects, *(Section 114, Foreign Relations Authorization Act, FYs 1984-1985 (P.L. 98-164)* and a (h) regular budget cap. *(Section 11, UN Participation Act of 1945 (as amended).*

Item (g) has various complexities. It states as areas in which funds will be withheld
(1) the assessed contribution to the UN for:
a) the Committee on the Inalienable Rights of the Palestinian People
b) the Special Committee to Investigate Israeli Practices
c) the Division for Palestinian Rights
d) "projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization." [the reference to SWAPO is no longer relevant]
(2) the assessed contribution of the specialized agencies for:
"projects whose primary purpose is to provide benefits to the Palestine Liberation

Organization or entities associated with it or to the South West Africa People's Organization." [the reference to SWAPO is no longer relevant]

Items falling within (1) (d) and (2) are exempted if they relate to "projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits." Monitoring expenditures in this context requires some judgment calls: what is a "project," what is its "primary purpose," what is or is not a primary purpose that is "humanitarian, educational, development and nonpolitical"? The *Foreign Relations Authorization Act* refers to the PLO and it is the PLO that is the accredited actor at the UN. In 1988 the UN formally renamed or designated the PLO as "Palestine," so this monitoring would theoretically include everything done at the UN related to "Palestine"; the Palestinian Authority would be an "entity associated" with the PLO.

Over the years, there have been other riders to the regular budget relating to specific issues, such as the programs sponsored as part of the Second Decade to Combat Racism, any UN agency or conference whose purpose was to implement the Zionism is racism resolution, and a conference center in Ethiopia. Cumulative withholdings over the decades to the end of 2005 are $167,000,000 (according to a State Department official.)

The whole amount withheld by the US for the 2004 budget was $644,000 of a total contribution of $362,800,000. If and when US assessed contributions to the regular budget are withheld, the UN simply expends the funds originally mandated in the approved budget for the activity and places the US in arrears. Under Article 19 of the Charter, any member in arrears in an amount which "equals or exceeds the amount of the contributions due from it for the preceding two full years" loses its right to vote in the General Assembly. Just short of reaching this threshold in 1999, Congress adopted legislation that paid the debt, minus the accumulated amount for all of the riders over the years.

There are various anomalies to the withholding provisions. For example, "information activities on Palestine" appears to have slipped under the radar screen. Although it is difficult to itemize the uses made of its $631,100 biannual budget (06-07), the UN Department of Public Information (DPI) publishes and distributes, on a "recurrent" basis in six official languages, a pamphlet called "The United Nations and the Question of Palestine." Other activities are vaguely described in budget documents as "travel of journalists to training programmes and for two missions to the Middle East, contractual services, general operating expenses and supplies and materials." Perhaps such activities would all be considered "educational" and therefore exempt even if subject to scrutiny by Congress under the current terms and conditions. In any case, the publication now being paid for by the American taxpayer and disseminated around the globe as the UN's primary reader on the "Question of Palestine" includes: a presentation of the arguments for "the federal state of Palestine" – a form of the one-state solution, a description of the succession of Arab-Israeli wars as events that "broke out" or were instigated by Israeli actions, and the "hopes for the immediate return of refugees to their homes" in the context of "3.9 million Palestinian refugees."

In a much more robust rider, all of the funds for "contributions for international

organizations" are reduced by $118,875,000 for each fiscal year since 1994, unless it can be certified that (among other things) no UN affiliated agency grants status to an organization "which promotes, condones, or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization." The UN ECOSOC-accredited NGO that had such a connection ultimately had its UN status rescinded, and there has been no actual withholding to date, though the certification process is repeated each year.

One might ask whether such a formulation should be applied to other organizations accredited to or recognized by the United Nations, whose statutes and activities demonstrate different forms of offensive behavior – such as encouraging terrorism or promoting anti-semitism. The UN has accredited NGOs, invited NGO representatives to conferences, and linked directly to NGO websites that promote the claim that Zionism is racism, support a one-state solution for the Palestinian-Israeli conflict, and condone armed struggle and martyrdom. The UN also publishes an online newsletter called NGO Action News, which in its April-May 2006 issue includes a notice for a campaign to write members of Congress expressing opposition to the Palestinian Anti-Terrorism Act 2006 (adopted by the House on May 23, 2006.)

Discrepancies between US foreign policy and contributions to the UN budget also arise because of the UN's vested interest in self-perpetuating activities called "follow-up." One clear example is the 2001 Durban Racism conference. The United States and Israel left the Durban Conference prior to its conclusion after the anti-semitic and anti-Israel activities at the Conference became intolerable and beyond repair. But after the Durban Conference, the Office of the UN High Commissioner for Human Rights, together with some member states, turned the Durban outcome into the centerpiece of the UN's anti-racism agenda. So the UN regular budget now includes $1,279,400 for 2006-07 for the "Durban Programme of Action," and the US taxpayer contributes 22%.

4. Renovating and new construction at the UN

On June 16, 2006, the UN General Assembly's Fifth Committee began to take up the most recent report of the Secretary General on the Capital Master Plan (CMP). Earlier documents have laid out four strategies for the implementation of the CMP. To date $75 million ($51.5 million appropriated between 2002 and 2005 and $23.5 million appropriated in a May 2006 resolution) has been allocated for so-called pre-construction costs or "design development." Of the $75 million, approximately $38 million has been spent.

An additional $77 million was approved in May, against the wishes of the United States, for "the biennium 2006-07 to provide for the construction, fitout and related requirements of a conference swing space building on the North Lawn and for the leasing, design, pre-construction services, fit-out and related requirements of library and office swing space for the capital master plan." U.S. opposition to the additional $77 million was based on the fact that the figure prejudged the determination of which renovation strategy would ultimately be adopted; in particular it assumed eventual approval of strategy IV of the CMP. Last week's SG report makes this clear and recommends approval of strategy IV. On June 16, 2006, the US stated for the first

time that it now favors strategy IV. The G-77 has not publicly taken a position, although there is some suggestion that it may favor strategy III, which adds a new building.

The SG's latest report is more appropriately called strategy IV plus. It adds the possibility taken from strategy III of building a permanent structure on the north lawn; (the location avoids the New York State Senate's approval.) A final decision on whether to build such a structure would be subject to a feasibility study, but the SG's business analysis projects: "Total cost of new building: $939 million, Area 900,000 square feet," or the astronomical figure of "project cost per square feet, $1,043.28." No details are provided justifying this number. A report on the CMP in November put new building costs at $572.3 million.

The ACABQ produced a report, released on Friday, recommending that the permanent structure issue be taken off the table and that agreement be reached on a strategy for renovation immediately.

As for the costs of strategy IV, the December plan put the price tag at $1.587.8 billion for the renovation of an actual gross area covered by the project of 2,587,000 square feet. On June 16, 2006, UN Assistant-Secretary-General Louis Reuter said the $1.587.8 billion figure excludes "potential scope options." The $1.587.8 billion figure also does not include costs for extra security or redundancy such as back-up generators, which the U.S. believes will have to be included in the eventual costs and which would mean an increase to around $1.9 billion dollars as of today. The various projections, therefore, amount to between $613 and $734 per square foot for the costs of strategy IV.

Approval of strategy IV may come soon, but it is not clear whether a project budget will be attached to the approval or whether the costs will be left deliberately vague in order to permit upward changes in the future that might attract less political fall-out. In the meantime, the SG has already been given $152 million to get started. Construction of the swing space and leasing of 228,000 square feet is scheduled to start in 2007.

It is anticipated that the costs of the CMP will be borne from a direct assessment that mirrors regular assessments. Hence, the American taxpayer would bear 22% of the costs.

In effect, the process has steamrolled forward regardless of outstanding questions such as a full justification of the costs of anywhere from more than $613 per square foot for renovation to $1043 per square foot for new construction. This is also despite the testimony of New York real estate developer Donald Trump, who has responded to concerns about the renovation charges by indicating that the job could be done for a fraction of the cost. Questions might also be asked about the role of the New York-chartered UN Development Corporation in any aspect of the project. Has there been, or will there be, full disclosure concerning contracts, sub-contracts or any other dimension of the development so as to ensure there is no appearance of impropriety or conflict of interest with members of the Board? The UN has also left unanswered the United States's inquiry about $20 million apparently expended in the last month alone from the funds approved by the GA in May. On June 16, 2006, Ambassador Mark Wallace asked for

"clarification on what has been done with these funds."

Concerning the interests of the G-77 in the CMP, an April 24, 2006 statement to the Fifth Committee is revealing:

> *"The Group also recalls paragraph 30 of resolution A/RES/57/292, which requests the Secretary-General to take the need to continue exploring ways to increase procurement opportunities for vendors from developing countries and countries in transition into consideration during the implementation of the Capital Master Plan."*

5. Mark Malloch Brown and the Blame America First Syndrome

On June 6, 2006, UN Deputy Secretary-General Mark Malloch Brown delivered a speech in which he took direct aim at the Bush administration, U.S. votes in the General Assembly, a U.S. broadcaster, an American talk-show host, and allegedly ignorant "Middle America." The criticisms were not off-the-cuff or a mistake. The speech, given to a non-UN audience, was produced on UN letterhead, given a UN document symbol number, placed on the UN website, and made available around the world. After acknowledging some shortfalls in UN reform, the only issue for Malloch Brown was finding the right scapegoat.

His speech was an outrageous and unique attack on a UN member state. U.S. opposition to the Human Rights Council, whose design made it inevitable that human rights abusers would go right back on the "reformed" body, will be responsible, charged Malloch Brown, for the Council's future "challenges." And why does the UN have a "lack of accountable modern management structures"? Said Malloch Brown: "because the US has not stuck with" the UN. and the country's leaders have failed to do an adequate selling job in "Middle America." According to Malloch Brown, in America's heartland the UN's success is "a secret." One has to assume, therefore, that Middle America has never heard of Oil-for-Food, the ongoing genocide in Sudan, or continuing Iranian uranium enrichment activities. But what really troubled Malloch Brown was "unchecked UN-bashing." Spending too much time in an environment where most members are not full democracies has obviously led him to believe that the job of political leaders is to "check" detractors.

As for the conflict between the U.S. versus the G-77 over management reform, he deprecates "the big stick of financial withholding." In the tradition of all grand American-conspiracy theories, he claims that the G-77 voted against management reform, not because they "don't want reform" but because "quite moderate countries" believe the United States "must have a secret agenda aimed at either subordinating multilateral processes to Washington's ends or weakening the institutions." What the G-77 really cares about, according to Malloch Brown, is not their own ends but "the fundamental multilateral principle that each Member State's vote counts equally." This is the essential UN distortion: that equality is about one state, one vote, even with respect to countries where citizens have no vote. This distortion makes America the enemy of equality and Egypt and Pakistan authorities on non-discrimination.

In response to criticism of the Mark Malloch Brown speech, Secretary-General Kofi

Annan fully supported his deputy. In fact, Annan repeated much the same comments in an article he wrote only a few days later in the *Financial Times* on June 11, 2006. Both Annan and Malloch Brown assign all blame for the failures of reform to member states, and to the United States in particular, rather than accept any responsibility for their own failed leadership. Their feigned flattery to the effect that the UN would be better if only the US were more engaged, is just a back-handed way of saying that the UN's problems can be laid at America's door step.

In a June 15, 2006 news conference Annan reiterated that "as international civil servants, we don't get involved in national politics." But immediately ignoring his own rules, he proceeded to appeal directly to "Middle America." He told Minnesotans, in particular, that they are "very smart people,," that have "sent some wonderful people to the Congress and the Senate," and then he named only Democrats. He somehow forgot to mention current Senator Norm Coleman (R-MN), co-sponsor of the Senate's United Nations, Management, Personnel, and Policy Reform Act of 2005.

In these two recent offensives Annan casts America's transgressions this way: "the US is trying to use the power of the purse to force through badly needed management reforms and these tactics have provoked a negative reaction among developing countries." Or again: "Their [developing countries] quarrel is much less with the detail of proposed reforms than with what they see as the overwhelming influence of a few rich countries." He goes on to speak of their perception of "an attempt by the big boys to grab more power for themselves."

In essence, the Secretary-General is claiming that US efforts to ensure accountability for the use of funds coming from the American taxpayer is a provocation. Instead of pointing the finger at the G-77 and the developing world for engaging in a power grab, he explains their behavior as driven by a "feeling of frustration and exclusion that prompts many states to exercise the only power they do have: the power to block other reforms, such as better management." The trouble with this fictional story – suggesting developing countries are two-year olds having a collective temper tantrum – is that the G-77 controls 132 of 191 seats in the General Assembly, and the power of the purse at the UN is held by the General Assembly.

But the most insidious part of Annan's message is the threat: "We have vital work to do right now – programmes that…provide essential services to people in acute danger or need. We must not let that work be stalled." In other words, not only is America's insistence on accountability and reform as a pre-requisite for spending taxpayer dollars offensive, it is also a recipe for humanitarian disaster for which America will be held responsible. The Secretary-General repeated his veiled threat a few days later in the June 15, 2006 news conference. "[T]he Member States understand that the Organization has work to do…So for someone to say that because you have not reformed to my satisfaction, I am going to pull the plug and stop all the activities, is going to be a very hard sell for other Member States to swallow and rightly so."

Cutting to the chase, Annan and the developing nations of the G-77 are holding the poor and the needy hostage to their own ambitions of control. But operating from the premise that a

good offense is the best defense, they accuse the United States of precisely the tactics which they have mastered after years in the drivers' seat at the General Assembly. They turn the reality of UN-politics exactly on its head. Of course the G-77 object to badly-needed reforms. So they disparage the reformer, instead of reforming.

6. Prospects for Reform

When the spending cap was imposed in December 2005, albeit by consensus, the G-77 called it "a veritable Sword of Damocles." Speaking for the G-77, Ambassador Stafford Neil of Jamaica said: "Worse is that the purpose is to apply pressure on Member States to act under the pain of deprivation of funding to the Organisation...The G-77 reject conditionalities and we oppose the imposition of the spending limit...[W]e regard this action as an exceptional measure, which...should never be repeated."

Six months later, regardless of the state of reform, the G-77 will accept nothing short of lifting the spending limit and approving the rest of the 2006-07 budget, regardless of the lack of reform. Nothing else matters other than turning on the faucet. South Africa, on behalf of the G-77, told the Fifth Committee on June 1, 2006:

> *"The Group of 77 and China remains concerned over the policy of withholding financial obligations due to the United Nations and thereby creating a linkage with the reform of the UN. This deliberate withholding of funds budgeted for the year 2006 creates an artificial leverage that alters the established principles of governance of the UN based on the sovereign equality of Member States...[T]he spending cap was not intended to harm the Organisation."*

Of course, equality here means equality between states (with the exception of Israel) and is unrelated to equality at home. Dollars are an artificial leverage, while using UN aid recipients as leverage is legitimate. Tying spending to reform is what harms the Organization, not the refusal to reform itself.

> Again in a letter dated June 5, 2006 the G-77 have made their demands plain. The reform *"process should...address areas such as trade, finance and macro-economic policy...[and] not limit the United Nations role into niche issues...Key to promoting good governance at the international level would be the active voice and effective participation by developing countries in the international decision-making processes, in particular the Bretton Woods Insitutions...[A]ny changes that might be introduced to the current system...should not disrupt on-going development plans and activities..[and] tak[e] into account national priorities and strategies and with the consent of the government concerned...[T]he objective...should not be a cost cutting exercise. Reductions in administrative expenses should be redirected...and its proceeds retained and spent on development programmes...The United Nations should avoid shifting resources from development activities to other activities which are donor-driven and not in line with the priorities of developing countries."*

Simply put, keep the dollars coming, expand the reach of the UN, worry about global governance not good governance within our countries, give us more power in financial circles,

and if reform ever yields a few dollars, they're ours.

As recently as June 16, 2006, speaking in the Fifth Committee, Pakistan put the G-77 position on the spending cap and reform this way:

> *"We agree with the need for reform...but...reforms taken forward in an environment of confidence and trust – which was vitiated because of conditionalities that are pending out there...We are surprised by the enormous desire for reform of a...body that is facing financial collapse...So what should be our priority? To ensure the financial solvency of the organization, to give it strength so it can look to the future with confidence...Without this confidence, all this talk and emphasis on reform is disconnected from reality. The Secretary-General may not be able to switch on his computer to see what reforms are going on...Our first priority should be removing the barriers and conditionalities which have poisoned the atmosphere...That should be the starting point for reform..."*

In other words, pay now, and if you treat us right, we'll think about reform later. While such a scenario may sound preposterous, on Friday five members of the EU made the unusual move of speaking after their spokesperson for the whole, in an effort to convey to the G-77 their enormous desire for dialogue. The Pakistani Ambassador responded with the above scolding.

On Tuesday, June 20, 2006, the Secretary-General is expected to make a formal request to lift the budget cap. The G-77 believes they are holding all the cards. They have no problem turning the poor, the hungry and the sick, into human pawns. The point of the game is to frighten the West with the spectacle of having blood on its hands. If the G-77 hold out and refuse reform, they have no doubt that the December consensus, which tied the budget to reform, will collapse and the cap will be lifted shortly. First, the European Union's participation in the linkage of budget approval to reform will collapse, followed by Japan and then Secretary Rice. They believe the U.S. administration has no stomach for the onslaught of criticism, both inside and outside of the U.S., which would come with the isolation of refusing to lift the cap. They believe they have successfully boxed in the administration and that Congress does not have the political will to put serious spending limits into place. In the G-77's view, with no other game in town, all they have to do is say no and run out the clock. In the interim few weeks they are trying to wring a few more concessions from the West, like a resolution on development. But of course, they don't call this "conditionality." The Western response gives all the appearances of "where do we sign?"

As for the Secretary-General, he obviously feels cocky. Having prematurely pressed forward a seriously deficient Human Rights Council because he needed a war trophy on his retirement mantelpiece, he is now doing his best to downplay the urgency of reform, separate reform from the flow of dollars, and take the pressure off the G-77. In his June 15, 2006 press conference he said:

> *"On the question of the cap...I speak to the Secretary of State very often, but I have not raised this issue with her because, quite frankly, it is not one of the hot-button issues or the biggest crisis we are dealing with today. Reform goes on, but there are major issues around the world that I also discuss with her."*

Asked about the effect of the criticisms his Deputy had leveled at the United States, he responded:

> *"I have seen no signal that the American Administration...believes that the reform process has become much more difficult over the past week. I have also had contacts with quite a lot of Ambassadors from all the groups in this building. I think they share my view that the atmosphere is better...The cap on the budget will be lifted. There will be no crisis, as far as I can see."*

A week ago, Malloch Brown and Annan said that "the UN faces a moment of truth." Apparently, having spoken to Secretary Rice, Annan believes the moment has already come and gone. He appears to have been assured that another blank check is in the works.

7. Conclusion

Deputy Secretary-General Malloch Brown articulated the standard by which to judge the United Nations – "At the UN's core was to be an enforceable concept of collective security...combined with much more practical efforts to promote global values such as human rights and democracy." Unfortunately, this is a standard which the UN does not meet.

The UN is an organization whose composition renders it incapable of serious reform. But as long as the United States believes that working through the UN is the only way to garner multilateral support and increase burden-sharing, the UN will continue to spread a violent anti-Americanism, provide sustenance to terrorists, attempt to further development without democracy to the detriment of the disenfranchised victims of corruption, and feed the greed for international power without domestic responsibility.

Senator Majority Leader Bill Frist has voiced an alternative idea. Commenting on the creation of the UN Human Rights Council, Senator Frist stated in a press release on April 6, 2006: "My hope is that President Bush will consider establishing a council of democracies outside of the U.N. system that could meet regularly to truly monitor, examine and expose human rights abuses around the globe." His clarion call has become an imperative for all those who share the original vision of the United Nations and care about the effective protection of human rights. It is in America's interest to build the widest possible democratic coalition, an associated institution, and to provide sufficient resources and incentives for non-democracies to make the improvements necessary to join. The dynamic that moves former Eastern European states to want to join the Council of Europe, and ultimately the European Union, spurs reform. America has no similar incentive program in the multilateral context and often sits on the sidelines while the EU monolith grows. The creation of such a truly democratic club would provide American foreign policy with a strong multilateral setting consistent with American values – and the original but unrealized purposes of the UN. The UN's intrinsic deficiencies should not be permitted to exclude the United States from the benefits of multilateralism.

The G-77 said on June 5, 2006: "We emphasize that given its universality and legitimacy, the United Nations is the apex of multilateralism. Nothing should be done to undermine its pluralism and its diversity." They're wrong. Legitimacy does not automatically

follow from universality. The apex of multilateralism is not a club with non-democracies in charge. Pluralism and diversity is not about equality between democrats and demagogues. It's about respect for human dignity at home as well as abroad.

As the single largest contributor to the United Nations, this country can either decide what limited functions the UN system can handle and what it cannot do well. It can recognize the inherent limitations of the UN and seek to delineate the boundaries of its interaction with American foreign policy in light of those limitations, while helping to move the culture of its secretariat towards accountability and transparency. Or it can sign one more blank check.

Contact and acknowledgments: Should you have any questions about this testimony, please contact me at anne@hudsonny.org. Contributions to this testimony were made by Rebecca Tobin and Gillian Collins.

Written Testimony

Of

Claudia Rosett
Journalist-in-Residence, The Foundation for the Defense of Democracies

Before the

U.S. Senate Committee on Homeland Security and Governmental Affairs
Subcommittee on Federal Financial Management, Government Information and International Security

On

"UN Headquarters Renovation: No Accountability Without Transparency"

June 20, 2006

Chairman Coburn, Ranking Member Carper, Senators, thank you for the invitation to testify here today. As a journalist, I have spent almost 25 years covering international affairs, much of that in Asia, Latin America, the former Soviet Union and the Middle East. I am currently based in New York, where in recent years I have focused on the United Nations.

I wish I had better news to report. In its secrecy, lack of accountability, and what has been possible to discern of the resulting waste, abuse and corruption, the UN bears a much closer resemblance to some of the despotisms I have covered than to any open and responsible democratic system.

One often hears it argued that while the UN may be flawed, it's all we've got -- and that all human institutions are prone to at least some waste, abuse and corruption. True. But there are degrees of fraud, duplicity and secrecy. There are some systems with built-in checks and balances that tend to favor disclosure and accountability. There are others in which there are no genuinely effective corrective mechanisms, and the institutional arrangements reward those most adept at abusing, defrauding and exploiting the system for personal gain – whether that be in the form of money, patronage and so forth.

The immediate difficulty in even understanding the depth of the problems at the UN is the astounding lack of transparency. What tends to happen is that while the general opportunities for wasteful or abusive or corrupt activity may be obvious – as was the case with some of the elementary scams under Oil-for-Food – the UN withholds from the public the specifics that would allow documentation of individual cases of wrong-doing. Under Oil-for-Food, for instance –which I cite because it was in many ways a fractal of

the UN system -- it was possible to see from generic UN documents that Saddam Hussein with UN approval was doing an oddly large number of deals buying "detergent" from such terrorist-linked nations as Saudi Arabia, Syria, Yemen and Sudan. Or that under this relief program meant to be dealing with end-users of oil and good-faith suppliers of relief goods, there seemed to be an overly cozy relationship between Saddam and such financial havens as Liechtenstein, Cyprus, Panama and Switzerland. But the UN concealed virtually all the details that might have allowed further insight.

May I also offer the reminder that the UN Secretariat, which hired the inspectors, processed the contracts, and was tasked and paid $1.4 billion to monitor the integrity of this program, in shutting down its role in Oil-for-Food in November, 2003, mentioned not a word about the graft. Secretary-General Kofi Annan praised the program, and in particular his handpicked director, Benon Sevan. And when allegations of deep corruption erupted in the press, in early 2004, Mr. Annan's first response was to delegate the investigation in-house to the UN's secretive Office of Internal Oversight Services, or OIOS, which had already failed to stop the perversion of the program.

It was only after Congress scheduled hearings, in the wake of damning press reports, based on confidential documents found in Baghdad and leaked to the media, that Mr. Annan conceded the need to authorize an "independent" investigation. This led to the $35 million investigation under Paul Volcker, which reported signs of rampant corruption among some of the UN agencies working under Oil-for-Food in Iraq; described at length the derelictions and substandard performance of Mr. Annan, his deputy and his chief-of-staff, in overseeing the program; and alleged that Mr. Annan's handpicked director of Oil-for-Food, Benon Sevan, had taken $147,000 in payoffs on some of Saddam's oil deals, linked in various ways to family members of former UN Secretary-General Boutros Boutros-Ghali. (Mr. Sevan and Mr. Boutros-Ghali have denied any wrong-doing).

The result: Apart from a former special adviser to Mr. Annan, under investigation in France, not one UN staff member has faced charges related to Oil-for-Food. No one has even been fired (Mr. Annan wrongly fired one staffer who was later reinstated). Mr. Sevan was allowed to leave the country during the investigation – while the Secretary-General's office assured the press there was no cause for concern, or the Volcker Committee would surely let us all know. Mr. Sevan has never faced charges and since last year has been living as a free man in his native Cyprus, on full UN pension.

When I asked the Secretary-General's office some weeks ago if the UN along with providing Mr. Sevan with full pension had paid Mr. Sevan's moving expenses from New York back to Cyprus, I was told this was a personal matter, and therefore confidential.

That is an oddly protective and secretive reality, much at odds with Mr. Annan's promise back in 2004 of transparency and accountability in the Oil-for-Food saga. Speaking on May 2, 2004, on NBC's "Meet the Press," Mr. Annan assured his audience that "We are protecting all the material for the investigation" (while, in fact, as the Volcker inquiry later discovered, Mr. Annan's then chief-of-staff Iqbal Riza immediately after the launch

of the investigation had begun shredding three years' worth of UN executive suite documents potentially relevant to the inquiry). Mr. Annan went on to promise, in reference to the Volcker investigation, that "if their findings were to conclude that any UN staff member had been engaged in this corruption, he or she will be dealt with severely, their privileges and immunities will be lifted so that if necessary they will be brought before the court of law and dealt with in addition to being dismissed."

Mr. Volcker did, indeed, report findings that Benon Sevan "corruptly" profited from Oil-for-Food. There was no severe dealing whatsoever. Within months, the Secretary-General's public version of this had evolved into the sort of statement Mr. Annan made in London this past February and has since repeated in a variety of venues: "If there was a scandal" it involved "only one staff member… maybe… ."

I cite this in some detail because it is typical of the ways in which the UN obfuscates, evades, denies, promises transparency and accountability – and then brazenly declines to deliver, or be held to account.

This has been the pattern in one UN scandal after another, including reports of embezzlement in UN agencies, sexual exploitation of minors by UN peacekeepers in Africa; conflicts-of-interest involving a number of Secretary-General Kofi Annan's handpicked special advisers and envoys, and so forth.

In only one of the recent scandals have we seen actual arrests – the Procurement Division bribery and bid-rigging scandal, which led to the federal indictment and guilty plea of UN Russian staffer Alexander Yakovlev, and the subsequent indictment of the head of the UN budget oversight committee, Alexander Kuznetsov (who has pleaded not guilty). In those instances, Mr. Yakovlev's involvement first surfaced not – I stress *not* – due to disclosures by the UN, or even by the Volcker committee (which in the first of its three interim reports portrayed him as a witness defending the integrity of the UN bidding process), but due to a media report by myself and George Russell, Executive Editor of Fox News, last June. In researching that story, we were assured by UN officials that there were no significant concerns about corruption within the UN procurement department. We were told it had been through reforms that had left it clean and transparent.

That turned out to be radically untrue. And since then, in terms of UN transparency and accountability, there has been no improvement. Despite all the talk of reform, some things have gotten even worse –including the disappearance from the UN web site of archives showing even minimal details of billions worth of procurement contacts prior to 2005. One pattern typical of the UN is that "reform" or "investigation" becomes an excuse for refusing to answer even basic questions, or supply data that as a matter of routine belongs in the public domain.

Perhaps the most useful insight I can provide at this juncture is simply by way of listing some examples of the ways in which the UN hides information about how its spends money – whether the $20 billion or so that flows annually through the overall UN system, or the $1.9 billion "core" budget now under debate.

1) Procurement. The UN Secretariat provides a list of its officially registered "vendors," which gives nothing more than the name, country of origin, and in some instances – though, oddly enough, not all – the date registered. There are no addresses, no contact names, no further details whatsoever on why these vendors have been chosen, or who they are.

On the contracts themselves, the UN as a rule discloses nothing more than a few lines noting total price, the supplier, and the affiliated UN office or operation receiving the generically described goods or services. These are listed in cumbersome format, by generic commodity. There is no way an outsider can do a universal search on even this bare bones database. Barring access to leaked documents, there is no way for an outsider to begin to evaluate the integrity of these UN supply contracts. Were UN procurement department disclosure the standard for shopping at your local grocery, you would be offered "beef" at a total price, with no details whatsoever about the cut of the beef or the quantity, and so forth.

To give a concrete example or two, there is no elaboration about some of the more eccentrically described consulting services – such as the recent $45,000 contract awarded to a Washington firm for "Barrier Removal for the Widespread Commercialization of Energy Efficient CFC-Free Refrigerators in China," or a contract for $47,995.47 worth of "stationery articles" from a company in Milan, Italy. These may of course be perfectly reasonable purchases. But apart from depending on the UN's assurances of its own integrity – which have repeatedly turned out to be false – how is one to judge?

Additionally, there is no information made publicly available by the UN as to exactly which UN employees have handled which precise contracts. Despite allegations by the Volcker inquiry and accusation by federal investigators which tell us, for instance, that Mr. Yakovlev handled at least scores of millions worth of bribe-tainted contracts, the UN has never released a list of the companies he dealt with. How many of the tainted contracts are still in force? How many of the complicit companies are still doing business with the UN? The UN refuses to say.

We do know that Mr. Yakovlev handled the initial design contract for the renovation of UN headquarters, in which millions were paid to a Milan-based architectural firm, Renato Sarno – but we know that solely due to leaked confidential documents, not to any public UN disclosure. I do not mean to allege any wrong-doing in this case; it may have been an entirely innocent connection. But why won't the UN disclose full details of what went on?

Which brings me to the matter of the vanishing archives. Prior to the procurement department scandal, it was at least possible to look back several years at the minimally informative data on individual contracts. Sometime in the past year, those links were removed from the UN web site, and the only archives now accessible on the UN procurement site are limited to the past 18 months. Even the minimal details describing specific contracts prior to 2005 have been removed.

2) Oil-for-Food. In this case, the contracts signed by Saddam and approved by the UN were even more opaque, with the UN Secretariat –which processed the contracts, administered the $130 billion or so in flow of funds through Oil-for-Food, and kept the central records -- refusing to release even the names of the contractors or the dollar amounts – until subsequent investigations finally forced at least minimal disclosure. Although to this day, the UN has never released the actual contracts, which most likely include substantial information relevant to the many loose ends left by the UN-authorized Volcker inquiry.

The UN refused to answer questions about vital details of its business under Oil-for-Food when the program was underway, on grounds these were "confidential," then refused to answer questions while Volcker was investigating, on grounds an investigation was underway, and has since refused to answer questions on grounds that the investigation is over.

Nor have we had reasonable transparency from the Volcker Committee -- which operated under terms of reference drawn up by Kofi Annan and approved by the Security Council, which is to say, under terms designed by the UN. Mr. Volcker has never used his investigative discretion to release the underlying documentation, which would include material from which he concluded that some UN agencies were rife with corruption -- but excused himself from naming a single individual, on grounds that he did not have the resources to follow his leads. Why should these leads be withheld? (Security concerns might argue for the vetting of some documents, but do not explain withholding from the public the entire archive).

Further, Mr. Volcker, with the exception of limited materials included in case studies in his reports, has refused to release to the public the documentation behind allegations that more than 2,000 companies paid kickbacks to Saddam -- leaving it solely to the discretion of national authorities whether to follow up. This means that while Mr. Volcker tells us in cryptic one-liners that he has documentation, in some cases from actual bank records, of kickbacks paid to Saddam, there is effectively a free pass for companies in any country that does not choose to open an investigation, or does not seriously pursue such allegations – for instance, China, Russia, Nigeria, Syria, Libya, Sudan and so forth.

3) UN Budget and Outlays

Not only are these formatted so as to be confusing and often non-descriptive in the extreme, but the UN omits breakdowns that would give insight into actual outlays. We know, for instance, that the Secretariat's Department of Public Information spends more than $85 million per year on UN public relations, but even though the whole point of this department of information is to provide, well, information, we get no detailed breakdown on its own travel expenses, business entertainment, per diem outlays, cost of staff retreats and so forth.

There is no clear source of detailed information on funding and outlays for UN special projects bankrolled via "trust funds," in which a few member states can launch projects such as the new "Alliance of Civilizations" (to which the Secretary-General has appointed as a special adviser, with the rank of Under-Secretary-General, his retired former chief of staff, the same Iqbal Riza who shredded documents of potential relevance to the Volcker inquiry).

For substantial amounts flowing to the UN from private donors and foundations, there is highly limited information, much of it – once again – generically uninformative, and presented in scattered and cumbersome format.

As for oversight functions, the UN Office of Internal Oversight Services, set up in 1994 as a watchdog, has itself become part of this opaque and inbred system, with the Secretary-General refusing to release any OIOS reports at all until pressured by Congress in 2004. More recently, we have seen at least one important draft report sanitized before release to the member states. There are also by now substantial signs that even in cases where the auditors reported manifold cases of wrong-doing, there is no disciplined follow-up at the UN, and no transparency for anyone outside to be able to judge whether anything has been done or not.

4) Ethic Office and New "Disclosure" Requirements

The UN this January set up an Ethics Office, which has already become part of the cover-up culture. Three weeks after it was set up, Kofi Annan a $500,000 personal cash prize from the Prime Minister of the United Arab Emirates (who doubles as the unelected ruler of Dubai), courtesy of a jurors' panel that included two UN top-level officials appointed by Annan, and the ambassador of Pakistan to the UN. When I repeatedly queried whether this constituted a flagrant conflict of interest (if not several), the Ethics Office refused to comment, and referred me to the office of the Secretary-General. When another journalist reported some ten weeks later that Annan had appointed yet another member of the prize jury, Achim Steiner, to head the UN Environment Program in Nairobi, Mr. Annan finally relinquished the cash -- but he never conceded the principle that it is quite probably a flagrant conflict of interest for the UN Secretary-General to take cash prizes from anyone or anything connected with the UN (in this case, a member state). Nor has the UN released any specifics of the cash transfer.

The Ethics Office earlier this year also announced that as part of the UN reforms and new "transparency," top UN officials are required to fill out financial disclosure forms. It is disingenuous to call this "disclosure," however, since these will not be released to the public – therefore, once again, there is no real transparency. The vetting and supervision will remain inside the same UN bureaucracy that refused even to criticize Mr. Annan for taking $500,000 in personal prize money.

5) UN Dodges and Manipulations of the Truth

On the petty end, these have included top UN officials deflecting legitimate questions with personal insults (such as those delivered to the highly competent and well-informed Times of London correspondent, James Bone, by Kofi Annan in re Kojo Annan's Mercedes, and by Mark Malloch Brown in re his tenancy on the estate of George Soros; or to me, on occasion, by Mr. Annan's office in re questions about Oil-for-Food). On a more disturbing scale, such dodges have also included falsehoods, such as Mr. Annan's statement in 2004 that all documents relevant to the Volcker investigation were being preserved, or that those judged guilty of wrong-doing would be severely dealt with. Or we hear such artful circumlocutions as Mr. Annan's statement that he had seen "no evidence" of "wrong-doing" by anyone on his staff – although we now know he had ample cause to wonder, and had known for years that there were severe problems with graft under Oil-for-Food, but chose not to report it either to the Security Council or the public.

****

In talking about UN reform, it is natural to seek some measure of hope. But I think even more important than that is an acknowledgement of basic truths. It is not clear to me that the United Nations is fundamentally configured to behave as an honest institution, or is even institutionally capable of what we mean in a free society when we talk about reform.

The UN is not a democracy, but a collective. It is the product of a past century which was prone – at terrible cost -- to collectivist experiments. Those nation states that embraced this form of governance ended up with despotic and corrupt ruling structures which either crashed, dissolved or began to evolve painfully into something rather different – apart from a few holdouts such as, say, North Korea. Those changes came about largely because the governments were in one way or another finally called to account by their own citizens.

At the UN, there is no constituency that has been both willing and able to rise up and require profound regime change. With its $20 billion system-wide annual budget, and its currently much-debated $2 billion Secretariat "core" budget, the UN represents, among other things, a poorly supervised and very large pot of money, combined with a logo that confers diplomatic immunity, a variety of special privileges, and a calling card recognized around the globe. Put this together with the profound lack of transparency and the jockeying of member states, some of which have come to regard it as their right to fill patronage slots in the Secretariat and on the various commissions, agencies, and so forth. You have a breeding ground for special-interest groups who will fight hard to prevent any significant reform. You have the additional problem that the UN system in all its opaque complexity is difficult for any outsider to grasp, exhausting to debate, and packed with senior officials experienced in out-maneuvering measures meant to impose reform.

The result is cycle after cycle of ineffectual reform, in which the promise to shape up becomes a substitute for any genuine improvement in integrity, accountability and transparency. All this mattered somewhat less during the Cold War, when the UN was relatively constrained in the scope of its activities. But since the Cold War ended, the UN has been enjoying new pride of place in this new world order. Over the past 15 years we have seen a rapid growth of the UN system, huge proliferation of peacekeeping missions, and proposals for everything from UN meddling with the internet to a UN system of global taxes—meant to generate automatically funds that would flow through the opaque and dysfunctional system described above.

At the heart of this, we have seen the rise of an increasingly imperial secretariat. While the UN charter describes the role of the Secretary-General as Chief Administrative Officer – meant simply to serve the Security Council -- we now have a Secretary-General who describes his role as "perhaps Chief Diplomat of the World" – and no one calls him to account. This is a job description that begs the question of who or what exactly he represents – the Secretariat? The entire UN, including the General Assembly? The world?

In democratic societies, such representation – if that's what it is – would come with accountability. At the UN, it does not. We have just seen the release of a study commissioned by the UN staff union and led by widely respected British barrister Geoffrey Robertson, the "Report of the Commission of Experts on Reforming Internal Justice at the United Nations," which found that there is no adequate system of internal justice at the UN. Inside the diplomatically immune world of the UN is a "judicial" system that is not only unwieldy, secretive and slow, but which can in any event be over-ridden by arbitrary decisions of management. There is no institutional mechanism for impartially holding UN personnel accountable for their actions. There is no impartial standard of law to which UN top officials are subject.

In fact, this judicial reform commission found that the UN, in is treatment of its own staff, is in violation of the human rights standards it prescribes for others. In effect, the UN has become a sort of aspiring super-state which lacks anything resembling a healthy judiciary. The result, as tends to happen in despotic institutions, is that those who arrive in positions of top management run the show pretty much as they please, while those lower down have no recourse against injustice.

This is unfortunate for staff members who invest a significant chunk of their careers in the place and then fall foul of someone higher up the pecking order. But the more alarming implications for the rest of us are that there is essentially no forum in which UN top management is held accountable. Those who manage the Secretariat – and who will be tasked to carry out whatever reforms might next be prescribed -- are both diplomatically immune from the jurisdiction of host countries, and also unaccountable within the UN system. Emblematic of this arrangement is that while it is possible in the U.S. to impeach a wayward president, at the UN there is no mechanism for removing a Secretary-General.

The result, as I testified to a number of congressional committees two years ago, is a system of secrecy and privilege. With a license that more closely resembles the propaganda of despotisms than the debate of free societies, high officials of the Secretariat can lie, distort, cover-up and violate their own organization's charter, all with impunity.

We are now hearing talk from UN management of some sort of freedom of information act. That sounds all very healthy and good, but leads right back to the same problems I have tried to describe here. In a system without real accountability, who will monitor good-faith compliance? Who will be held accountable if, like the promises of oversight by OIOS, the protestations of ample auditing and transparency under Oil-for-Food, the assurances early last year of an honest procurement department, the UN does not live up to this latest proposal for reform?

Lacking institutional remedies, we are left to rely right now on the integrity of those holding the top positions at the UN. Currently, we have a Secretary-General who did not regard it as a conflict of interest to accept a $500,000 cash prize from the ruler of Dubai; who has blankly refused to account for or even discuss the UN records of the Mercedes imported by his son into Africa under false use of the Secretary-General's name and UN perquisites; and who promoted to head of a UN office with a $64 million annual budget (the Economic Commission for Africa) the UN resident representative who handled the Mercedes paperwork in Ghana and then claimed that neither he nor the Secretary-General had a clue anything improper was going on. Assuming it was all an honest mistake on the UN side, we are still left with big questions about the competence of the UN system to prevent such abuse.

We have a Deputy-Secretary-General, Mark Malloch Brown, who has publicly declared he does not consider it a conflict-of-interest to rent a house for what we are told is $10,000 per month on the estate of George Soros, who according to Mr. Malloch Brown himself "collaborated extensively" with the UN Development Program while Mr. Malloch Brown was running that same UNDP. Despite numerous requests from the press, the UN has never produced any records documenting that Mr. Malloch Brown's tenancy is an arm's-length arrangement, nor has Mr. Malloch Brown volunteered any.

Here is one test of good faith. A great deal of the information currently withheld by the UN does not have to wait upon any freedom of information act. Secretary-General Kofi Annan could release it now, if he wanted to. At the very least, one might expect full public disclosure of records pertaining to procurement division contracts (past and present), of UN records handed over to the Volcker committee, of detailed budget outlays, and actual public disclosure of the UN's new "financial disclosure" forms for senior staff.

Thank you, and I would be glad to answer any questions you might have.

United States Government Accountability Office

GAO

Testimony

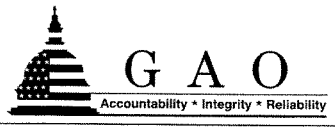
Before the Subcommittee on Federal Financial Management, Government Information, and International Security

For Release on Delivery
Expected at 2:30 p.m. EDT
Tuesday, June 20, 2006

UNITED NATIONS

Weaknesses in Internal Oversight and Procurement Could Affect the Effective Implementation of the Planned Renovation

Statement of Thomas Melito, Director
International Affairs and Trade



GAO-06-877T

GAO
Accountability·Integrity·Reliability
Highlights

Highlights of GAO-06-877T, a testimony before the Subcommittee on Federal Financial Management, Government Information, and International Security, United States Senate

Why GAO Did This Study

The UN headquarters buildings are in need of renovation. The Capital Master Plan is an opportunity for the organization to renovate its headquarters buildings and ensure conformity with current safety, fire, and security requirements. Estimated by the UN to cost about $1.6 billion, the renovation will require a substantial management effort by the UN—including the use of effective internal oversight and procurement practices.

Based on recently issued work, GAO (1) examined the extent to which UN funding arrangements for its Office of Internal Oversight Services (OIOS) ensure independent oversight and the consistency of OIOS's practices with key international auditing standards and (2) assessed the UN's procurement processes according to key standards for internal controls.

What GAO Recommends

In prior reports, GAO recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support: (1) budgetary independence for OIOS; (2) measures for OIOS to more closely adhere to international standards; and (3) improvements to UN procurement processes. State and OIOS generally agreed with GAO's overall findings and recommendations. The UN did not provide us with written comments on procurement.

www.gao.gov/cgi-bin/getrpt?GAO-06-877T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Thomas Melito at (202) 512-9601 or melitot@gao.gov.

June 2006

UNITED NATIONS

Weaknesses in Internal Oversight and Procurement Could Affect the Effective Implementation of the Planned Renovation

What GAO Found

The effective implementation of the planned UN renovation is vulnerable due to a range of weaknesses in existing internal oversight and procurement practices. In particular, UN funding arrangements adversely affect OIOS's budgetary independence and compromise OIOS's ability to investigate high-risk areas. In addition, while the UN has yet to finalize a specific procurement process for the UN Capital Master Plan, to the extent that it relies on UN procurement processes, it remains vulnerable to the numerous procurement weaknesses that GAO have previously identified.

First, UN funding arrangements constrain OIOS's ability to operate independently as mandated by the General Assembly and required by international auditing standards. While OIOS is funded by a regular budget and 12 other revenue streams, UN financial regulations and rules severely limit OIOS's ability to respond to changing circumstances and reallocate resources among revenue streams, locations, and operating divisions. Thus, OIOS cannot always direct resources to high-risk areas that may emerge after its budget is approved. Second, OIOS depends on the resources of the funds, programs, and other entities it audits. The managers of these programs can deny OIOS permission to perform work or not pay OIOS for services. UN entities could thus avoid OIOS audits or investigations, and high-risk areas can be and have been excluded from timely examination. OIOS has begun to implement key measures for effective oversight, but some of its practices fall short of the applicable international auditing standards it has adopted. OIOS develops an annual work plan, but the risk management framework on which the work plans are based is not fully implemented. OIOS officials report the office does not have adequate resources, but they also lack a mechanism to determine appropriate staffing levels. Furthermore, OIOS has no mandatory training curriculum for staff.

While the UN has yet to finalize its Capital Master Plan procurement strategy, to the extent that it relies on the current process, implementation of the Capital Master Plan remains vulnerable to numerous procurement weaknesses. For example, the UN has not established an independent process to consider vendor protests that could alert senior UN officials of failures by procurement staff to comply with stated procedures. Also, the chairman of the UN procurement contract review committee has stated that his committee does not have the resources to keep up with its expanding workload. In addition, the UN does not consistently implement its process for helping to ensure that it is conducting business with qualified vendors. GAO also found that the UN has not demonstrated a commitment to improving its professional procurement staff despite long-standing shortcomings and has yet to complete action on specific ethics guidance for procurement officers.

Chairman Coburn, Ranking Member Carper, and Members of the Subcommittee:

I am pleased to be here today to discuss the United Nations' (UN) internal oversight unit and procurement process in the context of the UN Capital Master Plan (CMP). The planned renovation project represents a unique endeavor on the part of the UN—the first comprehensive renovation of the UN headquarters since the completion of its initial construction in 1952. Currently estimated by the UN to cost about $1.6 billion, the renovation will require a substantial management effort by the UN—including the use of effective internal oversight and procurement practices.

Several scandals, including those involving the UN's Oil for Food Program and procurement service, have spurred calls for UN management reform. In our review of the Oil for Food Program,[1] we found that management problems allowed the former Iraqi regime to manipulate the program and circumvent sanctions to obtain illicit payments ranging from $7.4 billion to $12.8 billion.[2] The UN's Office of Internal Oversight Services (OIOS) audited some aspects of the Oil for Food program and identified hundreds of weaknesses and irregularities. However, OIOS lacked the resources and independence needed to provide full and effective oversight of this large, costly, and complex UN effort. In addition, experts have called on the UN to correct serious weaknesses in its procurement process for more than a decade, including the lack of an independent process for considering vendor protests and ensuring selection of qualified venders. However, recent audits and investigations have uncovered evidence of corruption and mismanagement in the UN's procurement activities.

In 2005, UN member states approved an agenda to reform many of the UN's management practices, in particular to strengthen internal oversight and accountability; help ensure ethical conduct; and review budgetary, financial, and human resources policies. Even though UN member states support management reforms, there is considerable disagreement within the General Assembly over the process and implementation of the reforms, which thus far have been slow and uneven.

[1]GAO, *United Nations: Lessons Learned from the Oil for Food Program Indicate the Need to Strengthen UN Internal Controls and Oversight Activities*, GAO-06-330 (Washington, D.C.: Apr. 25, 2006).

[2]The ranges given represent estimates developed by GAO, the Independent Inquiry Committee, and the Iraq Survey Group for 1997 through about early 2003.

Completing the CMP will require the UN to implement effective internal oversight and procurement practices. Accordingly, my statement is based on two reports that we released on these topics in April 2006.[3] First, I will focus on the need to strengthen OIOS's budgetary independence and its full implementation of key components for effective oversight. Second, I will also focus on our assessment of the UN's procurement processes according to key standards for internal controls.

The work for these reports and this testimony was conducted in accordance with generally accepted government auditing standards between April 2005 and March 2006.

Summary

Effective implementation of the CMP is vulnerable due to a range of weaknesses in existing internal oversight and procurement practices. In particular, current funding arrangements adversely affect OIOS's budgetary independence and compromise its ability to investigate high-risk areas. In addition, while the UN has yet to finalize a specific procurement strategy for the renovation project, to the extent that it relies on current UN processes, implementation of the planned renovation is vulnerable to the procurement weaknesses that we have identified.

UN funding arrangements constrain OIOS's ability to operate independently as mandated by the General Assembly and required by the international auditing standards that OIOS has adopted. According to these standards, an institution's financial regulations should not restrict an audit organization from fulfilling its mandate, and the audit organization should have sufficient resources to achieve its mandate. First, while OIOS is funded by the UN's regular budget and 12 other extrabudgetary revenue streams, UN financial regulations and rules severely limit OIOS's ability to respond to changing circumstances and reallocate resources among revenue streams, locations, and operating divisions. As a result, OIOS cannot always deploy the resources necessary to address high-risk areas that may emerge after its budget is approved. Second, OIOS is dependent on UN funds and programs (and other UN entities) for resources as compensation for the services it provides. OIOS must obtain permission to perform audits or investigations from the managers of funds and programs

[3]GAO, *United Nations: Funding Arrangements Impede Independence of Internal Auditors*, GAO-06-575 (Washington, D.C.: Apr. 25, 2006); GAO, *United Nations: Procurement Internal Controls Are Weak*, GAO-06-577 (Washington, D.C.: Apr. 25, 2006).

and negotiate the terms of work and payment for those services with them. Moreover, the heads of these entities have the right to deny funding for the oversight work OIOS proposes. By denying OIOS funding, UN entities could avoid, and have avoided, OIOS audits. In some instances, high-risk areas have been excluded from timely examination. For example, the practice of allowing the heads of programs the right to deny funding of internal audit activities prevented OIOS from examining high-risk areas in the UN Oil for Food program, where billions of dollars were subsequently found to have been misused. In our April 2006 report concerning OIOS,[4] we recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support budgetary independence for OIOS. Both the Department of State and OIOS generally agreed with our findings and recommendation.

Although OIOS has developed and begun to implement key components of effective oversight, some of OIOS's audit practices fall short of meeting the international auditing standards it has adopted. Specifically, while OIOS develops an annual work plan, it has not fully implemented a risk management framework to provide reasonable assurance that its annual work plans are based on a systematic assessment of risks. As a result, OIOS may not be allocating resources to areas in the UN with the highest exposure to fraud, waste, and abuse. Moreover, OIOS's annual reports do not provide an overall assessment of risk exposures and control issues facing the UN organization as a whole, or the consequences to the organization if the risks are not addressed. In terms of resource management, OIOS officials report that the office does not have adequate resources. In reviewing the CMP, OIOS reported in August 2005 that it obtained extrabudgetary funds from the CMP for one auditor on a short-term basis, but that the level of funding was not sufficient to provide the oversight coverage intended by the General Assembly.[5] In addition, OIOS does not have a mechanism in place to determine appropriate staffing levels and help justify budget requests. Furthermore, OIOS has no mandatory training curriculum for staff to develop and maintain their expertise. OIOS's shortcomings in meeting key components of international auditing standards could undermine its effectiveness in

[4]GAO, *United Nations: Funding Arrangements Impede Independence of Internal Auditors*, GAO-06-575 (Washington, D.C.: Apr. 25, 2006);

[5]United Nations General Assembly, *Report of the Office of Internal Oversight Services on the Capital Master Plan for the period from August 2004 to July 2005 A/60/288* (New York, N.Y.: Aug. 22, 2005).

carrying out its functions as the UN's main internal oversight body. Effective oversight demands reasonable budgetary independence, sufficient resources, and adherence to professional auditing standards. In our April 2006 report on OIOS, we also recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support OIOS's efforts to more closely adhere to international auditing standards. Both the Department of State and OIOS generally agreed with our findings and recommendation.

While the UN has yet to finalize its CMP procurement strategy, to the extent that it relies on the current process, implementation of the planned renovation is vulnerable to the procurement weaknesses that we have identified. For example, it has not established an independent process to consider vendor protests that could alert senior UN officials of failures by procurement staff to comply with stated procedures. Also, the Chairman of a key UN procurement contract review committee has stated that his committee does not have the resources to keep up with its expanding workload. In addition, the UN does not consistently implement its process for helping to ensure that it is conducting business with qualified vendors, has not demonstrated a commitment to improving its professional procurement staff despite long-standing shortcomings, and has yet to complete action on specific ethics guidance for procurement officers. We also found that the UN has yet to incorporate guidance for construction procurement into its procurement manual. In our April 2006 report on UN procurement,[6] we recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to encourage the UN to establish an independent bid protest mechanism, address problems facing its principle contract-review committee, implement a process to help ensure that it conducts business with qualified vendors, and to take other steps to improve UN procurement. The Department of State welcomed our report and recommendations. However, the UN did not provide us with written comments.

Background

The UN headquarters buildings are in need of renovation. The original UN headquarters complex, located in New York City and constructed between 1949 and 1952, no longer conforms to current safety, fire and building codes

[6]GAO, *United Nations: Procurement Internal Controls Are Weak*, GAO-06-577 (Washington, D.C.: Apr. 25, 2006).

and does not meet UN technology or security requirements. Over the last 50 years there have been no major renovations or upgrades to the buildings or their systems. For example, the UN headquarters complex lacks fire sprinklers, has a deteriorating window structure, and is vulnerable to catastrophic electrical failures. In September 2005, the headquarters complex was shut down and the staff sent home because a main breaker for electrical power to the top floors of the Secretariat building failed, causing it to fuse to the electrical panel. This failure could have resulted in a major fire.

As host country, the United States financed construction of the original complex by providing the UN with a no-interest loan. The rest of the complex was built between 1960 and 1982 and funded through the UN's regular budget or private donations. In December 2002, the General Assembly endorsed the CMP to renovate the UN headquarters complex and approved funds to further develop the conceptual designs and cost estimate. In May 2003, we reported that the resulting renovation planning was reasonable, but that additional management controls and oversight were needed. Since our last report, the UN has completed design development of the renovation. In April 2006, the UN appropriated $23.5 million to finance the renovation's preconstruction phase and committed $77 million to finance the construction of temporary conference space and supplementary office space rental (swing space). However, the General Assembly has not yet decided whether to approve implementation of the CMP.

In a February 2003 resolution, the General Assembly stressed the importance of oversight in implementing the CMP and requested that all relevant oversight bodies, such as OIOS, initiate immediate oversight activities.[7] In our 2003 report on the CMP,[8] we noted that OIOS assigned one staff member to begin researching the CMP on a part-time basis. OIOS officials also stated that they had requested funding for OIOS to hire contractors to help evaluate the CMP, project management plan, and

[7]United Nations General Assembly, *Resolution Adopted by the General Assembly*, A/RES/57/292 (New York, N.Y.: Feb. 13, 2003).

[8]GAO, *United Nations: Early Renovation Planning Reasonable, but Additional Management Controls and Oversight Will Be Needed*, GAO-03-566 (Washington, D.C.: May 30, 2003).

security upgrades. In July 2005, OIOS reported that it had two auditors reviewing the CMP.[9]

OIOS's authority spans all UN activities under the Secretary-General. OIOS derives its funding from (1) regular budget resources, which are funds from assessed contributions from member states that cover normal, recurrent activities such as the core functions of the UN Secretariat[10] and (2) extrabudgetary resources, which come from the budgets for UN peacekeeping missions financed through assessments from member states, voluntary contributions from member states for a variety of specific projects and activities, and budgets for the voluntarily financed UN funds and programs. Our work on the Oil for Food program demonstrates the weakness inherent in OIOS's reliance on extrabudgetary resources. OIOS audited some aspects of the Oil for Food program and identified hundreds of weaknesses and irregularities, but it lacked the resources and independence needed to provide full and effective oversight of this large, costly, and complex UN effort. As the program was implemented, the Oil for Food program was further weakened by inadequate attention to internal controls, including establishing clear responsibility and authority and identifying and addressing program risks.

In addition to oversight, an effective procurement process is one of the keys to success for any large scale construction project. For more than a decade, experts have called on the UN to correct serious weaknesses in its procurement process. In addition, the UN procurement process has been under increasing stress in recent years as procurement spending has more than tripled to keep pace with a rapidly growing peacekeeping program. The UN Department of Management, through its 70-person UN Procurement Service, is ultimately responsible for developing UN procurement policies.

Because the UN is a multilateral institution, our oversight authority does not directly extend to the UN, but instead extends through the United

[9]United Nations General Assembly, *Report of the Office of Internal Oversight Services on the Capital Master Plan for the Period from August 2004 to July 2005 A/60/288* (New York, N.Y.: Aug. 22, 2003).

[10]The Secretariat carries out the day-to-day work of the UN Organization, such as administering peacekeeping operations, mediating international disputes, surveying economic and social trends and problems, and preparing studies on human rights and sustainable development.

States' membership in the organization. In recognition of this factor, we conduct UN-related work only in response to specific requests from committees with jurisdiction over UN matters. Congressional interest in this area has been high in recent years, and many of our ongoing or recently completed requests are both bicameral and bipartisan in nature.

Funding Arrangements Impede Independence of the UN Internal Auditors

The UN is vulnerable to fraud, waste, abuse, and mismanagement due to a range of weaknesses in existing oversight practices. The General Assembly mandate creating OIOS calls for it to be operationally independent. In addition, international auditing standards state that an internal oversight activity should have sufficient resources to effectively achieve its mandate. In practice, however, OIOS's independence is impaired by constraints that UN funding arrangements impose. In our April 2006 report concerning OIOS, we recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support budgetary independence for OIOS. Both the Department of State and OIOS generally agreed with our findings and recommendation.

UN Mandate and International Auditing Standards Require Independence

In passing the resolution that established OIOS in August 1994, the General Assembly stated that the office should exercise operational independence and that the Secretary-General, when preparing the budget proposal for OIOS, should take into account the independence of the office. The UN mandate for OIOS was followed by a Secretary-General's bulletin in September 1994 stating that OIOS discharge its responsibilities without any hindrance or need for prior clearance. In addition, the Institute of Internal Auditors' (IIA) standards for the professional practice of auditing,[11] which OIOS and its counterparts in other UN organizations formally adopted in 2002, state that audit resources should be appropriate, sufficient, and effectively deployed. These standards also state that an internal audit activity should be free from interference and that internal auditors should avoid conflicts of interest. International auditing standards also state that

[11]IIA is recognized as the internal audit profession's leader in certification, education, research, and technological guidance. Developed and maintained by the IIA, *The Code of Ethics and Standards* is mandatory guidance considered to be essential to the professional practice of internal auditing. *The International Standards for the Professional Practice of Internal Auditing* provides guidance for the conduct of internal auditing at both the organizational and individual auditor levels.

financial regulations and the rules of an international institution should not restrict an audit organization from fulfilling its mandate.

Funding Arrangements Hinder OIOS's Ability to Respond to Changing Circumstances and to Reallocate Resources to Address High-Risk Areas

UN funding arrangements severely limit OIOS's ability to respond to changing circumstances and reallocate its resources among its multiple funding sources, OIOS locations worldwide, or its operating divisions—Internal Audit Divisions I and II; the Investigations Division; and the Monitoring, Evaluation, and Consulting Division—to address changing priorities. In addition, the movement of staff positions[12] or funds between regular and extrabudgetary resources is not allowed. For example, one section in the Internal Audit Division may have exhausted its regular budget travel funds, while another section in the same division may have travel funds available that are financed by extrabudgetary peacekeeping resources. However, OIOS would breach UN financial regulations and rules if it moved resources between the two budgets.

Since 1996, an increasing share of OIOSís total budget is comprised of extrabudgetary resources. OIOSís regular budget and extrabudgetary resources increased in nominal terms from $21.6 million in fiscal biennium 1996-1997 to $85.3 million in fiscal biennium 2006-2007. Over that period, OIOSís extrabudgetary funding increased in nominal terms, from about $6.5 million in fiscal biennium 1996-1997 to about $53.7 million in fiscal biennium 2006-2007. The majority of OIOS's staff (about 69 percent) is funded with extrabudgetary resources, which increased due to extrabudgetary resources for audits and investigations of peacekeeping operations, including issues related to sexual exploitation and abuse.

Reliance on Other Entities for Funding Could Infringe on OIOS's Independence

OIOS is dependent on UN funds and programs and other UN entities for resources, access, and reimbursement for the services it provides. These relationships present a conflict of interest because OIOS has oversight authority over these entities, yet it must obtain their permission to examine their operations and receive payment for its services. OIOS negotiates the terms of work and payment for services with the manager of the program it intends to examine, and heads of these entities have the right to deny

[12]Throughout this testimony, we use the term "staff position" to refer to what the UN calls a "post." For budgeting purposes, the UN defines a post as a budgetary entity at a specific level, in a specific work unit, for a specific purpose.

funding for oversight work proposed by OIOS. By denying OIOS funding, UN entities could avoid OIOS audits or investigations, and high-risk areas

could potentially be excluded from timely examination.[13] For example, the practice of allowing the heads of programs the right to deny funding to internal audit activities prevented OIOS from examining high-risk areas in the UN Oil for Food program, where billions of dollars were subsequently found to have been misused. Moreover, in some cases, fund and program managers have disputed fees charged by OIOS for investigative services rendered. For example, 40 percent of the $2 million billed by OIOS after it completed its work is currently in dispute, and since 2001, less than half of the entities have paid OIOS in full for investigative services it has provided. According to OIOS officials, the office has no authority to enforce payment for services rendered, and there is no appeal process, no supporting administrative structure, and no adverse impact on an agency that does not pay or pays only a portion of the bill.

GAO's Recommendation on OIOS Independence

In our April 2006 report concerning OIOS, we recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support budgetary independence for OIOS. In commenting on the official draft of that report, OIOS and the Department of State (State) agreed with our overall conclusions and recommendations. OIOS stated that observations made in our report were consistent with OIOS's internal assessments and external peer reviews. State fully agreed with GAO's findings that UN member states need to ensure that OIOS has budgetary independence. However, State does not believe that multiple funding sources have impeded OIOS's budgetary flexibility. We found that current UN financial regulations and rules are very restrictive, severely limiting OIOS's ability to respond to changing circumstances and to reallocate funds to emerging or high priority areas when they arise.

[13]Because the General Assembly has not approved funding for implementation of the CMP, there has been no decision on the level of OIOS funding for the CMP.

OIOS Has Not Fully Met Key Elements of International Auditing Standards

IIA Standards for

Managing the internal audit activity – planning

- Establish risk-based plans to determine the priorities of the internal audit activity, consistent with the organization's goals
- Plan of engagements should be based on a risk assessment undertaken at least annually

Source: IIA.

OIOS formally adopted the Institute for Internal Auditors' (IIA) international standards for the professional practice of internal auditing in 2002. Since then, OIOS has begun to develop and implement the key components of effective oversight. However, the office has yet to fully implement them. Moreover, shortcomings in meeting key components of international auditing standards could undermine the office's effectiveness in carrying out its functions as the UN's main internal oversight body. Effective oversight demands reasonable adherence to professional auditing standards. In our April 2006 report on OIOS, we also recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support OIOS's efforts to more closely adhere to international auditing standards.

OIOS Has Developed Annual Work Plans, but Has Not Fully Implemented a Risk Management Framework

IIA Standard for

Managing the internal audit activity – reporting to senior management

Reporting should include significant risk exposures and control issues, corporate governance issues, and other matters needed or requested by senior management

Source: IIA.

OIOS has adopted a risk management framework[14] to link the office's annual work plans to risk-based priorities, but it has not fully implemented this framework. OIOS began implementing a risk management framework in 2001 for prioritizing the allocation of resources to those areas that have the greatest exposure to fraud, waste, and abuse. OIOS's risk management framework includes plans for organization-wide risk assessments to categorize and prioritize risks facing the organization; it also includes client-level risk assessments to identify and prioritize risk areas facing each entity for which OIOS has oversight authority. Although OIOS's framework includes plans to perform client-level risk assessments, as of April 2006, out of 25 entities that comprise major elements of its "oversight universe," only three risk assessments had been completed. As a result, OIOS officials cannot currently provide reasonable assurance that the entities they choose to examine are those that pose the highest risk, nor that their audit coverage of a client focuses on the areas of risk facing that client. OIOS officials told us they plan to assign risk areas more consistently to audits proposed in their annual work plan during the planning phase so that, by

[14]OIOS defines risk management as the systematic approach to identifying, assessing, and acting on the probability that an event or action may adversely affect the organization.

2008, at least 50 percent of their work is based on a systematic risk assessment.

OIOS Not Reporting on Status of Overall Risk and Control Issues Facing the UN

IIA Standard for

Managing the internal audit activity – resource management

Ensure that internal audit resources are appropriate, sufficient, and effectively deployed to achieve the approved plan

Source: IIA

Although OIOS's annual reports contain references to risks facing OIOS and the UN organization, the reports do not provide an overall assessment of the status of these risks or the consequence to the organization if the risks are not addressed. For instance, in February 2005, the Independent Inquiry Committee reported that many of the Oil for Food program's deficiencies, identified through OIOS audits, were not described in the OIOS annual reports submitted to the General Assembly. A senior OIOS official told us that the office does not have an annual report to assess risks and controls and that such an assessment does not belong in OIOS's annual report in its current form, which focuses largely on the activities of OIOS. The official agreed that OIOS should communicate to senior management on areas where the office has not been able to examine significant risk and control issues, but that the General Assembly would have to determine the appropriate vehicle for such a new reporting requirement.

OIOS Lacks a Mechanism to Determine Appropriate Resource Levels

While OIOS officials have stated that the office does not have adequate resources, they do not have a mechanism in place to determine appropriate staffing levels to help justify budget requests, except for peacekeeping oversight services. For peacekeeping audit services, OIOS does have a metric—endorsed by the General Assembly—that provides one professional auditor for every $100 million in the annual peacekeeping budget. Although OIOS has succeeded in justifying increases for peacekeeping oversight services consistent with the large increase in the peacekeeping budget since 1994, it has been difficult to support staff increases in oversight areas that lack a comparable metric, according to OIOS officials. For the CMP, OIOS reported that it had extrabudgetary funds from the CMP for one auditor on a short-term basis, but that the level of funding was not sufficient to provide the oversight coverage intended by the General Assembly.[15] To provide additional oversight coverage, OIOS

[15]United Nations General Assembly, *Report of the Office of Internal Oversight Services on the Capital Master Plan for the Period from August 2004 to July 2005 A/60/288* (New York, N.Y.: Aug. 22, 2005).

assigned an additional auditor exclusively to the CMP, using funds from its regular budget.[16]

OIOS Offers Training Opportunities, but Does Not Require or Systematically Track Continuing Professional Development

IIA Standard for

Proficiency – continuing professional development

Internal auditors should enhance their knowledge, skills, and other competencies through continuing professional development

Source: IIA.

OIOS staff have opportunities for training and other professional development, but OIOS does not formally require or systematically track staff training to provide reasonable assurance that all staff are maintaining and acquiring professional skills. UN personnel records show that OIOS staff took a total of more than 400 training courses offered by the Office of Human Resources Management in 2005. Further, an OIOS official said that, since 2004, OIOS has subscribed to IIA's online training service that offers more than 100 courses applicable to auditors.

Although OIOS provides these professional development opportunities, it does not formally require staff training, nor does it systematically track training to provide reasonable assurance that all staff are maintaining and acquiring professional skills. OIOS policy manuals list no minimum training requirement. OIOS officials said that, although they gather some information on their use of training funds for their annual training report to the UN Office of Human Resources Management, they do not maintain an office wide database to systematically track all training taken by their staff.

GAO's Recommendation on OIOS Meeting Key Elements of International Auditing Standards

In our April 2006 report on OIOS, we also recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to support OIOS's efforts to more closely adhere to international auditing standards. In commenting on the official draft of that report, OIOS and State agreed with our overall conclusions and recommendations. OIOS stated that observations made in our report were consistent with OIOS's internal assessments and external peer reviews.

[16]Because the General Assembly has not approved funding for implementation of the CMP, there has been no decision on the level of funding OIOS would receive for oversight of the CMP during the implementation phase.

The Current UN Procurement Process Contains Numerous Weaknesses

While the UN has yet to finalize its CMP procurement strategy, to the extent that it relies on current UN processes, implementation of the planned renovation is vulnerable to the procurement weaknesses that we have identified. We have identified problems affecting the UN's bid protest process, headquarters contract review committee, vender rosters, procurement workforce, ethics guidance for procurement personnel, and procurement manual. In our April 2006 report on UN procurement, we recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to encourage the UN to establish an independent bid protest mechanism, address problems facing its principal contract-review committee, implement a process to help ensure that it conducts business with qualified vendors, and to take other steps to improve UN procurement.

The UN Has Not Established an Independent Bid Protest Process

The UN has not established an independent process to consider vendor protests, despite the 1994 recommendation of a high-level panel of international procurement experts that it do so as soon as possible.[17] Such a process would provide reasonable assurance that vendors are treated fairly when bidding and would also help alert senior UN management to situations involving questions about UN compliance. An independent bid protest process is a widely endorsed control mechanism that permits vendors to file complaints with an office or official who is independent of the procurement process. The General Assembly endorsed the principle of independent bid protests in 1994 when it recommended for adoption by member states a model procurement law drafted by the UN Commission on International Trade Law.[18] Several nations, including the United States, provide vendors with an independent process to handle complaints.[19]

The UN's lack of an independent bid protest process limits the transparency of its procurement process by not providing a means for a vendor to protest the outcome of a contract decision to an independent

[17]United Nations, *High Level Expert Group Procurement Study Report* (New York, December 1994).

[18]See GA Res. 49/54, UN Doc. A/Res/49/54; UN Commission on International Trade Law (UNCITRAL), Model Law on Procurement of Goods, Construction, and Services (1994), ch. 6.

[19]In the United States, vendors may protest to the involved agencies, the U.S. Court of Federal Claims, or GAO. GAO receives more than 1,100 such protests annually.

official or office. At present, the UN Procurement Service directs its vendors to file protests to the Procurement Service chief and then to his or her immediate supervisor. If handled through an independent process, vendor complaints could alert senior UN officials and UN auditors to the failure of UN procurement staff to comply with stated procedures. As a result of recent findings of impropriety involving the Procurement Service, the United Nations hired a consultant to evaluate the internal controls of its procurement operations. One of the consultant's conclusions was that the UN needs to establish an independent bid protest process for suspected wrongdoing that would include an independent third-party evaluation as well as arbitration, due process, and formal resolution for all reports.

The Headquarters Contract Review Committee's Workload Is Increasing Faster Than Its Resources

While UN procurement has increased sharply in recent years, the size of the UN's Headquarters Committee on Contracts and its support staff has remained relatively stable. The committee's chairman and members told us that the committee does not have the resources to keep up with its expanding workload. The number of contracts reviewed by the committee has increased by almost 60 percent since 2003.[20] The committee members stated that the committee's increasing workload was the result in part of the complexity of many new contracts and increased scrutiny of proposals in response to recent UN procurement scandals.

The committee is charged with evaluating proposed contracts worth more than $200,000 and advising the Department of Management as to whether the contracts are in accordance with UN Financial Regulations and Rules and other UN policies. However, concerns regarding the committee's structure and workload have led UN auditors to conclude that the committee cannot properly review contract proposals. It may thus recommend contracts for approval that are inappropriate and have not met UN regulations. Earlier this year, OIOS reiterated its 2001 recommendation that the UN reduce the committee's caseload and restructure the committee "to allow competent review of the cases."

[20]In 2005, the committee reviewed 881 contracts valued at $3 billion (including long-term contracts), while in 2003 it reviewed 558 contracts valued at about $2.3 billion.

UN Does Not Consistently Implement Its Process for Helping to Ensure That It Conducts Business with Qualified Vendors

The UN does not consistently implement its process for helping to ensure that it is conducting business with qualified vendors. As a result, the UN may be vulnerable to favoring certain vendors or dealing with unqualified vendors. The UN has long had difficulties in maintaining effective rosters of qualified vendors. In 1994, a high-level group of international procurement experts concluded that the UN's vendor roster was outdated, inaccurate, and inconsistent across all locations. In 2003, an OIOS report found that the Procurement Service's roster contained questionable vendors. OIOS later concluded that as of 2005 the roster was not fully reliable for identifying qualified vendors that could bid on contracts. While the Procurement Service became a partner in an interagency procurement vendor roster in 2004 to address these concerns, OIOS has found that many vendors that have applied through the interagency procurement vendor roster have not submitted additional documents requested by the Procurement Service to become accredited vendors.

The UN Has Not Demonstrated a Commitment to Improving Its Professional Procurement Workforce

The UN has not demonstrated a commitment to improving its professional procurement staff through training, establishment of a career development path, and other key human capital practices critical to attracting, developing, and retaining a qualified professional workforce. Due to significant control weaknesses in the UN's procurement process, the UN has relied disproportionately on the actions of its staff to safeguard its resources.

Recent studies indicate that Procurement Service staff lack knowledge of UN procurement policies. Moreover, most procurement staff lack professional certifications attesting to their procurement education, training, and experience. The UN has not established requirements for procurement staff to obtain continuous training, resulting in inconsistent levels of training across the procurement workforce. Furthermore, UN officials acknowledged that the UN has not committed sufficient resources to a comprehensive training and certification program for its procurement staff. In addition, the UN has not established a career path for professional advancement for procurement staff. Doing so could encourage staff to undertake progressive training and work experiences.

The UN Has Not Fully Established Ethics Guidance for Procurement Personnel

The UN has been considering the development of specific ethics guidance for procurement officers for almost a decade, in response to General Assembly directives dating back to 1998. While the Procurement Service has drafted such guidance, the UN has made only limited progress toward adopting it. Such guidance would include a declaration of ethics responsibilities for procurement staff and a code of conduct for vendors.

The UN Has Not Included Guidance on Construction Procurement in its Procurement Manual

The UN has yet to include guidance for construction procurement into its procurement manual. In June 2005, a UN consultant recommended that the UN develop separate guidelines in the manual for the planning and execution of construction projects. These guidelines could be useful in planning and executing CMP procurement. Moreover, the UN has not updated its procurement manual since January 2004 to reflect current UN procurement policy. As a result, procurement staff may not be aware of changes to procurement procedures that the UN has adopted over the past 2 years. A Procurement Service official who helped revise the manual in 2004 stated that the Procurement Service has been unable to allocate resources needed to update the manual since that time.

GAO's Recommendation to Address Weaknesses in UN Procurement

In our April 2006 report on UN procurement,[21] we recommended that the Secretary of State and the Permanent Representative of the United States to the UN work with member states to encourage the UN to establish an independent bid protest mechanism, address problems facing its principle contract-review committee, implement a process to help ensure that it conducts business with qualified vendors, and to take other steps to improve UN procurement. In commenting on the official draft of this report, the Department of State stated that it welcomed our report and endorsed its recommendations. The UN did not provide us with written comments.

Objectives, Scope, and Methodology

To conduct our study of UN oversight, we reviewed relevant UN and OIOS reports, manuals, and program documents, as well as the international auditing standards of the IIA and the International Organization of Supreme

[21]GAO, *United Nations: Procurement Internal Controls Are Weak*, GAO-06-577 (Washington, D.C.: Apr. 25, 2006).

Auditing Institutions. The IIA standards apply to internal audit activities—not to investigations, monitoring, evaluation, and inspection activities. However, we applied these standards OIOS-wide, as appropriate, in the absence of international standards for non-audit oversight activities. We met with senior State officials in Washington, D.C., and senior officials with the U.S. Missions to the UN in New York, Vienna, and Geneva. At these locations, we also met with the UN Office of Internal Oversight Services management officials and staff; representatives of Secretariat departments and offices as well as the UN funds, programs, and specialized agencies; and the UN external auditors—the Board of Auditors (in New York) and the Joint Inspection Unit (in Geneva). We reviewed relevant OIOS program documents, manuals, and reports. To assess the reliability of OIOS's funding and staffing data, we reviewed the office's budget documents and discussed the data with relevant officials. We determined the data were sufficiently reliable for the purposes of this testimony.

To assess internal controls in the UN procurement process, we used an internal control framework that is widely accepted in the international audit community and has been adopted by leading accountability organizations.[22] We assessed the UN's control environment for procurement, as well as its control activities, risk assessment process, procurement information processes, and monitoring systems. In doing so, we reviewed documents and information prepared by OIOS, the UN Board of Auditors, the UN Joint Inspection Unit, two consulting firms, the Department of Management's Procurement Service, the Department of Peacekeeping Operations, and State. We interviewed UN and State officials and conducted structured interviews with the principal procurement officers at each of 19 UN field missions.

Concluding Observations

If implemented, the CMP will be a large and unique endeavor for the UN. Effective internal oversight and management of the procurement process will be necessary for the successful completion of the project. However, weaknesses in internal oversight and procurement could impact implementation of the CMP. Recent UN scandals, particularly in the Oil for Food program, demonstrate the need for significant reforms in these areas.

[22]GAO, *Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999); Committee of Sponsoring Organizations of the Treadway Commission, *Internal Control—Integrated Framework* (September 1992).

Although OIOS has a mandate establishing it as an independent oversight entity and to conduct oversight of the CMP, the office does not have the budgetary independence it requires to carry out its responsibilities effectively. In addition, OIOS's shortcomings in meeting key components of international auditing standards could undermine the office's effectiveness in carrying out its functions as the UN's main internal oversight body. Effective oversight demands reasonable budgetary independence, sufficient resources, and adherence to professional auditing standards. OIOS is now at a critical point, particularly given the initiatives to strengthen UN oversight launched as a result of the World Summit in the fall of 2005. In moving forward, the degree to which the UN and OIOS embrace international auditing standards and practices will demonstrate their commitment to addressing the monumental management and oversight tasks that lie ahead. Failure to address these long-standing concerns would diminish the efficacy and impact of other management reforms to strengthen oversight at the UN.

While the UN has yet to finalize its CMP procurement strategy, to the extent that it relies on the current process, we have identified numerous weaknesses with the existing procurement process that could impact implementation of the CMP. Long-standing weaknesses in the UN's procurement office have left UN procurement funds highly vulnerable to fraud, waste, and abuse. Many of these weaknesses have been identified and documented by outside experts and the UN's own auditors for more than a decade. Sustained leadership at the UN will be needed to correct these weaknesses and establish a procurement system capable of fully supporting the UN's expanding needs.

This concludes my testimony. I would be pleased to take your questions.

Contact and Acknowledgments

Should you have any questions about this testimony, please contact me at (202) 512-9601 or melitot@gao.gov. Other major contributors to this testimony were Phyllis Anderson and Maria Edelstein, Assistant Directors; Joy Labez, Pierre Toureille, Valérie L. Nowak, Jeffrey Baldwin-Bott, Michaela Brown, Joseph Carney, Debbie J. Chung, Kristy Kennedy, Clarette Kim, J.J. Marzullo, and Barbara Shields.

Capital Master Plan Funding
(in millions)

U.N. General Assembly Resolution	U.N. Obligation	U.S. Share
2003	$25.5	$5.6
2006	$17.8	$3.9
2006	$8.2	$1.8
2007	$100.5	$22.1 (requested)
Total	**$152.0**	**$33.4**

Source: Department of State

Capital Master Plan

Construction (labor, materials, contingencies, fees)	**$1,063 Million**
Price Escalation	**$360 million**
Swing Space	**$164 million**
"Scope Options" (system redundancies, grass on roof, wind turbines, etc.)	**$161 million**
Total Cost	**$1,749 million**

45% increase from original estimate

Source: Department of State

Questions for the Record Submitted to
Ambassador John Bolton by
Senator Carper (#1)
Subcommittee on Federal Financial Management, Government Information, and International Security
Senate Committee on Homeland Security and Governmental Affairs
June 20, 2006

Question:

What are the current projected costs per square foot for the headquarters renovation? Is this above or below typical New York construction costs? How would you answer previous accusations from Congress that costs for the plan were too high? Capital Master Plan Executive Director Fritz Reuter has estimated that each day's delay in this project adds $225,000 to the cost. Using these figures, how much would a month's delay cost? How much would a year's delay add?

Answer:

The current projected cost/square foot for the UN renovation is $411 per gross square foot when escalation and swing space are not included, using "loaded" (including contingencies, fees and management costs) construction costs ($1.064 billion/2,587,000sf). The UN has provided pricing data for existing projects in New York City showing recent figures for comparable "loaded" cost of new office construction of between $550-$650 per gross square foot. Speaking strictly in terms of pure construction cost (labor and materials), the cost of the CMP is $284 per gross square foot.

In addition to looking at the project costs relative to other similar projects, the UN CMP cost estimate has been subject to third-party

contractor reviews as well as reviews by U.S. Government CMP Task Force members with design and construction expertise. All of the reviews have concluded that the cost estimates were developed using methods consistent with accepted industry practices and none found the estimates to be unsound.

The estimated delay cost provided by the UN represents current estimates for future escalation on the project. The estimated one-month delay cost is $7.3 million, and the estimated six-month delay cost is $43.3 million. For a delay longer than six months, the UN cannot accurately define the delay costs as contracts would need to be demobilized and there would likely be impacts on the CMP Project Office.

Questions for the Record Submitted to
Ambassador John Bolton by
Senator Coburn (#1)
Subcommittee on Federal Financial Management, Government Information, and International Security
Senate Committee on Homeland Security and Governmental Affairs
June 20, 2006

Question:

According to industry experts I have consulted with, the current Capital Master Plan has tremendous hidden costs that will arise when the plan is executed. Would the State Department consider hiring a qualified construction manager to validate the costs and determine the soundness of the execution of the Capital Master Plan from start to finish?

Answer:

The Administration has agreed to support the implementation of the CMP under Strategy IV in New York. We recognize that it is likely a project of this size and complexity will encounter challenges, and are committed to ensuring on-going scrutiny on the project as it progresses, particularly as the procurement and execution strategies move closer to implementation. We intend to use design and construction experts that are members of the USG CMP Task Force for these reviews, but would consider hiring an independent contractor if it becomes apparent that these reviews are insufficient.

Questions for the Record Submitted to
Ambassador John Bolton by
Senator Tom Coburn (#2)
Subcommittee on Federal Financial Management, Government Information, and International Security
Senate Committee on Homeland Security and Governmental Affairs
June 20, 2006

Question:

What UN rule or regulation is preventing public access to current and historical procurement data, and what can be done to change it?

Answer:

We are unaware of any UN rule or regulation that completely bars access to historical procurement data. The UN considers some contract information proprietary; however, Member States can request information regarding specific contracts. The UN is willing to make documents available to Member States in the offices of the UN Procurement Service and has done so on previous occasions.

Questions for the Record Submitted to
Ambassador John Bolton by
Senator Tom Coburn (#3)
Subcommittee on Federal Financial Management, Government Information, and International Security
Senate Committee on Homeland Security and Governmental Affairs
June 20, 2006

Question:

UN auditors describe the current UN procurement scandal as operating within a "culture of impunity" – where criminal behavior is exempt from punishment. In the newly released report from the UN staff union, this charge is expounded upon with a claim that the UN violates its own human-rights standards in its treatment of UN staff. Is the UN above the law, and to whom does the UN answer?

a. As you know, Iqbal Riza is the former chief of staff to Kofi Annan who shredded up to 10,000 Oil for Food documents that were under investigation in that massive procurement scandal. Did the UN clear Mr. Riza from the charges of obstruction of justice before Kofi Annan appointed him as a top UN diplomat? And what message does this send to the world regarding the rule of law at the UN?

b. If the new Ethics Office finds a UN procurement official taking a bribe, destroying evidence in the middle of an investigation, or sexually harassing coworkers, does this office have enforcement authority? Given the UN's culture of impunity, what can the Ethics Office do to bring justice to these situations?

Answer:

Although much remains to be done on procurement reform, the UN has taken some steps to determine the nature and extent of the procurement problems through internal and external evaluations. In response to these studies, the UN has already begun to implement improved guidelines and

procedures that we hope will tighten internal controls over the procurement of goods and services.

The UN Secretary-General has issued a detailed report addressing the shortcomings in the procurement process. We will continue to push for comprehensive changes to the procurement system so that it will become more transparent and accountable and meet accepted international standards. A resolution, which passed in the UN General Assembly on July 7, 2006, provided temporary resources to strengthen procurement controls, though more permanent steps need to be taken. We will continue to work with like-minded nations to hold the Secretariat accountable for implementing this improved system.

a. Mr. Riza retired in 2005. Mr. Riza was not charged in any administrative or criminal matter. The Oil for Food scandal highlighted shameful examples of ethical abuses and undermined public confidence in the UN. We believe the current reform process presents an opportunity to make the UN a more transparent and accountable organization.

b. The Ethics Office was not intended as, nor has the authority to be an enforcement body, but rather to advise and assist UN staff on matters. The UN Ethics Office will help administer the new financial disclosure forms and program, which will enable it to identify conflicts of interest. In addition, it will help administer ethics training that is intended over time to be mandatory for staff at all levels of the Secretariat. The Office of Internal Oversight Services (OIOS) conducts investigations into possible improprieties and issues any findings in a report to supervisory officials. These officials would then have a more solid basis on which to take appropriate disciplinary action. OIOS's importance to this process is one reason the U.S. is pushing for it to have independent and sufficient funding.

Question from Dr. Coburn to Ann Bayefsky:
In your testimony, you suggest other measure for financial accountability—where the US imposes a mechanism that prevents our taxpayer money from being used to fund heinous activities such as terrorism and anti-Semitism? From your experience, which UN bodies and affiliated organizations promote these kinds of offensive behavior?

Answer:

One has to be precise about what one means by "promoting terrorism" or "anti-semitism." I believe that a line can be drawn running from obvious/overt anti-semitism, to belittling Jew-hatred, to rejecting the legitimacy of a Jewish state, to making wild-allegations against Israel of human-rights atrocities akin to the Nazis (starting with Israel's creation and not a 1967 occupation), to justifying armed struggle, murder, and terrorism. UN bodies or affiliated organizations may do one or more of these.

1) With respect to affiliated organizations - (similar to the ECOSOC-accredited NGO that was supposed to have some connection with pedophilia and which resulted in the rider on US-UN funding that I have suggested in the terrorism and anti-semitism context) - I point you to a very recent study I did on UN-accredited NGOs that promote terrorism in the Arab-Israeli context or anti-semitism. See http://www.eyeontheun.org/report-un-ngo.asp?v=ALL

2) With respect to UN bodies, some of the bodies the U.S. has already selected as subject to withholding are at the top of the list -- namely,
- the Committee on the Inalienable Rights of the Palestinian People
- the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories
- the Division on Palestinian Rights.

I would add
a) the "Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967"
b) the section of the Department of Public Information on the Question of Palestine
c) aspects of follow-up to the 2001 Durban Conference on Racism.

More controversial, but in my view worthy of an in-depth consideration in this context is, UNRWA (United Nations Relief and Works Agency for Palestine Refugees in the Near East).

It may also be that the new Human Rights Council will turn out to be such a body - we will see in the next two days if it adopts a resolution on Israel (and only on Israel specifically) and what it says, but already the President of the Council announced its first-ever program - pointing directly only at Israel - as follows: "Having had very broad and intensive consultations with different members and non-members of the Council I should like to make a statement concerning the themes that could be tackled in Monday's meeting in the morning. As I pointed out on previous occasions, in order to be able to have a productive meeting and on the basis of the consultations I have mentioned already I believe it is now necessary to propose that the discussion focus on the following issues: human rights' situation in the occupied Arab Territories, including Palestine; support for the Abuja Peace Agreements by providing back up assistance for enhancing the promotion and protection of human rights; avoiding incitement to religious or racial hatred and violence, through the promotion of tolerance and dialogue."

Questions for the Record to GAO - Thomas Melito, Director, International Affairs and Trade, U.S. Government Accountability Office

Questions from Dr. Coburn:

1. While engaging the United Nations for research and analysis, what difficulties has the Government Accountability Office had while trying to access U.N. documents? Did they require GAO investigators to sign confidentiality agreements for information that should be public?

GAO signed a confidentiality agreement with the United Nations in February 2006 concerning the treatment of confidential information related to the UN Capital Master Plan (CMP). The United Nations has provided GAO with full access to UN documents and officials for our ongoing review of the CMP. GAO has been able to effectively complete its work in a manner that is fully consistent with generally accepted government auditing standards.

Questions from Senator Carper:

1. A review of publicly issued GAO and UN reports relating to the Capital Master Plan since last August did not reveal instances of waste, fraud or abuse, corruption, etc. that have plagued the United Nations secretariat over the past few years. Are there examples or are there reports of the Office of Internal Oversight Services that have not been made public?

In December 2004, the UN General Assembly passed UN Resolution A/RES/59/272, which states that original versions of OIOS reports not submitted to the General Assembly are made available to any member state upon request. In addition, OIOS's annual reports are publicly available on the UN website.

2. It is my understanding that the GAO is now doing a 3rd examination on the costs and planning of the UN CMP. At whose request is the 3rd report being done and what is its focus? What do preliminary results show? How do they differ from the findings of the first 2 reports on the UNCMP that GAO issued?

GAO is currently conducting a review of the CMP and expects to issue a report in the fall. This work is being conducted at the request of Senator Richard G. Lugar, Chairman of the Committee on Foreign Relations, U.S. Senate; Representative Frank R. Wolf, Chairman of the Subcommittee on Science, the Departments of State, Justice, Commerce, and Related Agencies, Committee on Appropriations, U.S. House of Representatives; and Representative Cliff Stearns. GAO's objectives are to review:

- the extent to which the United Nations' design process and methodology for developing the cost estimate are consistent with industry practices;
- factors that could impact the timely completion of the renovation; and
- the nature of the oversight being conducted on the renovation project.

GAO is currently in the process of completing fieldwork and analyzing data; thus, it is too early to discuss our findings.

3. What is the record of the CMP on the contracts that it has ongoing? For example, in October 2004, the United Nations contracted for the services of a program management firm to oversee the management of design and construction documentation services. This was done in response to a U.N. General Assembly request that strict control standards be in place to ensure there were no cost overruns and that projects were successfully completed within agreed technical specifications. How was that contract handled? Was the process used for selecting the firm transparent and fair?

The UN Procurement Service at UN headquarters has been procuring contracts related to the CMP. GAO's current work on the UN renovation project does not include reviewing UN processes for awarding contracts or for examining specific contracts for the CMP. However, with regard to the UN procurement system, GAO previously reported[1] that UN resources are unnecessarily vulnerable to mismanagement, fraud, waste and abuse because the United Nations (1) lacks an effective organizational structure for managing procurement; (2) has not demonstrated a commitment to maintaining a professional, trained procurement workforce; and (3) has failed to adopt the full range of ethics guidance for procurement officials.

[1] GAO, *United Nations: Procurement Internal Controls Are Weak*, GAO-06-577 (Washington, D.C.: April 2006).

○