

Senate Subcommittee on Investigations  
Committee on Homeland Security and Government Affairs  
Briefing Statement  
On behalf of the Secretary-General  
24 January, 2008

By letter dated December 21, 2007, the Subcommittee on Investigations (Homeland Security and Government Affairs) requested Mr. Robert Benson, Director of the Ethics Office of the United Nations Secretariat, to brief the Subcommittee on 24 January, 2008 in relation to two issues, namely: (i) the jurisdiction of the Ethics Office of the United Nations Secretariat in relation to cases of retaliation from Funds and Programmes, and (ii) the adequacy of whistleblower protections within the UN system.

In accordance with the United Nations policy regarding UN officials being requested to appear before the legislative bodies of Member States, a UN official, with the approval of the Secretary-General, may provide information to such bodies provided it is achieved by means of a briefing conducted on an informal basis. In this regard, it is understood that on Thursday, 24 January, 2008, following the adjournment of the formal proceedings of the Subcommittee on Investigations (Homeland Security & Government Affairs), the Subcommittee will reconvene informally in order to be 'briefed' by United Nations Development Programme officials and the Director of the Ethics Office of the United Nations Secretariat.

On behalf of the Secretary-General, the following briefing statement is provided as requested.

**Establishment and jurisdiction of the Ethics Office of the United Nations Secretariat, and establishment of separate ethics offices for Funds and Programmes**

In paragraph 161(d) of the World Summit Outcome Document (General Assembly resolution 60/1 of 16 September 2005), the Heads of State and Government:

“(d) Welcome[d] the Secretary-General’s efforts to ensure ethical conduct, more extensive financial disclosure for United Nations officials and enhanced protection for those who reveal wrongdoing within the Organization. We urge the Secretary-General to scrupulously apply the existing standards of conduct and develop a system-wide code of ethics for all United Nations personnel. In this regard, we request the Secretary-General to submit details on an ethics office with independent status, which he intends to create, to the General Assembly at its sixtieth session”.

Pursuant to the provisions above, the Ethics Office was established as a new and independent office within the United Nations Secretariat reporting directly to the



Secretary-General. The terms of reference of the Ethics Office are set out in Secretary-General's bulletin ST/SGB/2005/22. The objective of the Ethics Office, as set forth in that bulletin, is to assist in ensuring that all staff members observe and perform their functions consistent with the highest standards of integrity, as envisaged in the Charter of the United Nations. The Office does not replace any existing mechanism available to staff for reporting misconduct or resolving grievances.

In accordance with paragraph 161(d) of the World Summit Outcome Document, the Secretary-General promulgated a Secretary-General's bulletin ST/SGB/2005/21, entitled "Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits and investigations". The responsibility for implementing the policy on protection against retaliation was vested in the Ethics Office of the United Nations Secretariat.

The above-mentioned bulletin, however, applies only to the United Nations Secretariat and not to Funds and Programmes. As a consequence, the Secretary-General, in reiterating his commitment that the UN system upholds the highest ethical standards and that these standards be implemented system-wide, indicated that he would, in consultation with the Heads of all of the Funds and Programmes, address the issue of uniform application of ethical standards at the October 2007 meeting of the Chief Executive Board.<sup>1</sup>

In the Secretary-General's Annual Report on Activities of the Ethics Office (A/62/285), dated 21 August, 2007, the issue of system-wide application of the jurisdiction of the Ethics Office of the United Nations Secretariat was specifically raised. Paragraph 73 of that Report provides that since the Ethics Office does not have responsibility and jurisdiction system-wide:

"...the General Assembly may wish to consider broadening the jurisdiction of the Ethics Office to cover all United Nations system entities and to provide further guidance on this matter."

Having considered the Secretary-General's comment mentioned above, the United Nations Advisory Committee on Administrative and Budgetary Questions (ACABQ), in its report (A/62/7/Add.14) of 16 November, 2007, stated that:

"...it would first be necessary for the Assembly to consider whether other United Nations entities, such as the Funds and Programmes, should have common ethics policies and standards and, if so, whether they should be centrally or separately administered. Accordingly, the Committee

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<sup>1</sup> Chief Executives Board (CEB) furthers coordination and cooperation on a whole range of substantive and management issues facing United Nations system organizations. The CEB brings together on a regular basis the executive heads of the organizations of the United Nations system, under the chairmanship of the Secretary-General of the United Nations.



recommends against broadening the jurisdiction of the Ethics Office, at this time.”

However, as indicated above, the Secretary-General also stated that he would address the issue of uniform application of ethical standards at the October 2007 meeting of the Chief Executive Board. At the conclusion of that Chief Executive Board meeting on 27 October, 2007, the Heads of the Funds and Programmes agreed to establish one ethical code and one system of ethics within which they would operate. As a consequence, Secretary-General bulletin ST/SGB/2007/11, entitled “United Nations system-wide application of ethics: separately administered organs and programmes”, was issued on 30 November, 2007.

### **Adequacy of Whistleblower Protections**

With the issuance of ST/SGB/2007/11, a framework was created within which a unified set of ethical standards and policies will be established and applied. Fundamental to this, was the creation of the United Nations Ethics Committee, which will be chaired by the Director of the Ethics Office of the United Nations Secretariat. The United Nations Ethics Committee’s mandate, as provided for in this bulletin, is to establish a unified set of ethical standards and policies.

While the Funds and Programmes may create their own ethics offices, the Chair of the Ethics Committee is responsible for providing functional leadership to all ethics officers of the Funds and Programmes. In addition, should a Fund or Programme fail to appoint or designate an Ethics Officer by January 2008, the Ethics Office of the United Nations Secretariat will handle the ethics-related issues, until the Fund or Programme concerned designates an Ethics Officer.

Staff members of the Funds and Programmes by virtue of this Bulletin have the following rights , including the right for protection from retaliation cases:

- (i) If the Ethics Office of a Fund or Programme has not formally considered a request for protection from retaliation within 45 days, the staff member may request the Chair of the Ethics Committee (i.e., the Director of the Ethics Office of the United Nations Secretariat) to conduct his own independent review of the matter.
- (ii) Following a decision having been made in relation to a protection from retaliation case by an Ethics Office of a Fund or Programme, a staff member has a right of appeal to the Chair of the Ethics Committee.
- (iii) In the absence of a Fund or Programme having in place a policy for the protection from retaliation, staff members will be able to avail themselves of the protections permitted under ST/SGB/2005/21 administered by the Ethics Office of the United Nations Secretariat.

Moreover, in the interests of oversight and transparency, a summary of any matters referred to the Chair of the Ethics Committee, by a staff member of a Fund or

Programme, as referred to above, must be included in the Annual Report to the General Assembly on Activities of the Ethics Office of the United Nations Secretariat.

As discussed above, with the issuance of Secretary-General's bulletin ST/SGB/2007/11, particularly in relation to protection from retaliation cases, the interests of staff members of the Funds and Programmes have been taken into consideration.

Advances of Workplace Protections

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- (iii) In the absence of a Fund or Programme having in place a policy for the protection from retaliation, staff members will be able to avail themselves of the protection permitted under ST/SGB/2007/11 administered by the Ethics Office of the United Nations Secretariat.

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