

Background

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The U.N. Should Stop Ignoring Its Financial Regulations and Pay Its Debts to the Member States

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Abstract: *In defiance of U.N. financial rules and regulations, the U.N. has retained more than \$200 million in unspent funding for closed peacekeeping missions. Instead of returning these funds to U.N. member states as required, the U.N. Secretary-General has used them as a slush fund to cover financial shortfalls in U.N. peacekeeping missions and the regular U.N. budget. This practice undermines accountability and transparency in the U.N. budgetary process. The U.S. should break its silence on the issue and work with other concerned member states to demand that the U.N. follow its own financial regulations and reimburse these funds to the member states.*

The current United Nations peacekeeping budget is projected to exceed \$7.2 billion.¹ This budget covers the expenses from July 2010 through June 2011 for 15 peacekeeping missions; supplying and maintaining the U.N.'s peacekeeping logistics base in Brindisi, Italy; and funding the peacekeeping support account. The U.N. member states are charged—"assessed" in U.N. parlance—a set percentage of these expenses, which they are expected to pay each year.

U.N. rules and financial regulations on the use of assessments paid for U.N. peacekeeping are clear. Regulations 5.2 through 5.6 (see the Appendix) restrict use of appropriated funds to the purposes authorized by the U.N. General Assembly and require the U.N. to reimburse to member states any funds not used after 12 months of the end of the financial period for which they were appropriated.² The only excep-

Talking Points

- Since 2004, the U.N. has retained an increasing pool of cash surpluses from closed peacekeeping missions. These surpluses are expected to total \$243 million by the end of 2010.
- Absent unusual circumstances and specific authorization from the General Assembly, these funds should be returned to the member states after 12 months.
- Instead, the Secretary-General has used them as a slush fund to fill financial shortfalls in U.N. peacekeeping missions and in the regular U.N. budget when the member states proved unwilling or unable to pay their assessments.
- This practice is inappropriate because it deliberately flouts U.N. financial rules and regulations and undermines transparency and accountability in the U.N. budgetary process.
- The U.S. should work with other member states that have expressed concern about this practice and demand that the U.N. reimburse the cash surpluses from closed peacekeeping operations to the member states in accordance with U.N. financial rules and regulations.

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tion is that funds may be retained up to four years if there are unresolved expenses related to the purpose of the appropriation. Transfer between appropriation purposes (e.g., peacekeeping missions) must be approved by the General Assembly.

However, since 2004, the U.N. has made a practice of retaining surplus appropriations from U.N. peacekeeping operations that have been closed by the U.N. Security Council and of borrowing from this pool of money to finance other peacekeeping operations, international tribunals, and activities funded through the regular budget. With the complicity of the U.S. Mission to the U.N., the General Assembly has repeatedly refused to confront this flouting of U.N. financial rules and regulations.

As the largest contributor to the U.N. peacekeeping budget—contributing approximately \$2 billion per year in recent budgets—the U.S. has a clear stake in seeing this situation rectified. The U.S. should refuse to condone this unauthorized practice and demand that the U.N. reimburse the member states as required by U.N. regulations.

Funding U.N. Peacekeeping

Expenses for U.N. peacekeeping missions are authorized through an annual budgetary process and approved for the U.N. fiscal year for the peacekeeping budget that begins July 1 and ends June 30. The U.N. Secretary-General proposes to the General Assembly the peacekeeping budgets for individual operations authorized by the Security Council.³ Revised or supplementary budget requirements

must also be submitted to the General Assembly for approval.⁴ The budgets are financed through contributions assessed by the U.N. on member states according to a scale of assessment that assigns each member state a set percentage of the peacekeeping budget.⁵

In practice each peacekeeping mission budget is authorized separately, and member states are assessed per mission.

Although there is an overall U.N. peacekeeping budget figure based on the combined budgets of individual peacekeeping missions that is used for convenience, in practice each peacekeeping mission budget is authorized separately, and member states are assessed per mission.⁶ Borrowing from the budgets of active peacekeeping operations to fund other missions or other activities without express permission from the General Assembly is prohibited and this restriction is often reiterated in the resolutions authorizing financing of peacekeeping operations.

The U.N. peacekeeping budget can vary considerably during the fiscal year as missions are approved, expanded, or wound down. Because peacekeeping missions are authorized individually, their funding is not commingled. The process can create cash surpluses for specific missions if they are closed down or downsized during the fiscal year. It can also strain the U.N.'s ability to finance individ-

1. U.N. Department of Public Information, "General Assembly Adopts Peacekeeping Budget of \$7.2 Billion for Financial Year 1 July 2010 to 30 June 2011," GA/10955, June 24, 2010, at <http://www.un.org/News/Press/docs/2010/ga10955.doc.htm> (October 21, 2010).
2. United Nations, "Financial Regulations and Rules of the United Nations," *Secretary-General's Bulletin*, May 9, 2003, pp. 17–18, at <ftp://ftp.unon.org/dewaftp/ASU%20Documents/RULES,%20CIRCULARS,%20PROCEDURES,%20POLICIES/Finance/UN%20Financial%20Rules%20and%20Regulations.pdf> (October 21, 2010).
3. Regulation 2.12, in United Nations, "Financial Regulations and Rules of the United Nations," p. 5.
4. Regulation 2.9, in United Nations, "Financial Regulations and Rules of the United Nations," p. 4.
5. Regulation 3.10, in United Nations, "Financial Regulations and Rules of the United Nations," pp. 8–9. For more information, see Brett D. Schaefer, "U.N. Dues: Obama Lets American Taxpayers Down," *Heritage Foundation WebMemo* No. 2747, January 6, 2010, at <http://www.heritage.org/research/reports/2010/01/un-dues-obama-lets-american-taxpayers-down>.
6. For an example, see U.N. General Assembly, "Financing of the United Nations Mission in Liberia," A/RES/64/280, August 19, 2010, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/478/63/PDF/N0947863.pdf> (October 22, 2010), and "Approved Resources for Peacekeeping Operations for the Period from 1 July 2010 to 30 June 2011," A/C.5/64/19, July 13, 2010, at http://www.un.org/ga/search/view_doc.asp?symbol=A/C.5/64/19 (October 21, 2010).

ual operations when they are expanded or need increased resources. The shortfalls ultimately must be addressed through member state contributions. However, as a report by former Secretary-General Kofi Annan explained, “Experience has shown that there is a significant time lag of about 60 to 120 days between the issuance of assessments and the collection of contributions.”⁷

The U.N. General Assembly sought to address the financial “gap” between needs and delays in member state contributions by establishing a Peacekeeping Reserve Fund (PRF) of \$150 million in 1992 to “ensure the rapid response of the Organization to the needs of peace-keeping operations”⁸ by permitting temporary loans of up to \$50 million from this fund per decision of the Security Council to finance immediate financial needs. These loans are repaid to the PRF when the member states pay their assessments and finance the new or expanded operations.⁹ Loans from the PRF are to be reimbursed as soon as possible.¹⁰ If requirements exceed these limits, the Secretary-General must seek General Assembly approval.

In 1994, the General Assembly decided to “limit the utilization of the Peace-keeping Reserve Fund to the start-up phase of new peace-keeping operations, to the expansion of existing ones or to unforeseen and extraordinary expenditures related to peace-keeping.”¹¹ Thus, the PRF cannot be used to finance in the U.N. regular budget, international tribunals for Rwanda or Yugoslavia, or ongoing expenses of peacekeeping missions that were not fully funded because of shortfalls in member state contributions.

Bending the U.N.’s Financial Rules and Regulations

Regulation 5.3 in the Financial Regulations and Rules of the United Nations clearly states that any surpluses from individual peacekeeping operations must be returned to the member states:

Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to discharge obligations in respect of goods supplied and services rendered in the financial period and to liquidate any other outstanding legal obligation of the financial period. The balance of the appropriations shall be surrendered.¹²

Regulation 5.5 provides for a qualified exception to Regulation 5.3:

Appropriations required in respect of obligations to Governments for troops, formed police units, logistical support and other goods supplied and services rendered to peacekeeping operations shall be retained beyond the twelve-month period provided for in regulation 5.3 if the requisite claims are not received or processed during the financial period to which they pertain. Those obligations shall remain valid for an additional period of four years following the end of the twelve-month period provided in regulation 5.3. At the end of the additional four-year period any unliquidated obligations shall be cancelled and the remaining balance of any appropriations retained will be surrendered.¹³

7. U.N. General Assembly, “Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2005,” A/60/437, October 18, 2005, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F60%2F437&Submit=Search&Lang=E (October 22, 2010).
8. U.N. General Assembly, “Administrative and Budgetary Aspects of the Financing of the United Nations Peace-Keeping Operations: Establishment of a Peace-Keeping Reserve Fund,” A/50/976, June 14, 1996, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F50%2F976&Submit=Search&Lang=E (October 22, 2010).
9. Regulation 4.5 and Regulation 4.6, in United Nations, “Financial Regulations and Rules of the United Nations,” pp. 11–12.
10. Regulation 4.7, in United Nations, “Financial Regulations and Rules of the United Nations,” p. 12.
11. U.N. General Assembly, “Administrative and Budgetary Aspects of the Financing of the United Nations Peacekeeping Operations,” A/RES/49/233, March 1, 1995, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/762/61/PDF/N9576261.pdf?OpenElement> (October 21, 2010).
12. United Nations, “Financial Regulations and Rules of the United Nations,” p. 17.

However, these binding financial rules and regulations proved inconvenient. Financial constraints, in part arising from the deliberate decision of the U.S. Congress to cap U.S. contributions at 25 percent of the U.N. peacekeeping budget rather than the more than 30 percent assessed the U.S. by the organization in the 1990s,¹⁴ led Secretary-General Annan to propose that the General Assembly waive the organization's financial rules and regulations in 2003:

The Secretary-General had recommended to the General Assembly that the return to the Member States of available cash from any of the closed peacekeeping missions in question should be suspended until the Organization's financial situation improved. Closed peacekeeping missions provided the only source of cash when active peacekeeping missions, the regular budget or the budget of the International Criminal Tribunals ran short of funds. The General Assembly had directed that funds should not be borrowed from active peacekeeping missions, and had restricted the use of the Peacekeeping Reserve Fund.¹⁵

The Secretary-General also recommended:

[I]n view of the anticipated cash difficulties at the end of 2003, the relevant financial regulations should be suspended to allow the

Secretary-General to retain cash balances that would otherwise have been credited immediately to Member States.¹⁶

Based on the Secretary-General's arguments, the General Assembly waived the financial rules and "postpone[d] the return of the remaining 50 percent of the net cash available for credit to Member States, in the amount of 84,446,000 dollars, until 31 March 2004," given the organization's financial situation and the \$1.4 billion in unpaid peacekeeping assessments.¹⁷ In April 2004, the General Assembly deferred the repayment until June 30, 2004.¹⁸ After the General Assembly took no further decision, the member states were reimbursed the \$84.4 million amount owed.

However, loath to give up these resources after having successfully convinced the General Assembly to defer the repayment, the Secretary-General requested that "the remaining cash available totaling \$94,238,000 be retained until 31 October 2004 to supplement the Peacekeeping Reserve Fund in order to finance the initial requirements of the new peacekeeping operations."¹⁹

Later, the Secretary-General, pointing to the anticipated cash requirements for the Sudan peacekeeping operation and the expansion of the Congo peacekeeping mission, proposed that the balance of \$92.9 million from 18 closed operations as at June 30, 2004, be retained indefinitely.²⁰ In response,

13. *Ibid.*, p. 18.

14. Brett D. Schaefer, "Keep the Cap on U.S. Contributions to U.N. Peacekeeping," Heritage Foundation *Backgrounder* No. 2067, September 6, 2007, at <http://www.heritage.org/research/reports/2007/09/keep-the-cap-on-us-contributions-to-un-peacekeeping>.

15. U.N. General Assembly, "Fifth Committee: Summary Record of the 52nd Meeting," A/C.5/57/SR.52, July 14, 2003, p. 5, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2FC.5%2F57%2FSR.52&Submit=Search&Lang=E (October 21, 2010).

16. *Ibid.*, p. 6.

17. U.N. General Assembly, "Closed Peacekeeping Missions," A/RES/57/323, July 11, 2003, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/562/75/PDF/N0256275.pdf> (October 22, 2010).

18. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions: Report of the Advisory Committee on Administrative and Budgetary Questions," A/58/799, May 19, 2004, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/353/66/PDF/N0435366.pdf> (October 22, 2010).

19. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2003," A/58/778, April 27, 2004, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F58%2F778&Submit=Search&Lang=E (October 21, 2010).

20. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2004," A/59/752, March 22, 2005, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/280/96/PDF/N0528096.pdf> (October 22, 2010).

the General Assembly decided to “revert to the issue of the updated financial position of closed peacekeeping missions as at 30 June 2005 in the main part of its sixtieth session.”²¹ In effect, this delayed the decision until the following year while tacitly permitting the Secretary-General to retain the funds from closed peacekeeping missions that should have been credited to the member states under U.N. financial regulations.

In the 60th session, the Secretary-General again asked the General Assembly to allow him to retain the funds owed member states (\$126.3 million as at June 30, 2005) to finance shortfalls in other budgets:

As a result of the high level of outstanding assessments in the special accounts of some ongoing missions, there is a continuing need to borrow from closed missions. In addition, temporary cash shortfalls in the regular budget and Tribunals are met by borrowings from closed missions. During fiscal year 2005, loans to active peacekeeping missions and the regular budget peaked at a level of \$109.55 million.... It is also anticipated that the Organization may have to resort to further cross-borrowing for the regular budget and the Tribunals before 31 December 2005.²²

Unlike the budgets of active peacekeeping operations or the PRF, which have substantial restrictions on when and how they can be used without specific authorization from the General Assembly, use of funds from closed peacekeeping operations since 2004 has largely been at the discretion of the Secretariat.²³ By 2005, the U.N. had used the flexibility of these funds not only to supplement the PRF to fill short-term financial gaps created when missions were first authorized or expanded, but also to

The funds from closed peacekeeping missions have become a general slush fund to enable spending when the member states prove unwilling or unable to pay their assessed contributions.

fill funding shortfalls for international tribunals and the U.N.’s regular budget, which pays for U.N. conferences, press releases, and activities, such as the defunct Commission on Human Rights and its successor the U.N. Human Rights Council.

In short, the funds from closed peacekeeping missions have become a general slush fund to enable spending when the member states prove unwilling or unable to pay their assessed contributions. For example, such funds could have been used to fill the financial shortfalls intentionally created by the U.S. Congress, such as when it withheld a part of the U.S. assessment proportionate to U.N. regular budget funds supporting the Palestine Liberation Organization²⁴ or when it capped U.S. contributions to U.N. peacekeeping at 25 percent of the budget.

As at June 30, 2006, the unreimbursed funds from 20 closed peacekeeping missions had grown to \$152.6 million. In a shift, Secretary-General Ban Ki-moon proposed that the cash balances from the closed peacekeeping missions be returned to the member states on two conditions: First, the “credits would first be applied to settle outstanding assessments.” Second, the General Assembly would need to approve his proposal to “consolidate the various peacekeeping accounts [excluding the Peacekeeping Reserve Fund, the strategic deployment stocks, and two U.N. peacekeeping missions from the 1950s and 1960s] retroactively” effective July 1,

21. U.N. General Assembly, “Administrative and Budgetary Aspects of the Financing of the United Nations Peacekeeping Operations,” A/59/532/Add.1, June 13, 2005, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/382/94/PDF/N0538294.pdf> (October 22, 2010).

22. U.N. General Assembly, “Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2005,” A/60/437, October 18, 2005, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F60%2F437&Submit=Search&Lang=E (October 25, 2010).

23. U.N. Department of Public Information, “Press Conference on UN Budget,” November 29, 2005, at http://www.un.org/News/briefings/docs/2005/051129_Sach_Brfg.doc.htm (October 21, 2010).

2007.²⁵ The Secretary-General justified the consolidation proposal as necessary:

to permit more consistent and timely reimbursement to troop- and police-contributing countries; to facilitate planning for Member States; to facilitate the review of the financing of peacekeeping operations by the legislative bodies; to allow greater flexibility in the use of peacekeeping resources; and to simplify the legislative and administrative processes for the financing of peacekeeping operations.²⁶

However, the Secretary-General's proposal would also significantly reduce the transparency and accountability in U.N. peacekeeping, which is undergirded by the member states' discretion to fund or not fund individual peacekeeping operations as they deem fit. Under the current system, peacekeeping operations are authorized and funded individually. As the Japanese Mission to the United Nations argued:

Peacekeeping operations have a unique budget and assessment arrangement. Assessed contribution for each peacekeeping mission is justified by individual decision of the Security Council to create a mandate. A Council's decision on a peacekeeping man-

date then allows the issuance of assessment letters to Member States for each mission. In other words, the requirement of both individual Security Council decision for a mandate and assessments corresponding to such action must be strictly observed and any blurring of this requirement would create difficulties for certain Member States, including my own, to justify payment of assessments. Delink between peacekeeping assessments and the specific mandates (mandate periods) could also distort sound budgetary discipline and prejudice the consideration of the Security Council.

...Furthermore, as the ACABQ correctly points out, the scope and quality of information provided on the financing of peacekeeping operations should not be diminished.²⁷

The General Assembly declined to adopt the consolidation proposal, but also failed to instruct the Secretariat to return the cash surpluses to the member states. Instead, it decided to "consider the updated financial position of closed peacekeeping missions during its sixty-second session [2008]."²⁸

Undeterred, the Secretary-General reiterated his proposal to "consolidate the various peacekeeping accounts retroactively, effective 1 July 2008,

24. "Beginning in 1980, Congress prohibited contribution of the U.S. proportionate share for a number of U.N. programs and activities of which Congress did not approve, including the Special Unit on Palestinian Rights, for projects benefitting the Palestine Liberation Organization (PLO), the South West Africa People's Organization (SWAPO), construction of a conference center in Addis Ababa, Ethiopia, the Second Decade to Combat Racism and Racial Discrimination, and for implementation of General Assembly Resolution 3379 (XXX) (Zionism equals racism). In addition, the Administration withheld the U.S. proportionate share of funds for the Preparatory Commission for the Law of the Sea and funds relating to taxes paid by U.S. citizens employed by the United Nations. The only current U.S. legislative-based withholding for the U.N. regular budget is for programs relating to the Palestinians." As of December 31, 2009, U.S. arrears to the U.N. regular budget were calculated by the U.N. to be \$293,733,963 among total arrears of \$859,999,766. Marjorie Ann Browne and Kennon H. Nakamura, "United Nations System Funding: Congressional Issues," Congressional Research Service *Report for Congress*, March 8, 2010, pp. 28–29 and 35, at http://assets.opencrs.com/rpts/RL33611_20100308.pdf (October 21, 2010).
25. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2006," A/61/867, April 25, 2007, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/318/20/PDF/N0731820.pdf> (October 22, 2010).
26. U.N. General Assembly, "Investing in the United Nations for a Stronger Organization Worldwide: Detailed Report," A/61/865, April 30, 2007, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/314/62/PDF/N0731462.pdf> (October 22, 2010).
27. Ken Mukai, statement before the Fifth Committee, U.N. General Assembly, 62nd Sess., May 5, 2008, at <http://www.mofa.go.jp/announce/speech/un2008/un0805-2.html> (October 22, 2010).
28. U.N. General Assembly, "Administrative and Budgetary Aspects of the Financing of the United Nations Peacekeeping Operations," A/61/968, June 29, 2007, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/404/55/PDF/N0740455.pdf> (October 22, 2010).

excluding those of UNEF, ONUC, the Peacekeeping Reserve Fund and the strategic deployment stocks” to facilitate reimbursement payments and increase flexibility of financing for peacekeeping operations.²⁹ Again, under the Secretary-General’s proposal, the cash surpluses from closed peacekeeping operations (\$186.3 million for 21 closed operations as at June 30, 2008³⁰) would be returned to the member states if they approved his proposal. The General Assembly again declined to adopt the proposal.

On balance, the Secretary-General projects that, after outstanding obligations are paid, cash surpluses from closed peacekeeping missions will total \$243 million at the end of 2010.

The United Nations reported a balance of \$213.8 million as at June 30, 2009, in unreturned funds from 22 closed peacekeeping operations.³¹ The Secretary-General proposed that the General Assembly again allow the U.N. to retain these resources “in the light of experience with regard to cash requirements of the Organization during the 2008/09 and 2009/10 financial periods.” In a show of indecisiveness, the General Assembly again “decided to defer until its sixty-fifth session [2010] its consideration of the financial position of closed peacekeeping missions.”³²

An October 2010 report by the Secretary-General projected in that cash surpluses from closed peacekeeping operations will total \$435 million at the end of 2010, of which \$192 million would be used to pay for outstanding liabilities to those mis-

sions, including troop and equipment payments and credits to member states. On balance, the Secretary-General projects that, after outstanding obligations are paid, cash surpluses from closed peacekeeping missions will total \$243 million at the end of 2010. The Secretary-General does not propose reimbursing this amount to the member states, but seemingly assumes that it will be retained “for possible cross-borrowing by both active peacekeeping operations and other accounts, including the regular budget and the international tribunals” even though “with increased liquidity in peacekeeping missions, the need for such cross-borrowing in recent years has declined.”³³

In summary, at the urging of former Secretary-General Annan and current Secretary-General Ban Ki-moon, the U.N. has been ignoring its own financial rules and regulations on reimbursing funds from closed peacekeeping operations since 2004. At first, it did this with express permission of the General Assembly, but since the 60th session, the General Assembly has not explicitly endorsed this policy. Instead, the General Assembly has repeatedly deferred consideration of the issue to the point that the Secretary-General now assumes that it will retain indefinite control over these funds to supplement his budgetary priorities.

Increasing Criticism

The ongoing deferral of reimbursing cash balances from closed peacekeeping operations to the member states and using those resources as a Secretariat slush fund has come under increasing criticism. In 2004, when this process first began, U.S. representative Christopher Wittman stated:

29. U.N. General Assembly, “Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2007,” A/62/757, March 20, 2008, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/278/70/PDF/N0827870.pdf> (October 22, 2010).

30. U.N. General Assembly, “Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2008,” A/63/581, December 3, 2008, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/629/98/PDF/N0862998.pdf> (October 22, 2010).

31. U.N. General Assembly, “Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2009,” A/64/659, February 9, 2010, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/235/54/PDF/N1023554.pdf> (October 22, 2010).

32. U.N. Department of Public Information, “General Assembly Adopts Peacekeeping Budget of \$7.2 Billion for Financial Year 1 July 2010 to 30 June 2011,” June 24, 2010, at <http://www.un.org/News/Press/docs/2010/ga10955.doc.htm> (October 22, 2010).

33. U.N. General Assembly, “Improving the Financial Situation of the United Nations: Report of the Secretary-General,” A/65/519, October 18, 2010, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F65%2F519&Submit=Search&Lang=E (October 27, 2010).

[The U.S.] delegation had also expressed unease when the Committee had considered the issue last year on the distribution of closed peacekeeping funds for many of the same reasons cited today. While the United States was concerned about the Organization's financial health, until the situation was resolved, it was reluctant to make the Secretariat go cold turkey. The United States did not favour the practice of cross-borrowing, as it provided an artificial cushion. However, the Secretariat had made a case for retention of funds, given the unexpected and extraordinary expenses facing the Organization in considering three new peacekeeping operations.³⁴

The U.N. Advisory Committee on Administrative and Budgetary Questions (ACABQ) is the principal expert body charged with closely examining and monitoring the budgets of the United Nations and advising the General Assembly's Administrative and Budgetary Committee (the Fifth Committee). The ACABQ was initially supportive of the proposals to retain the funds from closed peacekeeping operations based on the organization's financial constraints. However, it consistently stated that deferring repayment was not consistent with U.N. financial rules and regulations and required General Assembly authorization. In two 2005 reports, the ACABQ dryly noted that "No further decision has been taken since [30 June 2004]."³⁵

By 2008, the ACABQ had become much more critical. It excoriated Secretary-General Ban's proposal to return the cash surpluses from closed peacekeeping missions to the member states only if they approved his proposal to consolidate the various peacekeeping accounts:

In the Advisory Committee's view, the return of such credits to Member States does not depend on acceptance of the

proposal to consolidate the accounts of peacekeeping operations. The Committee points out, in this connection, that financial regulation 5.3 of the Financial Regulations and Rules of the United Nations provides that "appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to discharge obligations in respect of goods supplied and services rendered in the financial period and to liquidate any other outstanding legal obligation of the financial period" and, further, that "the balance of the appropriations shall be surrendered."

Taking into account the above considerations, the Advisory Committee recommends that the credits available in closed peacekeeping missions with cash surpluses as at 30 June 2008 be returned to Member States, bearing in mind that it is for the General Assembly to decide on the disposition of such balances.

The Advisory Committee understands that to return the credits available in closed peacekeeping missions, absent approval of consolidation of the peacekeeping accounts, would (a) eliminate, at least temporarily, the cash surpluses in closed missions as a lending source for active missions and other accounts and (b) not address the problem of debts in the five cash-deficient closed missions.

The Advisory Committee stresses that the payment of assessed contributions is an obligation of Member States under the Charter of the United Nations. With regard to the problem of debts in cash-deficient closed missions, the Committee recommends that fresh proposals, apart

34. Press release, "Proposal to Postpone Repayment to Member States of Cash Balances from Closed Peacekeeping Missions Taken Up in Budget Committee," U.N. Information Service, March 18, 2004, at <http://www.unis.unvienna.org/unis/pressrels/2004/gaab3607.html> (October 22, 2010).
35. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions," April 25, 2005, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/321/55/PDF/N0532155.pdf> (October 22, 2010), and U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions," A/60/551, November 11, 2005, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/601/81/PDF/N0560181.pdf> (October 22, 2010).

from the proposal to consolidate the peacekeeping accounts, be presented to the General Assembly for its consideration.³⁶

Although the United States has not made an issue of returning the cash surpluses to the member states, other U.N. member states have expressed exasperation. A representative from Japan stated:

[T]he unencumbered appropriations should be returned to the Member States in accordance with the Financial Regulations and Rules of the United Nations. Abidance by these established principles of the Organization is essential.

Therefore the ACABQ has every reason when it states in its report A/62/816 that return of credits to Member States does not depend on acceptance of the proposal to consolidate the accounts of peacekeeping operations, and that the credits available in closed peacekeeping mission [sic] with cash surpluses should be returned to Member States. Stating otherwise would be tantamount to putting expediency before fundamental rules in the Organization.³⁷

Japan also strongly criticized the Secretary-General's proposal to consolidate peacekeeping accounts as "unrealistic" and lacking justification. Specifically, Japan noted that assessments for "each peacekeeping mission is justified by individual decision of the Security Council to create a mandate" and that "the requirement of both individual Security Council decision for a mandate and assessments corresponding to such action must be strictly observed and any blurring of this require-

ment would create difficulties for certain Member States, including my own, to justify payment of assessments." Failure to observe this would "distort sound budgetary discipline" and undermine "accountability and justification of the ever-increasing PKO budget."³⁸

Speaking on behalf of the European Union, Slovenia stated that "the United Nations financial rules and regulations made it clear that the balance of any appropriations should be returned to Member States after a period of 12 months" and that "continued retention of funds was not acceptable."³⁹ He

In May 2010, member states again objected to the continued failure to reimburse member states. Japan and the European Union called for the funds to be returned.

pointed to an "arbitrary link" made by some member states between "the return of credits and reimbursements from closed missions in cash deficit" being the reason for the General Assembly's inability to decide to reimburse the member states and dismissed the linkage as inappropriate.

In May 2009 and February 2010, the ACABQ reiterated its point that the U.N. financial rules and regulations require the U.N. to return the funds to the member states and that they should have been returned several years earlier.⁴⁰

In May 2010, member states again objected to the continued failure to reimburse member states. Japan and the European Union called for the funds to be returned. Switzerland objected to using funds

36. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2007," A/62/816, April 24 2008, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F62%2F816&Submit=Search&Lang=E (October 22, 2010) (emphasis in original).

37. Jun Yamada, statement before the Fifth Committee, U.N. General Assembly, 62nd Sess., May 5, 2008, at <http://www.mofa.go.jp/announce/speech/un2008/un0805.html> (October 22, 2010).

38. Mukai, statement before the Fifth Committee.

39. U.N. Department of Public Information, "Budget Committee Opens Four-Week Headquarters Session with Focus on Peacekeeping Finance," May 5, 2008, at <http://www.un.org/News/Press/docs/2008/gaab3845.doc.htm> (October 22, 2010).

40. U.N. General Assembly, "Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2008," A/63/856, May 18, 2009, at http://www.un.org/ga/search/view_doc.asp?symbol=A%2F63%2F856&Submit=Search&Lang=E (October 25, 2010), and "Updated Financial Position of Closed Peacekeeping Missions as at 30 June 2009," A/64/659, February 9, 2010, at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/235/54/PDF/N1023554.pdf> (October 22, 2010).

from closed missions as “some kind of shadow peacekeeping reserve fund” and argued: “If there was a cash-flow problem as a result of the high level of outstanding assessments in the accounts of some active missions, a proper solution must be found that did not run counter to transparent and sound management practices.”⁴¹

What the U.S. Should Do

The issue of whether to allow the Secretary-General to retain the \$213.8 million in peacekeeping surpluses as at June 30, 2009—projected to be \$243 million by the end of 2010—or to return it to member states as required by U.N. regulations is on the U.N. agenda again this fall.

The U.S. is the largest contributor to U.N. peacekeeping and is scheduled to be assessed 27.1743 percent of the peacekeeping budget in 2010 and 27.1415 percent for 2011 and 2012. This is more than double Japan’s assessment of 12.53 percent, which is the next highest assessment. It is also more than the combined assessment of the other permanent members of the Security Council (China, France, Russia, and the United Kingdom). As such, the U.N. practices in allocating and accounting for U.N. peacekeeping assessments, including the cash surpluses from closed peacekeeping missions, are of particular importance to the U.S. This is even more pertinent given recent Security Council decisions to close or phase out some U.N. peacekeeping operations and the real possibility that more resources from closed peacekeeping missions will become available.⁴²

Ignoring its financial rules and regulations is rarely a good idea for any organization. It is doubly concerning in the case of the United Nations, which has a long, troubled history of opacity, mismanagement, and lack of accountability.

The U.S. failure to speak up on this issue in recent years is puzzling. The U.S. Department of State may have been willing to overlook the U.N. bending its financial rules and regulations in 2004 when the U.N. peacekeeping missions were in financial straits due in part to U.S. financial withholding. This political calculation, if made, was wrong. Failure of the member states to pay their assessments in full may create difficulties for the U.N., but it does not justify ignoring and violating the letter and spirit of the financial rules and regulations of the organization. As the mission of Japan stated, such actions “would be tantamount to putting expediency before fundamental rules in the Organization.”⁴³

The U.S. failure to speak up on this issue in recent years is puzzling.

The lack of U.S. intervention on this issue became even less understandable in 2009. Congress passed and President Barack Obama signed legislation that allocated funds to pay U.S. arrears to U.N. peacekeeping⁴⁴ that accumulated between 2005 and 2008 when U.S. law capped U.S. payments to U.N. peacekeeping at 25 percent while the U.N. assessed the U.S. a higher amount.⁴⁵ The President’s budgets for fiscal years 2010 and 2011 similarly

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41. U.N. Department of Public Information, “Budget Committee Opens Four-Week Resumed Session to Consider Peacekeeping Financing for 16 Missions, Proposal for Global Field Support Strategy,” May 3, 2010, at <http://www.un.org/News/Press/docs/2010/gaab3945.doc.htm> (October 22, 2010).
42. The U.N. Mission in Ethiopia and Eritrea ended in July 2008, the U.N. Observer Mission in Georgia ended in June 2009, and the U.N. Organization Mission in the Democratic Republic of the Congo was replaced in June 2010 by the U.N. Organization Stabilization Mission in the Democratic Republic of the Congo, which seems to be on a trajectory to be phased out at the request of the host government.
43. Yamada, statement before the Fifth Committee.
44. Two supplemental appropriations bills provided \$871.5 million in 2009 for this purpose: “\$150.5 million in bridge funding provided by the Supplemental Appropriations Act, 2008 (P.L. 110–252) and \$721.0 million provided by the Supplemental Appropriations Act, 2009 (P.L. 111–32).” U.S. Department of State, *Congressional Budget Justification*, Vol. 1, Department of State Operations, Fiscal Year 2011, p. 10, at <http://www.state.gov/documents/organization/136355.pdf> (October 22, 2010).

included payments that would pay U.S. assessments for U.N. peacekeeping, even at the higher rates approved by the U.N. in December 2009. With this payment, the U.S. is free to make arguments about the budget without facing charges of hypocrisy.

With this in mind, the U.S. mission should:

- **Demand that the cash surpluses from closed peacekeeping operations be returned to the member states in accordance with U.N. financial rules and regulations.** U.N. financial rules and regulations are clear. Cash balances from closed peacekeeping operations must be returned to the member states after 12 months. They may only be retained to pay outstanding obligations related to their original purposes and for no more than four additional years. More than a year has passed since the cash surpluses from 2009 were declared. For a large part of the unreturned funds, more than four years have passed. Yet the funds have not been returned to the member states even though the General Assembly has not explicitly authorized the Secretary-General to retain them. The U.S. mission should demand that the General Assembly instruct the Secretary-General to observe U.N. financial rules and regulations and reimburse the cash surpluses to the member states.
- **Oppose the Secretary-General's proposal to consolidate U.N. peacekeeping accounts.** Although the Secretary-General has argued that consolidating peacekeeping accounts would facilitate payment and relieve financial constraints on U.N. peacekeeping, his proposal would also undermine budgetary transparency and accountability in U.N. peacekeeping. As the largest contributor to U.N. peacekeeping, the U.S. should insist on maximizing U.N. budgetary dis-

cipline and accountability and seek to enhance its ability to support and scrutinize individual peacekeeping operations.

Failure by the U.S. mission to convince the U.N. to reimburse the member states for these funds would signal that the U.S. mission's influence is insufficient and should spur Congress to intervene and demand that the U.N. observe its financial rules and regulations and stop retaining funds that should be returned to the member states.

Conclusion

Since 2004 the United Nations has inappropriately retained an increasing pool of surplus funds from closed peacekeeping missions. The Secretary-General projects that these surpluses will total \$243 million by the end of 2010. Under U.N. financial rules and regulations, these funds should be returned to the member states. Instead, the Secretary-General has been allowed to use these resources as a slush fund to fill financial shortfalls in U.N. peacekeeping and in the regular U.N. budget. This is inappropriate and undermines transparency and accountability in the U.N. budgetary process.

The U.S. should work with other member states that have expressed concern about this practice and demand that the U.N. return the cash surpluses from closed peacekeeping operations to the member states.

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45. Schaefer, "Keep the Cap on U.S. Contributions to U.N. Peacekeeping."

APPENDIX
RELEVANT FINANCIAL REGULATIONS OF THE UNITED NATIONS

Regulation 5.1

The appropriations voted by the General Assembly shall constitute an authorization to the Secretary-General to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted.

Regulation 5.2

Appropriations shall be available for obligation during the financial period to which they relate.

Regulation 5.3

Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to discharge obligations in respect of goods supplied and services rendered in the financial period and to liquidate any other outstanding legal obligation of the financial period. The balance of the appropriations shall be surrendered.

Regulation 5.4

At the end of the twelve-month period provided in regulation 5.3 above, the then remaining balance of any appropriations retained will be surrendered. Any unliquidated obligations of the financial period in question shall at that time be cancelled or, where the obligation remains a valid charge, transferred as an obligation against current appropriations.

Regulation 5.5

Appropriations required in respect of obligations to Governments for troops, formed police units, logistical support and other goods supplied and services rendered to peacekeeping operations shall be retained beyond the twelve-month period provided for in regulation 5.3 if the requisite claims are not received or processed during the financial period to which they pertain. Those obligations shall remain valid for an additional period of four years following the end of the twelve-month period provided in regulation 5.3. At the end of the additional four-year period any unliquidated obligations shall be cancelled and the remaining balance of any appropriations retained will be surrendered.

Regulation 5.6

No transfer between appropriation sections may be made without authorization by the General Assembly.⁴⁶

46. United Nations, "Financial Regulations and Rules of the United Nations," pp. 17–18.