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**OFFICE OF INTERNAL OVERSIGHT SERVICES
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INVESTIGATION REPORT ON RETALIATION BY [REDACTED]

REDACTED REPORT

ID Case No. 0467-07

16 APRIL 2008

STRICTLY CONFIDENTIAL

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I. INTRODUCTION

1. On [REDACTED] and [REDACTED], the [REDACTED] made a complaint to the Ethics Office that [REDACTED] had taken retaliatory action against them as a result of their cooperation during an investigation by the Investigations Division of the Office of Internal Oversight Services (ID/OIOS) at [REDACTED].
2. The complainants informed the Ethics Office that [REDACTED] had retaliated against them for their cooperation with ID/OIOS by issuing them unjustified verbal reprimands and by directing that they contribute to the reimbursement of costs, identified in ID Case [REDACTED], incurred by the Organization. In respect of [REDACTED], the complainants alleged that [REDACTED] retaliatory actions consisted of onerous burdens placed on [REDACTED], ongoing harassment within the professional sphere and suggested that [REDACTED] was the driving force behind [REDACTED] actions.
3. On [REDACTED] the Ethics Office found a prima facie case of retaliation and, in accordance with Section 5.5 of ST/SGB/2005/21, referred the matter to ID/OIOS for investigation.

II. APPLICABLE LEGAL NORMS

4. Staff Regulation 1.2

(a) "Staff members ... shall not discriminate against any individual or group of individuals or otherwise abuse the power and authority vested in them."

(b) "Staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status."

(r) "Staff members must respond fully to requests for information from staff members and other officials of the Organization authorized to investigate the possible misuse of funds, waste or abuse."

5. Staff Rule 101.2

(e): "Staff members shall not ... threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official duties."

6. Staff Rule 110.3

(b) "The following measures shall not be considered to be disciplinary measures, within the meaning of this rule:

- (i) Reprimand, written or oral, by a supervisory official;
- (ii) Recovery of monies owed to the Organization”

7. Staff Rule 110.3

“Any staff member may be required to reimburse the United Nations either partially or in full for any financial loss suffered by the United Nations a result of the staff member’s gross negligence or of his or her having violated any regulation, rule or administrative instruction.”

8. Secretary-General’s Bulletin: Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations (ST/SGB/2005/21)

1.2 “Any individual who cooperates in good faith with an audit or investigation has the right to be protected against retaliation.”

1.4 “Retaliation means any direct or indirect detrimental action recommended, threatened or taken because an individual engaged in an activity protected by the present policy. When established, retaliation is by itself misconduct...”

2.1 “Protection against retaliation applies to any staff member (regardless of the type of appointment or its duration), intern or United Nations volunteer who:

- (b) Cooperates in good faith with a duly authorized investigation or audit.”

III. METHODOLOGY

9. The ID/OIOS investigation included interviews with [REDACTED], including the complainants and the subjects, and an analysis of relevant documentation obtained from various sources.

IV. BACKGROUND

A. [REDACTED]

10. [REDACTED] is the [REDACTED] [REDACTED] is the [REDACTED], one of the services which comprise the [REDACTED] is the [REDACTED], one of the sections of the [REDACTED] and [REDACTED] are [REDACTED] and attended the [REDACTED], as did [REDACTED] and [REDACTED] were the subjects of ID Case No. [REDACTED]

B. ID CASE NO [REDACTED]

11. [REDACTED] ID/OIOS received an allegation that [REDACTED], who was then [REDACTED] a service under the [REDACTED] and [REDACTED] who reported to [REDACTED], had improperly authorized the [REDACTED]

[REDACTED]. The ID/OIOS investigation, designated as [REDACTED], established that both [REDACTED] had abused their authority, misused the property and assets of the Organization and caused the Organization financial loss by so doing. In the report of that investigation, issued to [REDACTED] on [REDACTED], ID/OIOS recommended that appropriate action be taken against both [REDACTED] and that the costs incurred by the Organization [REDACTED] be recovered from them.

12. [REDACTED] and [REDACTED] were interviewed during the course of the ID/OIOS investigation as subjects. [REDACTED] were among the [REDACTED] interviewed as witnesses. No findings were made against these persons.

C. ACTION TAKEN BY [REDACTED]

13. On [REDACTED] had a meeting in [REDACTED] with [REDACTED], [REDACTED], and [REDACTED] to discuss matters relating to the investigation of [REDACTED], a [REDACTED] attended as a [REDACTED] was also invited to the meeting, but was on [REDACTED] at the time and did not attend. At this meeting, [REDACTED] stated that [REDACTED] found that [REDACTED] must bear the bulk of the blame for the [REDACTED], as [REDACTED] had initiated the action, and that [REDACTED] had all failed as [REDACTED] in allowing the [REDACTED]. As a result of these findings, and in addition to issuing a [REDACTED] requiring [REDACTED] to reimburse the Organization for [REDACTED] issued the [REDACTED] present verbal reprimands and directed them to contribute equally to the [REDACTED] incurred by the Organization. Whilst [REDACTED] accepted [REDACTED] decision, [REDACTED] and [REDACTED] did not. [REDACTED] also directed [REDACTED] to put in place safeguards aimed at preventing any recurrence of such an incident, as recommended in the [REDACTED].

14. Although no official recovery action was initiated by [REDACTED] and [REDACTED] made payments to [REDACTED] as partial [REDACTED] for the costs incurred by the Organization, [REDACTED] and [REDACTED] respectively. Neither [REDACTED] has made any payment to date.

D. RETALIATION COMPLAINT

15. On [REDACTED] sent a [REDACTED] (copied to OIOS and the Ethics Office) complaining that [REDACTED] had unfairly and arbitrarily held them responsible for the [REDACTED], had issued them verbal reprimands and had directed that they [REDACTED] for a percentage of the [REDACTED] incurred. Although they asked for [REDACTED] protection, there was no specific

[REDACTED]

mention of retaliation in [REDACTED] does not mention any actions taken by [REDACTED] against them [REDACTED]

16. On [REDACTED] [REDACTED] submitted almost identical "Protection from Retaliation" forms to the Ethics Office, listing [REDACTED] and [REDACTED] as the retaliators [REDACTED]. Attached to the forms were notes taken by [REDACTED] on [REDACTED] meeting and on [REDACTED] meeting [REDACTED].

17. On [REDACTED] the Ethics Office found a prima facie case of retaliation and referred it to ID/OIOS for investigation [REDACTED].

V. INVESTIGATIVE DETAILS

A. ALLEGED RETALIATION BY [REDACTED]

1. ALLEGED RETALIATORY ACTION

18. Both [REDACTED] allege that [REDACTED] verbal reprimands and request for [REDACTED] of an "unauthorized [REDACTED] were in retaliation for their presumed role in bringing the matter to the attention of ID/OIOS. [REDACTED] claimed that the job had been properly authorized and that [REDACTED] did not even have knowledge of it until questioned about it by the [REDACTED] [REDACTED] claimed that the [REDACTED] was initiated whilst [REDACTED] was on [REDACTED] and that [REDACTED] did not learn about it until [REDACTED] returned to [REDACTED]

19. In support of the allegation [REDACTED] both noted that despite [REDACTED] claim that [REDACTED] decision was based upon [REDACTED] determination that there had been [REDACTED] failings by all concerned, [REDACTED] had failed to issue a reprimand to [REDACTED] who was [REDACTED] of the [REDACTED] when the [REDACTED] and [REDACTED] stated that [REDACTED] had been informed of these circumstances during the meeting on [REDACTED]

2. [REDACTED] RESPONSE TO ALLEGATION

20. When interviewed by ID/OIOS [REDACTED] stated that the report of ID Case [REDACTED] indicated a clear misuse of UN resources and that, in [REDACTED] opinion, all the [REDACTED] of the units involved must be held accountable for activities undertaken by their respective divisions or services, just as [REDACTED] was accountable to the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

for all activities in [REDACTED] stressed that [REDACTED] have a responsibility to report any illegal or erroneous matter of which they are aware, just as they are required to refuse to carry out any illegal order they might receive.

21. [REDACTED] approached disciplinary measures in this matter consistent with this approach. Whilst [REDACTED] held all [REDACTED] accountable, [REDACTED] found [REDACTED] was more at fault than the others, since [REDACTED] had initiated the [REDACTED] whilst the others had failed to prevent [REDACTED]. Therefore, only [REDACTED] received a written reprimand and was held responsible for [REDACTED] of the [REDACTED].

22. When asked on what authority [REDACTED] had sanctioned [REDACTED] against whom there were no adverse findings in the ID/OIOS report, [REDACTED] stated that as the [REDACTED] believed [REDACTED] had the authority to do so, adding that [REDACTED] was satisfied that the evidence in the OIOS report supported such a decision. [REDACTED] stated that in [REDACTED] opinion, the recommendations in the OIOS report were just recommendations, and that [REDACTED] was not bound by them, but could, and should as a good [REDACTED], look beyond them.

23. Based on information provided by [REDACTED], ID/OIOS suggested to [REDACTED] was on [REDACTED] when the [REDACTED] was initiated and that [REDACTED] was [REDACTED] at that time. [REDACTED] responded that this was the first that [REDACTED] had heard of this claim and [REDACTED] had no recollection of being advised of it during the meeting on [REDACTED]. [REDACTED] stated that had [REDACTED] known this, then [REDACTED] would have issued a reprimand to [REDACTED] as well, although [REDACTED] still held [REDACTED] responsible for [REDACTED] section.

24. When asked why [REDACTED] had directed [REDACTED] to contribute to the reimbursement despite the fact that the ID/OIOS report specifically stated that the costs should be recovered from [REDACTED] [REDACTED] again stated that [REDACTED] had based [REDACTED] decision on the facts laid out in the OIOS report. As with the reprimands, [REDACTED] considered [REDACTED] as the initiator of the [REDACTED], most responsible.

25. Although ID/OIOS had found [REDACTED] to be one of the instigators of the [REDACTED] in implementing the ID/OIOS recommendations [REDACTED] considered only [REDACTED] responsibilities and directed that [REDACTED] as [REDACTED] responsible for activities in their respective units, equally reimburse the other [REDACTED]. [REDACTED] believed that as [REDACTED] had the authority to make such a determination.

26. [REDACTED] vehemently rejected the suggestion that the measures [REDACTED] had taken against [REDACTED] and [REDACTED] were not justified and were in retaliation for [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

their cooperation with ID/OIOS's investigation. [REDACTED] stated that the sanctions against [REDACTED] had been imposed on them as [REDACTED] not as [REDACTED]

3. ADDITIONAL INQUIRIES

27. [REDACTED] of the [REDACTED], which [REDACTED] transcribed immediately thereafter ([REDACTED] confirmed that the [REDACTED] were an accurate record of what transpired in [REDACTED], although [REDACTED] admitted that [REDACTED] had failed to include the fact that [REDACTED] had refused to accept their verbal reprimands and that [REDACTED] had added the relevant [REDACTED] for clarity. However, [REDACTED] was certain that [REDACTED] were accurate in that the issue of [REDACTED] absence and the fact that [REDACTED] at the time the [REDACTED] was initiated were not raised in the meeting. Also, that [REDACTED] decision regarding the [REDACTED] to be [REDACTED] by each [REDACTED] was raised. [REDACTED]

28. Similar [REDACTED] ed that there was no mention during the [REDACTED] that [REDACTED] was [REDACTED] and [REDACTED] at the time of the [REDACTED]

29. ID/OIOS also interviewed oth [REDACTED] o had been interviewed during the course of the investigation of [REDACTED] to determine if any others had suffered as a result of their cooperation. None of those interviewed considered that there had been any repercussions as a result of cooperation with the investigation. [REDACTED]

30. ID/OIOS determined that [REDACTED] e, pursuant to the Administrative Instruction of the Staff Regulations and Staff Rules (ST/AI/234/Rev.1), had the authority to issue reprimands [REDACTED]

31. When interviewed by ID/OIOS [REDACTED] [REDACTED] stated that when [REDACTED] instructed [REDACTED] to recover the [REDACTED] [REDACTED] informed [REDACTED] could not do so [REDACTED] position, although [REDACTED] did not explain this to [REDACTED], was that since there had been no findings against them by ID/OIOS, to do so would be a violation of their due process rights. Although [REDACTED] knew that in [REDACTED] had delegated authority from the Controller to order [REDACTED] to reimburse the Organization, [REDACTED] did not specifically inform [REDACTED] that [REDACTED] did not have such authority. [REDACTED] e made no response, and the issue was dropped. [REDACTED] e made no attempt to require [REDACTED] from any of the [REDACTED] and [REDACTED]. [REDACTED] voluntarily [REDACTED] n for their [REDACTED]

B. ALLEGED RETALIATION BY [REDACTED]**ALLEGED RETALIATORY ACTION**

32. Both [REDACTED] and [REDACTED] in the Protection from Retaliation Forms they submitted to the Ethics Office that [REDACTED] had retaliated against them. When interviewed, both voiced the opinion that [REDACTED] viewed them as cooperating with ID/OIOS in the investigation of [REDACTED], and both thought, without any direct proof, that [REDACTED] had advised [REDACTED] how to proceed in this matter.

33. [REDACTED] stated to ID/OIOS that the safeguards [REDACTED] ordered put in place after the [REDACTED] to prevent any reoccurrence were punitive and were directly and unfairly aimed at the [REDACTED]. By targeting the [REDACTED], they claimed that [REDACTED] was directly punishing [REDACTED], and indirectly punishing [REDACTED], under whom the [REDACTED] resided. [REDACTED] initially claimed that as a result of the new safeguards put in place, [REDACTED] workload had been greatly increased and that [REDACTED] had become responsible for the work of [REDACTED] as well as that of [REDACTED] own section. However, in a subsequent interview [REDACTED] acknowledged that the new safeguards were only applied to [REDACTED] which formed only a small percentage of the work done by the [REDACTED].

34. [REDACTED] also claimed that [REDACTED] continued to indulge in retaliatory acts against [REDACTED] after the [REDACTED]. Such actions included refusing [REDACTED] request for [REDACTED] for visiting colleagues in [REDACTED] during a period of leave; being rude to [REDACTED] when [REDACTED] was late for [REDACTED]; and disregarding a recommendation on an internal promotion of [REDACTED].

2. [REDACTED]'S RESPONSE TO ALLEGATION

35. [REDACTED] stated to ID/OIOS that [REDACTED] had initiated the meetings to discuss the new safeguards on the instructions of [REDACTED] based upon the recommendation contained in the report on [REDACTED]. [REDACTED] stressed that [REDACTED] sole intention when organizing these meetings was to identify the measures needed to prevent such an incident happening again. [REDACTED] pointed out that [REDACTED] only chaired the [REDACTED] and subsequent discussions continued amongst the [REDACTED]. [REDACTED] denied that these measures were punitive or retaliatory in nature.

[REDACTED]

3. ADDITIONAL INQUIRIES

36. The other participants in the meetings on the new safeguards to be put in place were interviewed by ID/OIOS. None were of the opinion that the safeguards were punitive or that they were specifically aimed at [REDACTED].

37. After the [REDACTED] removed [REDACTED] [REDACTED] the new [REDACTED] stated that [REDACTED] had not attended subsequent meetings as [REDACTED] felt that [REDACTED] presence and the conflict between [REDACTED] and [REDACTED] and [REDACTED] were counterproductive. Additionally, [REDACTED] noted that [REDACTED] for much of the time the safeguards were discussed, and was therefore not involved at all. [REDACTED]

38. ID/OIOS examined the documentation provided by [REDACTED] in respect of the incidents [REDACTED] alleged were examples of ongoing retaliation against [REDACTED]. Although the documents do show that there were serious managerial issues between the [REDACTED], they do not appear to show any evidence of [REDACTED] decisions being motivated out of a desire to retaliate against [REDACTED] for [REDACTED] in ID Case [REDACTED].

39. [REDACTED] [REDACTED] r, signed off on [REDACTED] [REDACTED] after the controversies discussed in this report. [REDACTED] rated [REDACTED] fully competent in [REDACTED] outstanding in [REDACTED] with an overall rating of "fully successful performance". [REDACTED] was [REDACTED] (signoff in [REDACTED] [REDACTED] was [REDACTED] for [REDACTED] (signoff in [REDACTED] [REDACTED] received [REDACTED] ratings of fully competent, [REDACTED] outstanding, with an overall rating of frequently exceeds performance expectations.

VI. FINDINGS

A. ALLEGED RETALIATION BY [REDACTED]

40. [REDACTED] had cooperated with ID/OIOS during the investigation into [REDACTED] and, as such, are persons protected by the provisions of ST/SGB/2005/21.

41. ID/OIOS finds that there is no evidence to confirm the claim that [REDACTED] was aware that [REDACTED] was [REDACTED] and [REDACTED] was [REDACTED] when the [REDACTED] was initiated.

42. ID/OIOS finds that [REDACTED] non-disciplinary sanctions (verbal reprimands and the requirement to reimburse the Organization) upon [REDACTED] and [REDACTED] in connection with [REDACTED], even though ID/OIOS made no findings against them in that matter. ID/OIOS notes that [REDACTED] had the authority to issue the verbal reprimands under ST/AI/234/Rev.1, but did not have the

[REDACTED]

authority to impose [REDACTED] which was delegated to [REDACTED]. Additionally, Staff Rule 112.3 states that a [REDACTED] may only be required to reimburse the Organization for financial loss "as a result of the [REDACTED] gross negligence."

43. Although ID/OIOS was not able to rule out that the sanctions imposed by [REDACTED] against [REDACTED] and [REDACTED] in connection with [REDACTED] could be perceived as retaliation for their cooperation with ID/OIOS in that investigation, ID/OIOS finds that [REDACTED] explanation that the actions [REDACTED] took against [REDACTED] were for their [REDACTED] failures, is credible. As a result, and given the specific definition of "Retaliation" in ST/SGB/2005/21 Section 1.4, ID/OIOS finds that there is no evidence to support the allegation that [REDACTED] had acted against [REDACTED] and [REDACTED] because of their cooperation with ID/OIOS in [REDACTED].

44. ID/OIOS notes that there was an atmosphere of mistrust and conflict between [REDACTED] and [REDACTED] and that this atmosphere may have contributed to the feelings of persecution experienced by [REDACTED].

B. ALLEGED RETALIATION BY [REDACTED]

45. ID/OIOS found no evidence to support the allegation that the new safeguards developed in response to [REDACTED] were imposed by [REDACTED] in retaliation against [REDACTED] for their cooperation with ID/OIOS in that case.

46. ID/OIOS found that although it was not able to rule out that the actions taken by [REDACTED] against [REDACTED] subsequent to the issuance of the report relating to [REDACTED] could be perceived as acts of retaliation against [REDACTED] cooperation with the ID/OIOS investigation, it was equally impossible to rule out that these actions were motivated by other factors. As a result, and given the specific definition of "Retaliation" in ST/SGB/2005/21 Section 1.4, ID/OIOS found that there was no evidence to support the allegation that [REDACTED] had engaged in retaliatory acts against [REDACTED] because of [REDACTED] cooperation with ID/OIOS in ID [REDACTED].

47. ID/OIOS finds that there was an atmosphere of mistrust and conflict between [REDACTED] and [REDACTED] and that this atmosphere may have contributed to the feelings of persecution experienced by [REDACTED].

VII. CONCLUSIONS

48. ID/OIOS concludes that there is no evidence to substantiate the allegation that the verbal reprimand by [REDACTED] against [REDACTED] in connection with [REDACTED] was imposed in retaliation for [REDACTED] cooperation with ID/OIOS in that matter.

49. ID/OIOS concludes that there is no evidence to substantiate the allegation that the verbal reprimand by [REDACTED] against [REDACTED] in connection with [REDACTED] imposed in retaliation for [REDACTED] cooperation with ID/OIOS in that matter.

[REDACTED]

50. ID/OIOS concludes that there is no evidence to substantiate the allegation that the safeguard measures imposed by [REDACTED] in accordance with ID Rec. No. IV06/324/04 were put in place in retaliation against [REDACTED] for [REDACTED] cooperation with ID/OIOS in ID Case [REDACTED].

51. ID/OIOS concludes that there is no evidence to substantiate the allegation that the safeguard measures imposed by [REDACTED] in accordance with ID Rec. No. IV06/324/04 were put in place in retaliation against [REDACTED] for [REDACTED] cooperation with ID/OIOS in [REDACTED].

52. ID/OIOS concludes that there is no evidence to substantiate the allegation that [REDACTED] has engaged in a campaign of ongoing retaliation against [REDACTED] for [REDACTED] cooperation with ID/OIOS in [REDACTED].

VIII. RECOMMENDATIONS

53. In view of the preceding findings, ID/OIOS makes the following recommendations:

Recommendation 1: It is recommended that the Ethics Office advise [REDACTED] of the conclusions of this report. [REDACTED]