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The Honorable Kay Granger
Chairwoman
The Honorable Nita M. Lowey
Ranking Member
Subcommittee on State, Foreign Operations,
and Related Programs
Committee on Appropriations
House of Representatives

Subject: *Department of State—United Nations Peacekeeping Credits*

This responds to your request for our opinion regarding whether the Department of State's (State) obligation of amounts in the Contributions for International Peacekeeping Activities appropriation for fiscal year 2013 (FY 2013 CIPA) complies with a limitation contained in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, as carried forward by the Consolidated and Further Continuing Appropriations Act, 2013 (FY 2013 CR).¹ As explained below, we conclude that State's obligation of amounts in the FY 2013 CIPA appropriation is consistent with the limitation, and that State may obligate amounts in the FY 2013 CIPA appropriation for assessed UN peacekeeping contributions without regard to the UN's issuance of peacekeeping credits.

In accordance with our regular practice, we contacted State to obtain additional factual information and its legal views on this matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.:

¹ Pub. L. No. 112-74, div. I, title I, 125 Stat. 786, 1169 (Dec. 23, 2011), as carried forward by Pub. L. No. 113-6, div. F, title I, § 1101(a)(6), 127 Stat. 198, 412 (Mar. 26, 2013). The FY 2012 CIPA appropriation provided that 15 percent of the appropriation shall remain available for obligation for two fiscal years. Pub. L. No. 112-74, 125 Stat. at 1169. Accordingly, 15 percent of the FY 2013 CIPA appropriation provided by the FY 2013 CR is also available for obligation for two fiscal years or until September 30, 2014. See B-324481, Mar. 21, 2013 (continuing resolutions generally require agencies to continue operating under the *status quo* established by previous appropriations acts).

Sept. 2006), available at www.gao.gov/legal/lawresources/resources.html. State responded to our questions and explained its legal position. Letter from Acting Legal Adviser, Department of State, to Assistant General Counsel for Appropriations Law, GAO (Jan. 6, 2014) (State Letter).

BACKGROUND

The United Nations (UN) is an international organization, of which the United States is a member. State Letter, Enclosure, at 1. In accordance with the UN Charter, as a UN member state, the United States is responsible for paying its share of the UN's expenses, as apportioned by the UN General Assembly.² *Id.* For peacekeeping missions, the UN General Assembly has approved assessments for each member state to apportion the expenses for peacekeeping missions. *Id.*, at 2. These assessments are due from each member state each calendar year and the percentage represents the United States' share of the total assessment for the UN peacekeeping operations for an applicable year. *Id.* For calendar year 2012, the assessment rate for the United States was 27.1415 percent. For calendar year 2013, the assessment rate for the United States was 28.3835 percent. *Id.*, at 2. Congress appropriates amounts in State's CIPA appropriation to pay the United States' obligation for peacekeeping assessments.³

The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 contains the following limiting proviso in the FY 2012 CIPA appropriation:⁴

*"Provided further, That notwithstanding any other provision of law, funds appropriated or otherwise made available under this heading shall be available for United States assessed contributions up to the amount specified in Annex IV accompanying United Nations General Assembly Resolution 64/220."*⁵

² UN Charter, ch. IV, art. 17.

³ See, e.g., Pub. L. No. 112-74, 125 Stat. at 1169 ("For necessary expenses to pay assessed and other expenses of international peacekeeping activities. . ."). The FY 2013 CR provided a CIPA appropriation to State for the same purpose. Pub. L. No. 113-6, div. F, title I, § 1101(a)(6), 127 Stat. 198, 412 (Mar. 26, 2013).

⁴ Pub. L. No. 112-74, 125 Stat. at 1169.

⁵ This provision references "Annex IV accompanying United Nations General Assembly Resolution 64/220," but UN General Assembly Resolution 64/220 does not pertain to peacekeeping operations. State views this as an "obvious drafting error," interpreting congressional intent to allow for CIPA funds "to be used up to the applicable assessment rate, which is contained in General Assembly

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The proviso prevented State from obligating amounts in the FY 2012 CIPA appropriation in excess of the 2012 assessment rate of 27.1415 percent.

This proviso was carried forward by the FY 2013 CR.⁶ As a result, State could not obligate amounts in the FY 2013 CIPA appropriation in excess of the 2012 assessment rate of 27.1415 percent.⁷ The UN provided new assessment rates for peacekeeping to each member state in calendar year 2013, and the new assessment rate for the United States was 28.3835 percent. Given the proviso prohibiting State from obligating amounts in the FY 2013 CIPA appropriation in excess of the 2012 assessment rate of 27.1415 percent, the United States was unable to pay in full its assessed calendar year 2013 peacekeeping contribution to the UN from the FY 2013 CIPA appropriation. *Id.*, at 6.

State informed us that it has not obligated funds for international peacekeeping missions from the FY 2013 CIPA appropriation in excess of the 27.1415 percent limitation on its use of its appropriation. *Id.*, at 5. State advised us, however, that the United States would meet its full calendar year 2013 assessed rate of 28.3835 percent after the UN applies “credits” to the United States assessment. *Id.*, at 5–6. Credits result because the annual amounts assessed by the UN are based on UN estimates. At times, the assessed peacekeeping contributions from the member states exceed a peacekeeping mission’s actual expenditures in a given calendar year. The UN generally applies the difference as a “credit” to the member state. *Id.*, at 6.

DISCUSSION

At issue here is whether UN peacekeeping credits factor into the amount limitation set out in the proviso on State’s use of its CIPA appropriation. If so, State would have to reduce its obligations so that the total United States contribution, consisting of FY 2013 CIPA funds combined with peacekeeping credits, does not exceed the limitation of 27.1415 percent contained in the proviso. As explained below, the proviso, by its very terms, applies to “funds appropriated . . . under this heading.”

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document 64/220 Add. 1.” State Letter, Enclosure, at 5 n.13. According to State, Congress has not objected to this interpretation. *Id.*

⁶ See B-324481.

⁷ The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014, provides the same statutory limitation for the FY 2014 CIPA appropriation. See Pub. L. No. 113-76, 128 Stat. at 469–470. The explanatory statement accompanying the act further provides that U.S. contributions to peacekeeping missions, including through the application of credits, should not exceed the statutory limitation. 160 Cong. Rec. H1162 (daily ed. Jan. 15, 2014).

Because the peacekeeping credits are not funds provided in the FY 2013 CIPA appropriation, we conclude that the proviso does not apply.

When the United States pays its assessed contribution to the UN for peacekeeping expenses, these funds become the moneys of the UN and are no longer subject to limitations in federal law.⁸ For example, we noted in a prior decision that the United States contribution to the United Nations Relief and Rehabilitation Administration would lose its status as federal funds. 23 Comp. Gen. 744, 745 (1944). The funds are expended by State for the purpose for which they were appropriated when they are transmitted to the UN. It is the UN, through its governing body, that determines and controls the further disposition of these funds. Thus, the peacekeeping credits applied by the UN to the United States' outstanding balance are UN funds and do not constitute funds provided in the FY 2013 CIPA appropriation that are subject to the limiting proviso.

State's legal position is consistent with our conclusion. As noted, we asked State for its legal views on its compliance with the limitation in the FY 2013 CIPA appropriation. State explained that, under the United Nations Charter, each UN member state, including the United States, has agreed to make contributions to cover the expenses of the UN, including those expenses incurred in carrying out peacekeeping missions. State Letter, Enclosure, at 1. As such, once State has properly obligated and expended amounts in the CIPA appropriation to cover the United States' share of those expenses, those amounts become funds of the UN and would not be subject to the limitation in the CIPA appropriation. State Letter, at 1.

We also considered whether the miscellaneous receipts statute, 31 U.S.C. § 3302(b), would require State to deposit UN peacekeeping credits to the general fund of the United States Treasury or return them to the relevant CIPA appropriation as a refund. The miscellaneous receipts statute requires that "an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim." One exception to this rule is that an agency may return amounts that qualify as refunds to the appropriation from which the original payment was made. Refunds include amounts returned to agencies for overpayments. B-257905, Dec. 26, 1995. The UN, however, does not return any funds to the member states, including the United States. Rather, the UN retains control over these funds and directs their application to peacekeeping missions as credits. In this regard, the peacekeeping credits are not returned to State as "money for the Government" and are not subject to the miscellaneous receipts statute.

⁸ This is similar to what happens with federal grant funds, which lose their character and identity as federal funds when provided to grantees. See, e.g., B-153348, Apr. 22, 1964.

CONCLUSION

The proviso applies to funds appropriated in the FY 2013 CIPA appropriation. However, UN peacekeeping credits are not funds provided in the FY 2013 CIPA appropriation. Therefore, State may obligate amounts in the FY 2013 CIPA appropriation for an assessed UN peacekeeping contribution rate up to the 27.1415 percent statutory limitation without regard to the UN's issuance of peacekeeping credits.

If you have any questions, please contact Edda Emmanuelli Perez, Managing Associate General Counsel, at (202) 512-2853, or Julia C. Matta, Assistant General Counsel for Appropriations Law, at (202) 512-4023.



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