



SYSTEMS AND SILOS: REVIEW OF A UNDP/GEF PROJECT

Project No. 70781 Review
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FINAL DRAFT REPORT

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NOTE: This is the “final draft”.

The review emphasized a participatory process whereby key stakeholders can contribute to corrections of facts, add nuance and perspectives, so enhance accuracy and fairness. Hence, **this draft of the report** is being shared with key stakeholders, to be followed by the Final Report. This has been reviewed by UNDP and some comments have been added. This is now being shared with the Member States of the Executive Board, and will be shared with others who provided information. Comments, possible corrections, additional facts and any other suggestions are invited and welcome.

The final revision will incorporate all inputs, but, based on the **sole judgment of the reviewer**. – Incorporation can take many forms - incorporated into the text and/or added as a footnote, or even as a new annex, with its final use shared with the person(s) making the input. It is requested that draft version is not shared widely, only so as to reduce chances of misattribution.

The reviewer will maintain **final authority** on the decisions that culminate in the final report.

ACKNOWLEDGEMENT

The reviewer wishes to acknowledge with gratitude the time and effort expended by many UNDP staff and stakeholders during the course of the review. In particular, the reviewer wishes to thank the UNDP EXO for being scrupulous in their neutrality, allowing the reviewer access to staff and records as requested, and for taking this review with great seriousness. Special thanks are due to the programme staff at BPPS and at RBEC who had joint managerial responsibilities over the S&L project. The assistance of all UNDP staff in making additional appointments and retrieving old documents when requested, their allocation of time, patience, and thoughtful discussions, have been valuable to the reviewer.

Special thanks are also due to all the external and international consultants who had a role in providing advice and conducting evaluations of the S&L project, as they provided their valuable time with the goal of serving the aims of the review, to determine what went wrong and what steps should be taken for the future. We also wish to thank the many Member States who freely shared their concerns, and provided inputs for the review in written notes and in meetings to discuss the information available to them and their priorities.

It is my hope that this report contributes towards clarifying the issues around one project while proposing remedies for mistakes made and drawing lessons and recommendations for the future. And it is underlined that while the review is shaped by the discussions and feedback received, except for information and views that have been stated and attributed to others, all statements and views, including any errors, are those of the reviewer.

Amitav Rath

THE REVIEWER

Amitav Rath has over thirty-five years of experience in varied and multi-faceted domains - as a professor, researcher, manager of funds and international development programmes and as a consultant. His first training was as an engineer at the premier Indian Institute of Technology, Kharagpur, where he earned his Bachelor's degree with Honours. He continued his studies at the University of California, at Berkeley, where he earned a Masters and a Ph.D. with an interdisciplinary training that included specializations in economics, finance, statistics and complex systems.

Following his research and teaching in California, he worked in India as a professor at the Management Development Institute, and then joined the International Development Research Centre at Ottawa where he managed a global portfolio on development policy research in issues of economics, energy, climate change, technology and innovations. Subsequently he founded and led a consulting practice working in over 50 countries, in all the regions of the world. He has worked on over 100 reviews and evaluation assignments for over thirty years, designing and leading complex policy, programme and project development and evaluations and reviews, applying key OECD/ DAC and UN evaluation methodologies and guidelines, including considerations of gender, ethics, sustainability and human rights. He has worked closely with the World Bank, most regional development banks, regional organizations including the African Union, ASEAN, Organization of American States; the OECD; many United Nations agencies including the UNDP; and key national development funding agencies and many other governments and agencies. He has also worked with NGOs, firms and community level organizations. His work and experience in reviews and complex evaluations - of organizations, programmes and projects - are most often utilization-focused and have supported follow up actions on the findings and recommendations, leading to improved design of programmes, operations and strategy.

He has continued his interest in research, teaching and mentoring younger people during his consulting work. He has worked as a visiting professor and researcher at over half a dozen universities and research organizations in various countries in the Americas, Europe and Africa. He has experience in strategic reviews, synthesizing complex issues for policy development and actions, where his experience of working across regions and organisations allows for incorporation of best practices across countries and institutions. He is recognized for his participatory and collaborative working style, strategic thinking, integrity, and a keen ability to connect the dots to see the larger issues to achieve results and performance improvements. He has written and contributed to over sixty reports, research papers, articles and books, many on key development challenges; almost all are available publicly on the web.

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ABBREVIATIONS

AWP	Annual Work Plan
CO	Country Office, UNDP
EB	Executive Board, UNDP
EXO	Executive Office, UNDP
GEF	Global Environment Facility
IP	Implementing Partners
MoES	Ministry of Education and Science
OAI	Office of Audit and Investigations, UNDP
PSO	Project Support Office (Russia), UNDP
RBEC	Regional Bureau for Europe and CIS countries, UNDP
RTA	Regional Technical Adviser, GEF Projects, UNDP
TE	Terminal Evaluation
UNDP	United Nations Development Programme

EXECUTIVE SUMMARY

INTRODUCTION

- E1. The United Nations Development Programme (UNDP) was rocked by a series of public charges on its management of a project in its portfolio of Global Environment Facility (GEF)-funded work on Climate Change in Russia. The goal of the project, “Standards and Labels for Promoting Energy Efficiency in Russia (S&L project)”, was to set improved energy efficiency standards for lighting and household appliances such as refrigerators and air conditioning units. Initiated in 2007 at the concept level, with its final GEF approval in 2010, the project terminated in 2017. The project, financed with \$7.8 million from the GEF, was implemented nationally with the supervision of the UNDP.

- E2. The most public allegations were made in a Foreign Policy magazine article published in August 2019. But well before that, in early 2017, the Terminal Evaluation of the S&L project had concluded that there were “strong indicators of deliberate misappropriation” of funds in the project. The report noted an especially troubling finding that, between 2010 - 2014, the funds expended could not be matched with “useful outputs to advance the objectives of the S&L Project, one of the strongest indicators of misappropriated funds”.

- E3. Following the Terminal Evaluation, an investigation was launched by the Office of Audit and Investigations (OAI), the supreme and independent authority within the UNDP to investigate all such charges. The findings of the Terminal Evaluation were also available to Member States who were members of the Executive Board of UNDP. The OAI found that the allegations of procurement fraud¹ were not substantiated and closed the case. Nevertheless, OAI detected a number of irregularities that did not amount to misconduct, but that needed to be addressed so the same mistakes were not repeated in the future. The OAI confirmed five “weaknesses in the implementation” and identified policies, rules and procedures that were not duly followed, specifically: Procurement Rules and

¹ The OAI adds, and the reviewer concurs - The definition of fraud and corruption varies among countries and jurisdictions, and the term is commonly used to describe a wide variety of dishonest practices. The following definitions are seen to apply under UNDP Policy: Fraud is any act or omission whereby an individual or entity knowingly misrepresents or conceals a fact a) in order to obtain an undue benefit or advantage or avoid an obligation for himself, herself, itself or a third party and/or b) in such a way as to cause an individual or entity to act, or fail to act, to his, her or its detriment. Corruption is the act of doing something with an intent to give an advantage inappropriate with official duties to obtain a benefit, to harm or to influence improperly the actions of another party. Actions taken to instigate, aid, abet, attempt, conspire or cooperate in a fraudulent or corrupt act, also constitute fraud or corruption.

The OAI has opened several cases following reports from the whistleblowers, addressed according to OAI processes, including full assessment and investigation. The Reviewer has NOT shared any allegations/evidence during his review, with OAI, and this is a OAI requirement. This Review cannot allow OAI to know if matters referred to in general terms in this document were part of OAI’s previous assessments or investigations, except as referred to in the case of the investigation of the S&L project.

Procedures; Financial Rules and Regulations; and Guidelines for National Implementation (NIM) of UNDP-supported term projects. It concluded that “UNDP Russia failed to fully understand the abovementioned policies, rules and procedures”.

- E4. Parallel and interconnected with the evaluation, and the following investigations, of the S&L project there were also two individuals, who identify themselves as whistleblowers, who had raised charges of corruption in the management of the S&L project. The whistleblowers alleged additional charges beyond the statements in the Special Appendix to the Terminal Evaluation. They both had formal responsibilities on the S&L project and their charges of corruption included individuals involved in the management, supervision and implementation of the project, and some go beyond the S&L project to the operations of the project support office, the supervision and oversight of the same and other projects, as well as allegations of mismanagement or worse at the Regional Bureau/Office and with regards to some units at New York HQ.
- E5. Following the May 2018 investigations report by OAI, discussions and exchanges continued between UNDP and Member States on the findings of OAI’s investigation and the management actions taken following the findings. A number of Member States were dissatisfied with the answers provided and continued through 2020 to express their concerns. The Member States did not consider the responses provided by the UNDP sufficient assurance as to whether UNDP management or the OAI had the necessary tools to undertake “a technical review when there is evidence of technical failings”, especially with indicators of financial misappropriation; whether the UNDP had sufficient oversight of poor performing projects; whether conflicts of interest were sufficiently visible to the UNDP management and addressed; and whether the project was indicative of more systemic problems across the UNDP’s entire project portfolio. The member states also had additional information from whistleblowers, but were unable to form a view on the accuracy of the information.
- E6. The UNDP and Member States agreed to work together closely while the UNDP initiated an “independent review” of the handling of the S&L project. The purpose set was to clarify the questions around the management of the project and to “review the governance, risk management and controls in place for S&L during its design and implementation phase up to its closure in 2017, including reviewing associated reviews, audits and investigations.” The following objectives were set for the review:
- a. Was the project managed effectively to ensure that it met its objectives?
 - b. Were the correct procedures and processes followed to ensure that fiscal resources for the project were prudently managed?
 - c. Was the UNDP's management of the project appropriate and were existing oversight and accountability policies effectively implemented at the country, regional and head offices?
 - d. How and when were deficiencies in the project escalated? Why were they not raised earlier at a senior management level and communicated to stakeholders?

- e. Had the UNDP's existing whistleblower and non-retaliatory policies been applied effectively? Had concerns raised by whistleblowers been satisfactorily assessed by the Ethics Office to determine if there was prima facie evidence to be investigated?
 - f. Were any red flags raised during the course of the project, and if so, were they appropriately addressed in the project's Terminal Evaluation?
- E7. The review is intended to provide the UNDP with information to determine whether the S&L Project is indicative of systemic mismanagement of issues, or a lack of oversight and accountability in one project. The goal of the review is to assist the UNDP to further refine controls, risk management and governance arrangements established for the GEF-funded projects, based on lessons of the S&L project, and is aligned with the UNDP Accountability System, in which the UNDP Administrator has the ultimate responsibility for holding UNDP staff accountable for misconduct. The review was initiated by the UNDP to determine whether it had the right tools to manage, escalate or investigate the S&L Project from a governance perspective and to determine a course of action in cooperation with its Executive Board and other partners.
- E8. The review identified the primary stakeholders as the different constituent units of the UNDP, its Executive Board and concerned Member States, and those who alleged mismanagement and possible wrong doing. The wider group of stakeholders who have an interest in the dissemination of the final report includes employees, consultants, development partners and beneficiaries, all of whom have an interest in ensuring efficiency and effectiveness at the UNDP as one component of the broader set of development processes.
- E9. Stakeholder feedback allowed for the determination that the review would be unlikely to resolve all issues. Yet it could provide a valuable step forward by clarifying what did happen with speed, so that more appropriate follow up actions could be initiated. The work was focused on where the review could add value, while stopping short of an investigation of individual wrongdoing:
- First, assess the facts and settle disputes about what happened given the different charges and allegations, and determine whether the project was managed effectively and to UNDP standards.
 - Second, assess if and where policies, procedures and processes were not correctly followed and assess possible failures.
 - Third, determine if the deficiencies in the project raised any red flags; if they were timely, and dealt with appropriately. If deficiencies were identified, how were they addressed – by time, during execution, and in the evaluation; communicated at the correct management level; and how and when they were communicated to stakeholders.
 - Separately, examine the UNDP's whistleblower and non-retaliatory policies and their application in the context of whistleblower(s) linked to the S&L Project, to see if they

have been applied effectively; assess “if concerns raised” were satisfactorily assessed by the Ethics Office; and determine if there was “prima facie evidence to be investigated”.

- Finally, make recommendations to the UNDP on the way forward, and highlight key results of the review to stakeholders and partners.

E10. The review period can be seen to have four conceptual phases before concluding with this report. First, the review began with a round of interviews with senior UNDP staff and Member States and an analysis of key documents. In the meetings in the first two weeks, it was apparent that there was a need for a review that could bridge the gap between different findings and interpretations, and could lay out some clear descriptions of what happened and what could be the next steps. Following a quick analysis of the information, the submissions made by the UNDP during the period, and the concerns raised by Member States, the reviewer concurred that a review that prioritized speed, that could clear the air and bridge the gap between the UNDP and Member States should be feasible and, if undertaken with some caution and care, could be useful.

E11. The next phase was guided by the additional feedback received from the UNDP, correspondence and interviews with the concerned Member States, further interviews and analysis of additional documents. An Inception Report was prepared, delivered early August 2020, reviewed and agreed upon with the UNDP EXO. It put forward some strong hypotheses of likely findings of errors during execution by the UNDP, and underlined that some issues could likely need additional work, such as possible investigations that the review was not equipped to undertake. It proposed a confidential memo to the Administrator for possible follow up actions. The hypotheses were quickly confirmed in the following weeks.

E12. A new, more intense period began when first contacts were established with the two whistleblowers, who expanded on the allegations in the Terminal Evaluation. Early in this phase, their allegations and follow up interviews suggested potentially greater concerns, about matters not been seen earlier. This was the introduction to a more complex set of accusations, involving multiple individuals who may have conspired in wrong doing and fraudulent activities. These additional documents named many persons, and how they had conspired and covered issues wider than the S&L project. Conversations and documents shared over the weeks in August remained concerning, and, they forced a careful reappraisal over many additional weeks and threatened to overturn the review process.

E13. The primary limitation, the fact that this review is not an investigation, must be underlined here (and later). The review was undertaken and concluded with care so as not to step into the jurisdictions of an “investigation” where any individual's conduct is to be investigated to potentially arrive at a legal finding of “misconduct”, “wrong doing” or any criminal charges. The review has emphasized examinations of “public” and “semi-public” documents with the UNDP regarding the S&L project, and some wider issues that emerged. It did not demand written statements, and undertook no cross examinations of

“witnesses”. It relied on discussions with people who were involved – with the additional limitation that many staff members had moved on to other organizations - and used questions for clarifications, while undertaking due diligence by cross-checking the information provided with other sources and documents. For these reasons, the review could not by itself be used to determine if fraud occurred. It confirms that certain practices and actions did happen within the project under review, not in accordance with UNDP guidelines, and normal processes. It does confirm arrangements where connected persons gained improperly. The review takes into account the available public records that both support or confound the findings of fraud. The review has determined there is **sufficient cause for additional investigations** and it has made recommendations to the Administrator, in strict confidence, that specific allegations appear to merit further independent investigations.

FINDINGS

- E14. The findings of the review are conclusive that there have been lapses in management responsibilities, and/or, of potential misconduct in the S&L project during much of its implementation period and this has been further detailed in the sections below. Yet, activities have been implemented, and while value for money cannot have been optimal, it is determined that opportunities for recovery of funds from the project expenditures would be highly unlikely and a poor use of resources. However, considering the findings of audits, earlier investigations, and of this review, it is the firm view of the reviewer that enough and consistent evidence is now available to the UNDP to pursue further and narrowly focused investigations to determine individual responsibilities and accountability and to take appropriate actions. The findings below are presented according to the six key objectives and sub-questions within (set in the TOR), reorganized to improve clarity.
- E15. **Objective A: Was the project managed effectively to ensure that it met its objectives?** The evidence leads to the firm conclusion that the project was not managed efficiently or effectively and was beset with problems almost from the first year. Lacunae were noted in the governance, risk management and controls in place for the project during its design and implementation phase up to its closure in 2017.
- E16. **Objective F1: Were any red flags raised during the course of the project?** The report documents a large number of red flags, and warnings at lower levels of alerts, confirming the value of the processes as set out by the UNDP which are normally in place for all projects. The failures were not caused due to a lack of warnings but despite the warnings.
- E17. **Objective F2. Were problems appropriately addressed during the project period?** Very few problems and red flags were **appropriately addressed during the project period. They were more appropriately addressed in the project evaluations, including the Medium**

Term Report and the Terminal Evaluation, and by the other independent international consultants who were engaged. Management actions during the S&L project appear to have been **severely deficient and highly inadequate, along several dimensions.** There was reluctance by project proponents to follow technical guidance. The approaches across the different practices and business units in the UNDP operated in "silos". Critical management information that reached more senior levels was incomplete, dilatory, and not always focused on the problem identified or on finding solutions. Expected controls failed too often at remedial actions.

E18. Objective F3. Were they appropriately addressed in the project evaluations, including the Medium Term Review and the Terminal Evaluation? The project underwent two evaluations, as is the norm for all UNDP/GEF projects. The first was the Medium Term Review and the second was the Terminal Evaluation undertaken by a team of two consultants. The Medium Term Review in 2013 made many useful observations and recommendations for course correction and highlighted that the project was incoherent and lacked close relationships between goals, activities and outputs, a red flag. The Terminal Evaluation correctly identified many red flags in the project, including “strong indicators of deliberate misappropriation” of funds in the project. This was especially troubling from 2010 to 2014, where the “funds expended could not be matched” with “useful outputs to advance the objectives of the S&L Project, one of the strongest indicators of misappropriated funds”². The findings of the Terminal Evaluation was shared widely, and caused the first investigation to be launched by the OAI.

E19. Objective C: Were the correct processes followed to ensure that fiscal resources for the project were prudently managed? The review confirms that many processes that should have been followed under UNDP procedures were not followed or were followed in a pro forma manner. Governance, controls and management processes were highly inadequate. The project was not adequately supervised and the alerts arising from faulty processes raised only small alarms that did not lead to actions, appeared not to have reached senior management and those who were reached appear to have ignored them. Following the completion of the Medium Term Review, some recommendations were implemented, and there was an effort to work on a more coherent operational plan.

E20. In several cases, at multiple times, the processes lacked due diligence to ensure good management of the fiscal resources for the project. The reviewer finds the most concerning issues to have been the poor sharing of information available between units, poor follow-up, a surprising lack of concern by some individuals, and weaknesses in the investigations into the project and related matters. The above lacunae allowed for

² The OAI correctly notes that one Whistleblower, a Project Manager of the S&L project, “clearly presented to OAI that the funds were expended in accordance with the outputs and objectives of the project. He also defended the technical validity of the reports. His statements were made available by OAI to the Reviewer. The statement is relevant for the review and should be reflected in the report.” The reviewer agrees with OAI but notes that the view expressed here, is that the **outputs were “not useful”, not that they did not exist.**

conflicts of interest and potential “fraud” to persist through long periods, as the deficiencies, which were multiple and required coordinated management, were never fully addressed. Deficiencies in communications prevented the senior most management levels from being fully cognizant of the issues and the communications to stakeholders were deficient. Very rarely was any timely remedial action noted.

E21. Objective D: How and when were deficiencies in the project escalated? And why weren't deficiencies in the project raised earlier at a senior management level and communicated to stakeholders?

E22. The review finds that most often the steps taken to escalate the attention to deficits in the S&L project were inadequate. Hence insufficient steps were taken by UNDP to resolve the issues and senior management was provided with conflicting information. The executive team at UNDP was almost bereft of sufficient, complete, accurate and timely information and independent analysis to enable the EXO to take appropriate management decisions and to share the information with the key stakeholders, the Member States, the Executive Board, GEF and affected countries. A primary goal of this review is to provide the EXO (and others at UNDP) and the members of the Board with the analysis and review that should ideally be available to the EXO.

E23. Objective E: Were the UNDP's whistleblower and non-retaliatory policies applied effectively? Were the whistleblowers' concerns satisfactorily assessed by the Ethics Office to determine if there was prima facie evidence to be investigated?

E24. It is our estimate that the UNDP policies are comparable to the best, although the structures that support whistleblowers were not seamless and can be improved. The review has not found no reason to dispute the fact that the policies and procedures regarding whistleblowing and protections were applied as per the rules and procedures of the Ethics Office³, and, there is no evidence that UNDP undertook any retaliatory actions. The review affirms clearly, that there is no evidence that the UNDP undertook any punishments or retaliatory actions against either individual for having blown the whistle.

E25. But this does not result in complete satisfaction for the whistleblowers. Any "retaliation", even if by disgruntled individuals, if correct, must be guarded against, with faster and better investigations. Some of the allegations made, deal with individuals who may now be working at the UNDP, and independently, it is recommended that additional follow up investigations are required. The review identified additional steps for consideration: examine if the office of the Ombudsman could play a larger role as a single point for guidance, mediation, coordination; and determine on an urgent basis if each unit is adequately staffed and if there are barriers to coordinate responses, and some specific to

³ The reviewer has found no evidence to disagree with the Ethics Office statement that the two persons were treated fairly and appropriately in accordance with UN SGBs and UNDP whistleblowers policy. It also has no evidence to support that they were not treated in accordance to established policy.

the two individuals concerned. There could also be additional empirical work done, with surveys and statistical methods to arrive at more actionable findings on the actual performance and perceptions of those who have interacted with the whistleblower systems currently in place.

CONCLUSIONS

- E26. Several reasons contributed to the failures noted. Many are narrow, and project- and situation-specific, but there is a larger framework that contributed and needs the attention of the Board. There is relentless pressure to do more with less, pressure to keep funds flowing, and this was seen especially at the project support office, which was completely dependent on fund flows. The risk assessment failed to provide the degree of technical and managerial capacity necessary to match international standards.
- E27. The review confirms that a number of individuals were able to game the relatively weak systems of governance and technical capacity and most important, in relation to remedial actions, when none were seen by those who gained from the existing weaknesses.
- E28. It does appear from the review that existing whistleblower and non-retaliatory policies were applied, but the effectiveness of their applications, in each case, raises some doubts and concerns. Each case had challenges that made satisfactory assessments difficult. Whistleblowers have always been met with ambivalence, and many surveys show organizations may suffer from the more natural tendency of staff to keep their heads down when aware of problems at work. A balance is required to encourage whistleblowers in as many ways as possible, as opposed to “willful blindness.” In fact, their perseverance has contributed to the high levels of external scrutiny that was required.
- E29. The execution of the S&L project suffered from many actions and inactions by UNDP staff responsible at different units, levels and locations. Clearly, the project was not managed efficiently or effectively during the entire history of the project. The facts found during the review also establish that the problems and challenges faced went beyond the S&L project; a number of other climate change-related and GEF-supported projects also suffered from inadequate and inappropriate supervision and management.
- E30. This takes us to larger questions. What do these facts of mismanagement establish? At one extreme, the whistleblowers believe that the extrapolation of the facts clearly proves that a coterie within the UNDP “conspired and colluded” to enrich themselves, defraud the UNDP and protect each other from consequences. In our view, we believe the evidence and actions taken by national authorities strongly suggest that the national

project leader of the S&L project was corrupt. A number of actions taken in the project, such as some of the individual contracts and tendered activities, were certainly nepotistic.

- E31. It is our view that the case of the S&L project had two facets. The first relates to overall weaknesses that are not uncommon within the UNDP GEF portfolio. The UNDP has estimated cases of fraud as being under 2%. But the cases of delays in project execution, tendencies to overlook incompetence and to carry on without making more systematic changes are more common and help to obscure when more serious problems as in the S&L case become systemic.
- E32. The pandemic illustrates that the likely emergence of a dangerous virus was predictable, even if its occurrence and extreme impacts were an unexpected “outlier” that morphed from an initially small event into a global one with extensive negative impacts. Similarly, the full ramifications of the S&L case morphed from smaller actions into cumulative effects, outside the regular expectations of most UNDP staff. This review cautions that we must avoid the potential fallacy of post facto logic for explanations of what happened.
- E33. One way to reduce downside exposure is by ensuring more slack into the system, greater redundancy, parallel processes, to invest more in data-gathering and analysis to pick up the early warning signs and ensure remedial actions, as did not happen in the S&L case. In parallel, decision-makers must be more active. Unless the culture and practice change, people who would sound an alarm remain silent. These people are just not getting heard. At the same time, many alarms are false, and organizations need protocols for listening; for identifying next steps, with better anticipating the consequences of the events flagged, gauging their significance, without suffering paralysis from analysis.
- E34. Therefore, the UNDP must be better prepared to evolve as the world becomes a more complex system, with connections and interdependencies, and better understand and learn what is happening and what it means for the organization. It must strengthen resilience and move away from a decades-long effort to make all organizations more “efficient”. Efficiency, as measured by total funds disbursed as compared to the cost of delivery, is too simple a metric, which does not capture many important aspects of quality of delivery and fails often to strike the balance with resilience. This review finds that too many people involved in the project and its management worked only on narrowly defined components, missing the whole.
- E35. The simple availability of appropriate rules, policies and guidelines can be insufficient in effective actions being undertaken. The UNDP has clear rules on procurement that applied to the S&L and these rules apply to all other projects. The rules were violated on many occasions on the S&L project. The mandatory rules are often insufficient by themselves without complementary inputs of judgements and guidance. For example, the S&L project was audited by national auditors during each year of its operations. Each audit provided the project with a completely satisfactory rating and did not find any issues.

- E36. The review finds that there were a number of individuals and units working for UNDP who did not perform their work at the levels of clearly specified standards. A number have stated to the reviewer, and in their notes, that they were afraid of repercussions. The most common fear mentioned by UNDP staff was of negative performance review if they did not hew to the demands made by superiors, and the possible loss of their job.
- E37. This review placed a higher evidentiary value on reports prepared by external consultants. All external consultants (five different individuals), beginning in 2011, reported different degrees of dissatisfaction with the project and its activities. Each of them reported a certain amount of surprise, bemusement and, over time, highly negative reports on the quality of outputs, on the capacities of individuals working on the project, and on some of the processes followed. All of them were threatened with non-payment for their work and one consultant had his contract terminated due to his negative views.

RECOMMENDATIONS

- E38. It is not possible for the UNDP to completely remove conflicts of interest that will always exist in large and complex organizations. Necessarily multifaceted and complicated processes that are required cannot be simplified without losing effectiveness. But how people and groups work does respond to the systems of incentives and penalties that operate. The review of the S&L case suggests some specific and immediate steps, recommended below. Others will require ongoing efforts to achieve changes in the work culture that reward greater transparency and remove fears of unfair reprisals aimed at anyone who signals issues and challenges that need to be addressed.
- E39. A holistic approach is required and it is not simply a matter of tightening processes and adding more rules, oversight, audits and investigations. The review found the rules and procedures to have been largely adequate and, if fully followed, would not have led to the unravelling uncovered in the S&L project. Our view suggests parallel efforts in the medium term towards making the UNDP more open, more effective and more accountable to all stakeholders, so as to continue to make real differences to peoples' lives everywhere. A more open system requires openness not only to governments, but also many others. Effectiveness requires improved feedback and learning from partners, beneficiaries, staff and independent contractors. The S&L project has underlined the importance of technical reports and advice by independent, short term contractors⁴. It also underlines several lacunae in their hiring and in their use which can easily nullify their value towards more effective work.
- E40. The recommendations suggested below can achieve needed improvements. They are not aimed at perfection, and are key steps forward, requiring on going attention and work,

⁴ One report suggests that UNDP could be using such technical consultants with the short term assignments in similar numbers as its more regular staff.

and are needed to keep the UNDP in step with larger changes in its environment. Depending on further reviews, and the wishes of the Member States, the Administrator and senior staff may wish to lead a multi-pronged campaign that moves the UNDP away from the simpler metric of getting projects completed and funds disbursed as the dominant paradigm, and add corruption in projects as another metric, changing the work culture, and making it more acceptable to talk about mistakes and corruption, reducing the incentives of silence.

E41. The list of recommendations are:

1. The UNDP must act with reasonable speed to comprehensively address the many different issues that are raised in the review. **Some of these deal with individuals who may now be working at the UNDP. This requires speedy follow up investigations,** keeping a humane approach to the individuals concerned, while being fair, and this requires narrowly focused investigations by an outside resource to ensure independence. This review cannot determine if some individuals were only negligent or worse, or the most appropriate courses of action.
2. For the two whistleblowers the situation requires each to be handled differently, with a common approach to each case. The fact that the policies and procedures regarding whistleblowing and protections were applied as per the rules and procedures of the Ethics Office, and, there is no evidence that UNDP undertook any retaliatory actions, does not result in complete satisfaction. Management may consider mechanisms, outside of the “Protection against Retaliation” policy, that could be made available for all whistleblowers to pursue claims of unfair treatment (e.g. request for management evaluation, abuse of authority charges, and possibly others) and promote their availability.” The review suggests further review of courses of action that would be most appropriate, now and subsequently, and also to report on any of their charges that may require further response and/or investigation (as suggested in earlier).
3. **Given the conclusion of this review that the project was not managed either efficiently or effectively; that this pattern should have been apparent and should normally have resulted in remedial actions; and the fact that the problems continued and raised major alerts that were not escalated and appropriately managed; suggests that the UNDP should consider a restitution to GEF of its entire management fee for the S&L project. To align incentives and penalties, the management fees that are returned should be taken from the budgets of RBEC and BPPS in equal proportion.**
4. UNDP must continue the processes that have begun with the parallel reviews of the RBEC and GEF portfolio, which have been undertaken prior to, and continue independent of, this review. The review commends the process being used by RBEC; this could be a model to be extended to other regions. The review commends the

statistical nature of the BPPS review undertaken so far, and supports the systemic changes being examined. Both provide elements of actions which encourage cultural changes, whereby cooperation across units is encouraged and utilized to break down silos.

5. The Administrator and the Executive Board of UNDP must form a review process that can examine the functioning of the offices that are independent of the Administrator. The OAI, IEO and other units should provide more statistical analyses of problems and effectiveness to show trends by specific problem areas, by country, region and portfolio.
6. Perhaps the UNDP guidance on reporting needs to be simpler and clearer, with penalties for non-compliance. A small and well-understood list of events could be elevated in the procedures, where the failure to report certain facts to an immediate supervisor or to the investigators could be made grounds for disciplinary action.
7. The UNDP should seek to enhance the positive and important roles played by independent external consultants, by increasing safeguards for external review and evaluation processes and persons engaged by UNDP on contracts. First, while promoting and continuing with the decentralized evaluation process, in order to reduce the conflict between the manager whose performance may be in question, who is also tasked to approve and make payments, a parallel copy could be sent to the IEO, where the IEO could step in to resolve issues of the nature raised in the S&L case. Second, parallel reporting can more easily allow for early initiations of investigations where warranted. Third, all consultants could be provided with a simple statement (reflecting compliance requirements) in the same way that evaluators are required to declare any conflicts of interest.
8. The UNDP must take immediate, medium and longer term measures to reduce its vulnerability to risks. Risk management should be more aware about lessening the impact of what is not known and not easily anticipated. It is not only an attempt to develop more audits, more sophisticated controls and improved IT systems. They often perpetuate the illusions of predictive accuracy, and always need to be combined with the human beings in the systems, who are oriented to faster and better information about its many different environments and contexts in which UNDP works and integrating a more systemic view of its operations.
9. The Office of the Administrator may consider setting up a task force, led by the EXO and comprising the senior most officers in the UNDP, that engages in the task of building and establishing a strong network, where all nodes and subgroups work together with the partners to engage strategically and to deliver on its missions both globally and locally. This task force can continue the work begun in this review and ensure an ongoing examination and improved understanding of who does what, who is accountable for what, and how the many disparate pieces are held together. The

task force can ensure actions are taken at the right levels and information is communicated to the right people. It can also ensure a review of different dashboards to support decisions at lower levels and the flow of information and decisions to the senior most levels. The review may include current processes of individual performance appraisals.

10. The Executive Board may consider, with the Administrator, options for a crisis (or systems) management team led by the EXO, with either core staff or a mode where staff are drawn into EXO, thereby keeping it flexible, open and with enhanced ability to address future cases speedily and efficaciously.

1. INTRODUCTION

1. The United Nations Development Program (UNDP) was rocked by a series of public charges on its management of a project in its portfolio of Global Environment Facility (GEF)-funded work on Climate Change in Russia. The goal of the project, “Standards and Labels for Promoting Energy Efficiency in Russia (S&L project)”, was to set improved energy efficiency standards for lighting and household appliances such as refrigerators and AC units. Initiated in 2007 at the concept level, with its final GEF approval in 2010, the project terminated in 2017. The project, financed with \$7.8 million from the GEF, was implemented nationally with the supervision of the UNDP.
2. The most public allegations were made in a Foreign Policy magazine article published in August 2019⁵. But well before that, in early 2017, the Terminal Evaluation of the S&L project, had concluded⁶ that there were “strong indicators of deliberate misappropriation” of funds in the project. The report noted an especially troubling finding that, between 2010 and 2014, the funds expended could not be matched with “useful⁷ outputs to advance the objectives of the S&L Project, one of the strongest indicators of misappropriated funds”.
3. The findings of the Terminal Evaluation had caused an investigation to be launched by the Office of Audit and Investigations (OAI), the supreme and independent authority within the UNDP to investigate all such charges. The findings of the Terminal Evaluation were also available to Member States who were members of the Executive Board of UNDP. The OAI in a “Management Letter”⁸, following its investigation⁹ into allegations of procurement

⁵ Lynch, Colum and Amy MacKinnon, Greed and Graft at U.N. Climate Program, Foreign Policy, August 14, 2019.

⁶ In a “Special Appendix to the “Terminal Evaluation of UNDP/GEF Project: Standards and Labels for Promoting Energy Efficiency in Russia” (GEF ID 3216)”

⁷ It is worth emphasizing the qualifying word – useful. Because the specified outputs, almost all are studies, did exist and had been produced.

⁸ Dated 9 May 2018. The investigations were conducted over a period of one year. The OAI adds, and the reviewer concurs - The definition of fraud and corruption varies among countries and jurisdictions, and the term is commonly used to describe a wide variety of dishonest practices. The following definitions are seen to apply under UNDP Policy: Fraud is any act or omission whereby an individual or entity knowingly misrepresents or conceals a fact a) in order to obtain an undue benefit or advantage or avoid an obligation for himself, herself, itself or a third party and/or b) in such a way as to cause an individual or entity to act, or fail to act, to his, her or its detriment. Corruption is the act of doing something with an intent to give an advantage inappropriate with official duties to obtain a benefit, to harm or to influence improperly the actions of another party. Actions taken to instigate, aid, abet, attempt, conspire or cooperate in a fraudulent or corrupt act, also constitute fraud or corruption. The OAI has opened several cases following reports from the whistleblowers, addressed according to OAI processes, including full assessment and investigation. The Reviewer has NOT shared any allegations/evidence during his review, with OAI, and this is a OAI requirement. This Review cannot allow OAI to know if matters referred to in general terms in this document were part of OAI’s previous assessments or investigations, except as referred to in the case of the investigation of the S&L project.

⁹ OAI investigators traveled to UNDP Russia in March 2018 to ensure all important information was available for its investigations and analysis before the closure of the UNDP office.

fraud within the project and the local office, stated in its conclusions that “OAI found that the **allegations of procurement fraud were not substantiated** and has therefore decided to **close the case**. Nevertheless, OAI has **detected a number of irregularities** that, although they do **not amount to misconduct**, need to be addressed¹⁰” so the same mistakes are not repeated in the future. The letter referenced the Special Appendix of the Terminal Evaluation, “which cited several circumstances concerning the structure and management of the S&L Project that contributed to a “toxic environment” facilitating the alleged misappropriation of GEF funds from the project”, and noted flaws in the selection of Steering Committee members, “who were allowed to apply for tenders and were awarded contracts, which created conflicts of interest”. The letter by the OAI proceeded to confirm five “weaknesses in the implementation”; and it noted “applicable policies, rules and procedures were not duly followed, specifically: Procurement Rules and Procedures; Financial Rules and Regulations; Guidelines for National Implementation (NIM) of UNDP-supported term projects. It concluded that “UNDP Russia **failed to fully understand the abovementioned policies, rules and procedures,..**” OAI made only a forward looking recommendation to the UNDP Regional Center in Istanbul¹¹, that in its **oversight of future NIM¹² projects**, Steering Committee members should not be allowed to have conflicts of interest.

4. As the formal processes of evaluation and investigations progressed slowly, there were also two whistleblowers who had raised charges of corruption in the management of the S&L project. The whistleblower complaints went further than the charges made in the Special Appendix to the Terminal Evaluation. The whistleblowers carried formal responsibilities on the S&L project and had made more specific charges of corruption, which included individuals involved in the management, supervision and implementation of the project. Some of the allegations go beyond the S&L project to the operations of the project support office (PSO)¹³, and the supervision and oversight of the S&L project and others, to include allegations of mismanagement or worse at the Regional Bureau/Office¹⁴ and with regards to some units at New York HQ.
5. Following the investigations report by OAI, May 2018, several discussions and exchanges continued between UNDP and Member States on the findings of OAI’s investigation and the management actions taken following the findings¹⁵. In July 2018, the OAI reported the receipt of four transcripts of conversations relevant to allegations, which they determined

¹⁰ Emphasis added.

¹¹ The Centre in Istanbul is a controlled and managed by the Regional Bureau for Europe and CIS countries (RBEC).

¹² Nationally Implemented Projects.

¹³ The office as created after the close of the Russia Country Office, and this PSO was operational from January 2011 to the closure of the S&L project in July 2017.

¹⁴ During the project life, there was a reorganization of UNDP support to the region. Initially the support was provided from Bratislava and subsequently from the new location in Istanbul.

¹⁵ The exchanges include a discussion at the June 2018 UNDP Executive Board meeting; and a meeting between the GEF CEO and the UNDP Administrator. There were others, on 9 August 2018, the UNDP Administrator provided an update to the GEF CEO and transmitted a Briefing Document prepared by OAI. Again on 16 October 2018, the GEF Trustees requested UNDP to provide an update on the steps taken after the OAI investigation.

did not provide additional information or evidence basis to reopen the investigation of the project. Such dialogue continued through 2018, when on 9 November 2018, UNDP provided the Board with a report with a summary overview of standard UNDP policy and procedures. On 30 November 2018, the OAI prepared an eight page briefing on the investigations it had undertaken, and general issues of audits and investigations. Another briefing and presentations were held in December 2018, where the UNDP GEF Executive Coordinator, OAI and the Legal Office participated. In June 2019, a further briefing by UNDP was held on the margins of the GEF Council meeting in Washington DC with the participation of GEF Trustees, GEF Secretariat and a number of donor countries. The UNDP was again represented by the UNDP GEF Executive Coordinator, the Head of the OAI and the UNDP Legal Office.

6. A number of Member States were dissatisfied with the answers provided and continued through 2020 to express their concerns. The Member States did not consider the responses provided by the UNDP sufficient assurance as to whether: the UNDP management or the independent Office of Audit and Investigation (OAI) have the necessary tools to undertake “a technical review when there is evidence of technical failings”, especially with indicators of financial misappropriation; if the UNDP had sufficient oversight of poor performing projects; conflicts of interest were sufficiently visible to the UNDP management and addressed; or the project was indicative of more systemic problems across the UNDP’s entire project portfolio. The Member States also had additional information from whistleblowers but were unable to form a view on the accuracy of the information they had in their possession.
7. After considerable discussions and time, the UNDP arrived at an agreement with the Member States that they would work together closely and the UNDP would initiate an “independent review” of the handling of the S&L project. The purpose set was to clarify the questions around the management of the project and to “review the governance, risk management and controls in place for S&L during its design and implementation phase up to its closure in 2017, including reviewing associated reviews, audits and investigations”¹⁶.

1.1 OBJECTIVES OF THE REVIEW

8. The overall objective of the review remains as stated in the Terms of Reference, with the scope of the assignment to review:
 - A. Whether the UNDP S&L Project was managed effectively to ensure that it met its objectives.

¹⁶ As stated in TOR. This is expanded to cover activities after the project closure in 2017 to cover the audits and investigations that followed and to address the sub-question in 8.4, deficiencies in communications to the “senior management level and to stakeholders”, which was seen as primarily the Executive Board and Member States, and more broadly to partners.

- B. Whether the correct procedures and processes were followed to ensure that fiscal resources for the project were prudently managed. This will include a review on the scope and outcomes of the OAI investigation into the S&L project.
- C. If the UNDP's management of the S&L Project was appropriate and existing oversight and accountability policies were effectively implemented at the country, regional and head offices. This will include a review of whether conflicts of interest and alleged fraud were sufficiently managed and escalated in the S&L Project.
- D. How and when, where applicable, deficiencies in the S&L Project were escalated and why deficiencies in the S&L Project were not raised earlier at a senior management level and communicated to stakeholders.
- E. Whether the UNDP's existing whistleblower and non-retaliatory policies and their application in the context of whistleblower(s) linked to the S&L Project have been applied effectively and concerns raised by whistleblowers have been satisfactorily assessed by the Ethics Office to determine if there is prima facie evidence to be investigated.
- F. Whether any red flags were raised during the course of the S&L Project and, if so, whether they were appropriately addressed in the project's Terminal Evaluation.
9. The above review is intended to provide the UNDP with important information to determine whether the S&L Project is indicative of systemic mismanagement of issues or lack of oversight and accountability¹⁷. The review is expected to assist the UNDP to further refine controls, risk management and governance arrangements established for the GEF-funded projects since the closure of the S&L project. The review is aligned with the UNDP Accountability System, in which the UNDP Administrator has the sole responsibility for holding UNDP staff accountable for misconduct. The review has been initiated by the UNDP to determine whether the UNDP had the right tools to manage, escalate or investigate the S&L Project from a governance perspective.

1.2 METHODOLOGY AND PROCESSES FOLLOWED

10. The review was begun in July 2020 and the draft report completed at the end of November 2020. This period of five months was roughly divided into four short and somewhat distinct phases. First, and immediately on appointment, the reviewer was invited to a briefing by Mr. Mourad Wahba, Associate Administrator (Acting), representing the Administrator,

¹⁷ Documents and information received at the end of July have added the possibility of criminal activities by individuals to the other concerns. This has added a new dimension of additional complexity and has opened the review to taking additional care. Additional care includes avoiding the names of individuals concerned except as in the public domain. It includes oral debriefs and notes to the Office of the Administrator to provide a heads up and to alert the Office of the Administrator to potential issues beyond the purview of this review.

UNDP. In the first round of discussions (begun on 3 July) the reviewer focused on why there was a need for this review, its goals and purposes. The reviewer asked for clarification if, given the many challenges apparent in the TOR and the envisaged work, it was a useful process to engage in¹⁸. The challenges highlighted include:

- The TOR spoke to a “review team” but there was no team.
- The reviewer had assumed the review would represent the findings and deliberations of a group with combined experience, as no single person can have all the expertise to match different aspects of the potential domain, context and specific expertise that appeared to be required.
- He was concerned as to whether the findings of a single reviewer would be seen to be adequate by the very different stakeholders.
- He wondered why the UNDP did not undertake the task itself.

11. The response from the Deputy Administrator was encouraging, indicating that it was of highest importance to “assess the facts and settle all disputes about the UNDP S&L Project given the many different charges and allegations” and that “the review would be completely independent to determine the facts as it saw fit”. It was agreed that the reviewer could request additional resources for the review “as and if required”, to be incurred on a “contingent basis” and with prior approval of UNDP. Possible examples of needs were discussed and noted - additional support towards research and documentation; support for Russian translations; legal and forensic audit resources; the addition of one or two additional independent experts to add to the reviewer, or subsequently, to examine drafts of findings and conclusions; and so on. It was also agreed that resources would be available if the review determined and recommended additional work beyond the capacity of the review or reviewer, for follow up on some specific issues and possibly recommendations that included investigations, other actions or needed further examination, with greater focus, detail, or purpose¹⁹ than could be possible for this review. The discussions covered the fact that the current arrangements were seen as a key step towards resolving a set of issues and allegations that had distracted the UNDP and the Board from the main goals and work of the organization; a speedy resolution of facts and the possible next steps were a priority.

12. The initial steps of the review began through an arrangement by the Executive Office (EXO) for the reviewer to hold a round of interviews with senior staff and those Member States who wished to make their concerns known to the reviewer. In parallel the reviewer was provided with access to key documents related to the article in Foreign Policy for preliminary analysis. In the meetings in the first two weeks, it was apparent that there was a need for a review that could bridge the gap between different findings and interpretations and could lay out some clear descriptions of what happened and what could be the next steps. Following a quick analysis of the information, the submissions made by the UNDP

¹⁸ Several meetings held with the Administrator’s office to discuss the way forward, were placed on record.

¹⁹ In fact the review recommends several specific additional steps to be taken by the EXO, UNDP.

during the period and the concerns raised by Member States, the reviewer concurred that a review that prioritized speed, that could clear the air and bridge the gap between the UNDP and Member States should be feasible, appeared to be useful and could be undertaken with some caution and care.

13. A mutually agreed way forward was reached, based on suggestions of the EXO, specifically to engage in full and confidential discussions with all the Member States in the Executive Board of the UNDP, who had raised concerns about the internal investigations undertaken by the OAI and the statements made by the GEF unit in defense of the S&L project. An inception period of around four weeks was agreed, at the end of which the reviewer could stop, continue or seek major adjustments.

The Inception Phase (Mid-July To Mid-August 2020)

14. This second phase began, guided by the feedback received from the UNDP and the correspondence of the concerned Member States. Both appeared to prioritise a speedy settlement of the issues as the allegations, charges, counter charges and suspicions had begun to hamper the work of the UNDP on Climate Change and Sustainable Development. More interviews followed and additional documents were reviewed, so as to make a better assessment of possible resource requirements and a reasonable time line. It was agreed to set a longer time period for the review. It was also agreed that an iterative and adaptive process would be followed for the review. The goal was set to arrive at a report that could be accepted by all stakeholders as fair, accurate and complete.
15. During this period additional key documents were reviewed and more interviews with principal stakeholders at the UNDP were conducted. A positive development was that the methodology to be followed for the review had become clearer with the preliminary document reviews and the substantial numbers of interviews.
16. An Inception Report was prepared, delivered early August 2020, reviewed and agreed upon. This laid out a longer time line to allow external individuals to be contacted, interviews to take place and stakeholders to present their concerns, in the context of summer and COVID-19. It was agreed that speeding up the schedule would not allow a fair and comprehensive process and would easily lead the review to be accused of "rushing", to "exonerate" or "whitewash" people or organizations. The Inception Report put forward some **strong hypotheses** of the likely findings of errors by the UNDP, and noted that some issues could potentially need additional work, such as possible investigations that the review was not equipped to undertake, and hence lead to a confidential memo to the Administrator for possible follow up actions. These hypotheses were quickly confirmed in the following weeks.
17. Several facts determined the nature, emphasis and priorities for the review. The numbers of people and documents and the need for sensitive issues to be handled with judiciousness all required care and time. Possible additional resources that could be required (see para 11 above) were laid out formally and it was also agreed that any addition of people and

skills would require a revision of the timetable for the review, taking into account time needed for selection, procurement, onboarding, familiarization and so on.

Third Phase

18. After the Inception Report was submitted and agreed to, the Administrator's office sent out messages more widely and confirmed to interested Member States, the Executive Board and all relevant units, the commencement of the review, with the request that each stakeholder and the reviewer should communicate independently, share inputs and discuss questions for the review. It was also at this time that the first contacts were established with the two whistleblowers. Early in this phase, additional documents and follow up interviews suggested some potentially highly alarming and challenging information; the actual documents and the multiple allegations of the two whistleblowers had not been seen earlier²⁰. This was the introduction to a more complex set of accusations, involving multiple individuals who may have conspired in multiple wrong doing and fraudulent activities. These additional documents named many persons and how they had conspired. Conversations and documents shared during August were very concerning; they forced a careful reappraisal and threatened to overturn the review process.

Key Stakeholders' Feedback

19. The review identified the primary stakeholders²¹ as the different constituent units of the UNDP, its Executive Board and concerned Member States, and those who alleged mismanagement and possible wrong doing, and the review engaged intensively with this group. The wider group of stakeholders include those who have an interest in the dissemination of the final report includes employees, consultants, development partners and beneficiaries, all of whom have an interest in ensuring efficiency and effectiveness at the UNDP, as one component of the broader set of development processes, and they are meant to be the larger audience for whom this report is prepared.

²⁰ Some of the allegations were stated earlier in the Lynch and MacKinnon article in Foreign Policy but the information provided by the two whistleblowers was more graphic, detailed and concerning.

²¹ The word "stakeholders" is often used with different meanings. Here a stakeholder is "any group or individual who is affected by" this review, and more broadly, those who can affect the findings of the review and who can affect the achievement of the review objectives, and implement the recommendations that may emerge. This the smaller set of stakeholders that the review attempted to ensure sufficient engagement, within the limits of time and their availability. The stakeholders who have an interest in the dissemination of the final report is much broader, and they include wider groups of employees, consultants, development partners and beneficiaries, who have a broader interest in ensuring efficiency, effectiveness at UNDP, as one component of the broader set of development processes.

- In the discussions with the UNDP staff there is *varied importance* given to the stocktaking. Many have shown interest, but all put greater importance on the maintenance of reputations.
- The Member State partners placed greater interest in the stocktaking, the possible findings and the recommendations for the future.
- The Office of the Administrator placed the highest importance on the need to “assess the facts and settle all disputes about the UNDP S&L Project given the different charges and allegations” and this was fully supported by all senior staff interviewed.
- The two whistleblowers also wished for the facts to be established during the independent review²². In addition, they sought validation and vindication of their allegations.

20. The feedback allowed for the determination that the review would **not resolve** all issues, and could not arrive at determinations that fully meet the goals of all the above stakeholders. Yet it was considered that the review could provide **a valuable step forward by clarifying what did happen, so that more appropriate actions could be follow. We planned our work and outputs with the goal of meeting the objectives of a fact-based “review”, and believe one marker of the success of the report would be if all stakeholders do find the entire report to have been of value. Additional value is possible if it leads to remedial actions.** The work was designed along four sequential blocks, focused on where the review could add value, while stopping short of an investigation of individual wrongdoing:

- First, assess the facts and settle disputes about what happened in the UNDP S&L Project given the different charges and allegations, and determine from the facts whether the project was managed to the standards that the UNDP has set for its work.
- Second, assess if and where policies, procedures and processes were not correctly followed in the S&L project to illuminate whether project resources were prudently managed, and, review the scope and outcomes of the OAI investigation into the same. That addresses whether management was appropriate and whether existing oversight and accountability policies were effectively implemented. If not, assess possible failures.
- Third, depending on the deficiencies found and when they occurred, determine if the deficiencies in the S&L Project did raise any red flags; whether they were timely, and dealt with appropriately. If deficiencies were identified, how were they addressed: by time, during execution, and in the evaluation; communicated at the correct management level; and how and when they were communicated to stakeholders.
- Separately, examine the UNDP's whistleblower and non-retaliatory policies and their application in the context of whistleblower(s) linked to the S&L Project, to see if they have been applied effectively; assess “if concerns raised” were satisfactorily assessed by the Ethics Office; and determine if there was “a prima facie evidence to be investigated”. This

²² The reviewer agrees with the Ethics Office that full satisfaction was not entirely possible as this review is not an investigation into their claims. Further elaborated in paragraph 20.

was kept independent of the other issues, given the conflicting views and facts presented and several legal matters that went beyond the competence of the reviewer.

- Finally, make recommendations to the UNDP on the way forward and highlight key results of the review to stakeholders and partners.
21. The above was shared with the stakeholders, and is similar to a finding as to whether there were “faulty products” in a product manufacturing company. The S&L work produced outputs; the work was done in one office (analogous to a branch office), with a GEF production line, where one output delivered was the S&L project. The review begins with the hypothesis that on this specific line and location, the “S&L project (as an object)” possibly some other “outputs” appear to be tainted. The first step would be to establish if that was a fact and how and when such a fact or facts were established.
 22. Various documents suggested the "production line" (beyond the specific product) was not well/correctly organized, managed or supervised over a period of time. The line was supervised locally, by staff at RBEC at Istanbul and from New York. The outputs were (and remain) 100% under the joint accountability of RBEC, and BPPS, with the unit managing the GEF funds. Thus the issues for the review are - first, to reconfirm, if true, the extent of unsatisfactory outputs and/or the processes around any unsatisfactory outputs. If true, the reasons how and why various quality control (QC) mechanisms did or did not work; did or did not alert managers; and what attempts were made to resolve the alerts raised within the process.
 23. The review has been circumspect about questions regarding individuals who may have been in charge and their degree of responsibility, primarily for reasons of law, ethics and due processes. In addition, as discussed in para 35, such a deviation would have required more time and resources and could jeopardize the primary purpose of the review.
 24. The review found many instances where errors that contributed to problems could be due to poor judgement or inaction. But the review did not proceed further to **demand explanations** from individuals because the review is not constituted for that purpose and would be unable to follow due processes. Hence the review has remained cautious and careful on the question of **possible individual misconduct and has taken care to avoid disclosing personnel by name**. Exceptions include when the name only signifies a position or responsibility and is relevant for following the narrative, or the information provided about the person is in the public domain, or, as in the case of the two whistleblowers, where prior permission has been given to mention their names. This issue of possible individual wrong doing needs to be navigated with care in close cooperation with the Office of the Administrator. Interviews with RBEC also confirmed additional concerns that shape this report but there remain continuing developments that are deemed to be outside the scope

of this review. The review stopped examining any new developments on November 15, 2020²³.

25. Within the limitations of the report, without naming individuals, it was agreed that a draft report would be circulated to all key stakeholders with the goal to arrive at a report that could be accepted by all as fair, accurate and complete. A final three to four weeks period was added to get feedback and liaise with all stakeholders to arrive at the final report.

The Review Approach

26. The review and the report have been guided by the principles of fairness, so the report does not name individuals who may be subject to, or of, investigation. Individuals are named where that fact is in the public domain or the persons agreed to being named after seeing the information in the report. As the review found a number of sensitive materials, care was taken to minimize inappropriate disclosures.
27. The review was planned with complementary approaches and used a mix of extensive review of documents produced by and for the S&L project; all related documents that cover management actions and reports; and audits undertaken and their reports. The above was supplemented by all additional documents provided by all whistleblowers, evaluators and consultants engaged in the project. The document review was supplemented by key respondent interviews, focused on quality assurance systems.
28. The documents were verified, cross-checked and used to construct a clear statement of facts together with a very detailed outline, structured along the time line of 2010-2020. This provided answers for the first two objectives and, supplemented by the interviews, will lead to the conclusions for the second two objectives and guide the recommendations.
29. The above process provided a view of the internal management controls, human resources management, and procedures and routines for monitoring and review. It is important that these systems and processes meet the needs of the organization and that they are fit for the ongoing smooth operation of the UNDP.
 - This review is being conducted with a very short time line within which many assessments cannot be done comprehensively (changes are suggested to the original time line and resources below).
 - The questions posed for the review and the methods used will be prioritized for their potential and immediate use by the UNDP. The required “stocktaking” must provide the Member State partners, the UNDP and other partners comfort in moving forward.

²³ The reviewer was not able to fully isolate himself from new information about corruption allegations at climate projects at UNDP, as new reports emerged, see article by Edward White and Leslie Hook in the November 30, Financial Times. This article reinforced the need for a speedy review.

- 100% of the reviews and management control documents related to the project will be used.
- The discussions have led us to increase the emphasis on participatory and transparent approaches, with the review unfolding in four (conceptual) stages.
- This would allow us to adapt our focus and emphasis and fine tune the efforts towards answering the questions as we move through. There is a recursive, feedback loop in the process to improve robustness and relevance of findings.
- Emphasis is being placed on the overall **robustness of findings and their relevance** to the key users.
- A time line was begun with key events and relevant documents to provide a comprehensive summary and aggregation of activities over the 2009-2020 period, as well as to establish all links as substantiated by documentary evidence between the review questions and available documents.

1.3 DATA COLLECTION

30. As anticipated, the review is based on secondary information, such as electronic messages and other documents related to the project management from its conception to its closure, such as documents related to actions taken by UNDP to the different alerts provided by its own systems, and from outside UNDP. The review remained open to new primary information that could potentially become available from interviews. During the course of the review, over 500 documents, records, correspondence including emails, letters, memoranda and investigative materials, other publicly available information, including a limited number of depositions, media reports and interviews, and other articles were consulted. In addition to this extensive documentary review, more than 100 interviews were conducted with current and former UNDP staff and officers of Member States, with project consultants and two “whistleblowers”, and many interviewees were contacted several times. The reviewer answered questions from Member States at one side event within the EB meeting in September 2020.

1.4 STRUCTURE OF FINAL REPORT

31. Following this introduction, the second section presents the background to the project and the context of its development. It then describes key developments in the project over time in relation to the questions related to its management. The third section gathers the findings of the review with the most salient findings on the S&L project that provide the basis for the conclusions reached in the review. Within that section the review outlines the issues that arose subsequent to the closure of the S&L project and the nature of disclosures from the UNDP to its Board. Finally the section reviews the cases of the whistleblowers.

32. Various threads that emerge from the document review and discussions with stakeholders detailed as findings in section three are pulled together to draw the final conclusions in section four. The report ends with recommendations.
33. There are several annexes. They list the terms of reference, the people interviewed and documents referred to. Additional annexes (with references as XX) with statements about the two whistleblowers; a detailed time line; details on the project office; and on related issues and topics **are not attached here now based on legal and privacy concerns**. They would be provided later in the longer and complete final report; or made available to readers who may be interested in more details.

1.5 TIMELINE

34. The assignment for the review was agreed upon in mid -July. An inception report was provided to UNDP in early August, which laid out some of the key challenges expected, an agreed process for the review and preliminary observations from a rapid review of key documents. Most of the interviews, documents reviewed and notes on the project and related matters were undertaken in September and October. November was used to prepare the first draft and share sections of the report with those to whom it pertained for review and comments on accuracy. This draft (called final) is the final step before the report being completed. Comments have been incorporated from UNDP into this draft that is now shared.
35. The final report, incorporating further comments and feedback, will be submitted at the end of December 2020.

1.6 LIMITATIONS

36. A primary limitation stems from the fact that this review is **not an investigation, and makes judgments that are not meant to be grounded in legal practice**. The review was undertaken with care so as not to step into the jurisdictions of an “investigation²⁴” where any individual's conduct is to be investigated to potentially arrive at a legal finding of “misconduct”, “wrong doing” or any criminal charges. The review emphasized examinations of “public” and “semi-public” documents with the UNDP regarding the S&L project. It did not demand written statements and undertook no cross examinations of “witnesses”. It relied on discussions with people who were involved – with the limitation that many staff members had moved on to other organizations - and used questions for clarifications, while

²⁴ In an investigation individuals would have a right to defend their actions and to be represented by counsel.

undertaking due diligence by cross-checking the information provided with other sources and documents. For these reasons, the review **could not by itself be used** to determine if fraud occurred (see also footnote 8). The review confirms that certain unsavoury practices and actions did happen within the project under review. The review takes into account the available public records that both support or confound the findings of fraud. The review has determined there is sufficient cause for additional investigations and it has made recommendations to the Administrator, in strict confidence that some specific allegations appear to merit further investigations.

37. Travel restrictions during the COVID pandemic prevented any travel, meetings or discussions in person. This was remedied largely, but not completely, by electronic communications and video meetings.
38. The review covers a period of almost 12 years from the concept development of the S&L project. The project was closed three years prior to the review. This limited access to some of the persons involved in the project and allowed for small gaps to remain in the documents and records reviewed. The gaps do not appear to invalidate the findings and conclusions, which are based on a robust set of records, but access to some additional documents and people could have added nuances and provided additional explanatory variables for the developments noted.

2. BACKGROUND AND CONTEXT

39. The UNDP first established a Country Office in Russia in 1997 during a period of national political and economic uncertainty. By 2008 there was greater stability, and the country had enjoyed almost a decade of continuous economic growth. Its economy and growth were highly dependent on the price of oil and gas and their exports. Simultaneously, the poor energy efficiency of the economy was having negative impacts on the economy, people's welfare and the climate. Improving energy efficiency was a high national priority and was supported by several international agencies, including the UNDP, the World Bank, European Bank for Reconstruction and Development (EBRD) and others. It is in this context that some national proponents began to work with the UNDP staff locally and with its partners to develop and finance interventions to improve energy efficiency in some key sectors and regions. The S&L project, and the entire portfolio of climate change projects, would be considered to be of high relevance to the country.
40. At senior levels of the UNDP, the issue of the transition required for the Russia Country Office, and the nature of the office and its mandate, were an important concern. There were joint discussions with the national authorities on how the UNDP and Russia should work together, given the final agreement in joint consultations to close the Country Office at the end of 2010. It was determined in discussions with Russia that the UNDP would continue to support, through a project support office, the approved programmes related to environmental improvements, funded by the Global Environment Facility, of a total value of around US\$ 55 million²⁵. There were contending views and other options were examined, including closing the office completely. The two drivers for the decisions were the relevance of the global environment portfolio to the national priorities, and the strong requests by other UN agencies, who had no local staff and were reliant on support from the UNDP in their operations²⁶. While these were the two most decisive arguments for keeping the office open as a smaller project support office, there were concerns to manage the costs of the smaller office. For foreseen risks, the fact that the office would be supervised by the Regional Bureau on operational matters and by the regional technical advisers on technical matters was considered to be adequate. The Bratislava Regional Center (later the Istanbul Regional Hub) was mandated to provide oversight on

²⁵ The figure of US\$ 55 million is provided in the audit report of 2013, see citation below. The review examined the approved GEF projects managed by the Russia office during this period and they total US\$43.5 million for 8 projects. We assume the difference is due to the fact that two projects were cancelled subsequently. See Annex XX: Russia Office.

²⁶ The Office also provided operational support services to several United Nations agencies such as UNAIDS, OHCHR, UNEP, UNFPA, and UNODC, on a fee for services rendered.

operational functions as the local office was seen not to have staff with the required level of authority to ensure segregation of duties²⁷.

41. The UNDP has different implementation modalities. The preferred mode is with national entities, where the national government has the overall responsibility and assumption of accountability for the formulation and management of UNDP funds (or in this case GEF funds managed by the UNDP), called “National Execution/Implementation (NEX/NIM)”. Thus it was determined that the S&L project, together with the others in the GEF portfolio, would be “nationally implemented projects”, with the supervision of a new “Partnership/Project Support Office” in the Russian Federation.
42. The Country Office was closed in January 2011. The international and more senior personnel departed and the Country Office was reconstituted as a project service office (PSO). It was then headed by a National Officer, who reported to the Chief, Division 2, of the Regional Bureau for Europe and the Commonwealth of Independent States, based in New York²⁸. (More details are provided in Annex XX – in final report only).
43. The S&L Project had some structures under the “National Implementation Modality (NIM)” of the UNDP²⁹ that are complicated, but also common to UNDP. The project was to be undertaken in partnership with the Ministry of Education and Science (MoES) as the implementing partner for the S&L Project. At the time, UNDP had clear guidelines³⁰ on the modality, and stated that – “As implementing partners, government institutions are responsible for the technical and administrative implementation of a development cooperation project **pursuant to UNDP Regulations and Rules. The implementing partner is accountable to UNDP for the resources entrusted to it, just as UNDP is accountable to the Government to ensure that its support is in line with national priorities. The accountability of an implementing partner to UNDP does not imply any delegation of**

²⁷ The review noted that in hindsight two mistakes were made at this time. The costs to UNDP to maintain the office proved higher than anticipated, leading to efforts to reduce costs and the lack of any qualified technical persons available at the local office proved to be a serious lacuna.

²⁸ UNDP, Office of Audit and Investigations AUDIT OF UNDP PROJECT SUPPORT OFFICE IN THE RUSSIAN FEDERATION, Report No. 1087, Issue Date: 24 May 2013. The Head of the Office has a standard delegation of authority up to \$100,000. The number of staff in the Office was to decrease from 12, at the time of the audit, to five by 31 January 2013. At the time of audit, the Office and the Regional Bureau for Europe and the Commonwealth of Independent States were drafting a new Internal Control Framework to reflect the staffing changes in 2013.

²⁹ It is pointed out here that NIM procedures were a part of the global consensus to the increasing use of national or country systems, a process unfolding for over a decade prior to the “Busan partnership agreement” endorsed in 2011, by almost all countries and development agencies. This committed partner countries to strengthen their own country systems and committed partners to use these systems as the default option. UNDP had developed earlier guidance under the label NEX and this was updated as NIM in 2011. Thus while NIM processes added a layer of complexity, the NIM modality is used by UNDP, except in exceptional circumstances. The goals are to reduce duplication and to ensure development practice contributes to strengthening partner country systems. This is mentioned here as subsequently a reason provided by BPPS in communications to stakeholders attempted to deflect responsibility away from UNDP and suggested that the NIM process contributed to the challenges in the S&L project.

³⁰ National Implementation by the Government of UNDP Supported Projects: Guidelines and Procedures, 01-Jul-11.

authority on the part of UNDP to the Government, any of its employees or in regard to authorities in charge of the project (national director and coordinator)." The document and others make clear UNDP procedures and actions that must be taken by UNDP to ensure prudent management of resources.

3. FINDINGS

3.1 OBJECTIVE A (and C):

Was the UNDP S&L Project managed effectively to ensure that it met its objectives?

44. A short answer, is no, the evidence seen in this review leads to the firm conclusion that the project was not managed efficiently or effectively and was beset with problems almost from the first year of its commencement. The governance, risk management and controls³¹ in place for the project during its design and implementation phase up to its closure in 2017, including associated reviews, audits and investigations, were systematically reviewed and lacunae in each of the areas have been noted in the review.
45. The problems that beset the project did set off many warning lights along the way (see Q2 below and Annex XX for details). The fact that many warning lights were visible along the way allows the review to confirm the value of the processes as set out by the UNDP, which are normally in place for all projects. The failures were not caused due to a lack of warnings but despite the warnings, which is concerning that actions were often not taken.

3.2 OBJECTIVE F:

Were any red flags raised during the course of the S&L Project?

46. Yes, a number of such alerts did exist, and have been seen in this review. This has been clearly shown in the time line, where a series of warning lights is highlighted (detailed in the Annexes XX). A few are listed here for convenience (and continued through the text):
- From the beginning, at the concept stage, in 2007³² the local UNDP office promoted the Federal Agency for Science and Innovation (MoES) to implement the project, while the GEF reviews suggested a more relevant ministry should be chosen.

³¹ Governance, risk management, and compliance in our view is an integrated collection of capabilities so that an organization can more reliably achieve objectives, address risks and act with integrity, and require the departments of audit, compliance, risk, legal, finance, IT, HR, the technical departments and executive office and the board to work together synergistically. Compliance requires following legal boundaries and policies, procedures. In a large organization such as UNDP, to synchronize information and activity across units is required to operate efficiently, enable effective information sharing, more effectively report activities and avoid wasteful overlaps. Organizations reach a size where coordinated control over GRC activities is required to operate effectively. All require the same technologies and provide value people, processes and information, while overlapping, duplicated and unconnected activities negatively impact costs and effectiveness.

³² In hind sight, four persons were named at the concept stage of GEF documents, two were working in the Moscow CO and two others worked between 2006-2008 on another, earlier UNDP GEF energy efficiency project in Russia.. Subsequently one of the persons was barred from working with UNDP because of corruption. Another was

- The project was approved in 2010, with the condition to review the options for the implementing ministry after 12 months. This did not happen.
- During November - December 2010, the Regional Technical Adviser (RTA), based in Bratislava, proposed a smaller budget authorization for the S&L project for 2011. He believed it did not have a clear or effective work plan, and so suggested the approval for only one quarter. This was discussed within BPPS, with the conclusion that approval of a smaller budget should not be done because without sufficient spending authorization, activities would be delayed. Delays caused by smaller approvals would have “negative implications on the image of UNDP as a whole, UNDP CO will have difficulties to explain to the national Implementing Partners (IPs) why CO could not pay cash advances to the IPs, while the multi-year AWP are provided to UNDP by the IPs”. (Yellow/Orange light)
- The first international consultant to the project³³ was hired to provide guidance to the project in early 2011. He reported after a few days’ work (below the contract terms) that the project should re-assess and adjust its strategy and work plan; improve information exchange; set-up a central data repository; ensure that sufficient (English) language skills are available in the project team; and connect with international efficiency networks for benefits to the project. His contract was terminated early. (Orange light)

47. The review finds, from the concept stage to the end of the S&L project, a reluctance by project proponents to follow technical guidance. The review finds that the approaches across the different practices and business units in the UNDP operated in "silos" – critical management, systems and controls information reaching more senior levels was incomplete, dilatory, and not always focused on the problem identified or on finding solutions. (Yellow/Orange light)

3.3 OBJECTIVE F:

Were problems appropriately addressed during the project period?

48. Management actions during the S&L project appear to have been severely deficient along multiple dimensions. Continuing the time line thread above:

- Subsequent to the termination of the first international consultant in 2011, the RTA proposed that the work being undertaken in Russia lacked effective technical support

charged by Russian authorities for corruption. A third person remained through the project, hired as a project manager/adviser, and all advisers found him less than competent.

³³ Frank Klinckenberg. He has reported that he never met with the National Project Director and this was the experience of almost all international consultants. His advice was provided in a mission report, even after his contract was prematurely terminated.

and there was a large budget for international technical assistance and this should be used to hire in 2012 a full time international technical adviser, knowledgeable about the work and fluent in Russian. There was no action taken. (Yellow/Orange light)

- The clearest and earliest red light could be the Management audit of the project support office, conducted in November 2012, covering the period from January 2011 to September 2012, which found major deficiencies in procurement and serious lacunae in the processes followed. The review has been unable to determine who this report was circulated to, but it did not lead to any actions that could be verified³⁴. (RED light)

Were they appropriately addressed in the Project evaluations, including the MTR and the Terminal Evaluation?

49. The project underwent two evaluations, as is the norm for all UNDP/GEF projects. The first was the Medium Term Review³⁵ and the second was the Terminal Evaluation undertaken by a team of two consultants³⁶.

50. The Medium Term Review made many useful observations and recommendations for course correction in 2013 such as: the “project strategy and design” need to be updated; “the Project Manager should reformulate the project tasks in practical terms, and with UNDP country and Bratislava office”; and often “.....the Project Manager couldn’t explain what the meaning of certain outcomes, outputs and activities” were. Many further examples are provided in the Medium Term Review that the project was incoherent and lacked close relationships between goals, activities and outputs. (RED light)

51. The Terminal Evaluation correctly identified many red flags in the project. It included a special appendix that stated there were “strong indicators of deliberate misappropriation” of funds in the project. This was especially troubling between 2010 and 2014, where the “funds expended could not be matched” with “useful outputs to advance the objectives of the S&L Project, one of the strongest indicators of misappropriated funds”. The findings of the Terminal Evaluation were shared widely³⁷ and caused the first investigation to be launched by the OAI. (RED light)

³⁴ It should normally be sent to the RBEC. BPPS which has the joint management authority has confirmed that the report was not shared with the bureau.

³⁵ This was conducted by international consultant, J.N. Ketting, with report dated 10/06/2013.

³⁶ This was by Roland Wong and Alexei Zhakharov in 2017.

³⁷ In discussions with the OIE, it was reported that they were asked by one senior person in RBEC that the Terminal Evaluation should be changed or not shared. That was refused.

3.4 OBJECTIVE B:

Whether the correct processes were followed to ensure that fiscal resources for the project were prudently managed? This will include a review on the scope and outcomes of the OAI investigation³⁸ into the S&L project.

52. The review confirms that many processes that should have been followed, under UNDP procedures, were not followed, and the above are some examples provided of non-compliance. In many case, processes were too often followed in a pro forma manner. For example, there was a national project director and a steering committee to determine the work plans, there were annual work plans, annual project audits, annual progress reports, tenders and announcements duly made for procurements, the Medium Term Review provided for the necessary quality checks, and so on. It appears from the review that all mandated process steps were followed (except for the first review, specified to have been carried out after 12 months, of whether the national implementing partner should be changed).
53. The completion of the Medium Term Review was followed by some implementation of the recommendations, including the hiring of another international consultant³⁹, and the MTR prodded the project team to work to a more coherent operational plan. The desire to show improvement and a degree of compliance with the concerns raised were undoubtedly aided by the fact that the project was to formally close in 2015, if no extension was approved by the UNDP. Following the extension approved in 2015⁴⁰ for two additional years to complete tasks, working with a sense of urgency and an adaptive work plan, implemented with the help of a new and capable project manager, supported by another international technical adviser, the project made up significantly in the final two years, compared to its earlier efforts.
54. The review finds that the controls established, while followed in some fashion, did not work towards their intended purpose. Steering committee meetings were held regularly. The “translated” minutes of the steering committee meetings do not show a clear purpose for the annual work undertaken. The meetings were poorly conducted and not focused towards the project requirements. For that reason in 2011, 2012, 2013, 2014 and 2015

³⁸ The OAI investigations are discussed in the following section.

³⁹ Dr. Yuri Pashyk submitted three reports between June and December 2014. He was hired only after the PSO request for a 2-year extension was turned down. His work was intensive, and he reviewed the outputs between 2010-June 2014, as a part of stock taking period of the S&L Project. He concluded that the majority were of low value, the project was not working with the appropriate stakeholders; and alleged the operation of an illegal scheme involving collusion. Following his criticisms Dr. Pashyk’s contract was not renewed in 2015.

⁴⁰ The review considers 2013-2015 a period of many missed opportunities. One option that could have been considered more carefully and seriously would have been not to have approved the extension of the project for 2 more years.

external international consultants and the RTA expressed puzzlement about project activities and expressed clear concerns⁴¹.

55. The review finds that the governance, controls and management processes⁴² followed were highly inadequate. The reviewer finds the audits and investigations into the S&L project appear to be inadequate, poorly communicated, with little or no action taken. The review finds that the controls established, while followed, lacked plans and purpose, and did not work towards their intended ends. Steering committee meetings were held regularly. The first (2011) consultant was terminated early; the RTA was ignored (2012 and later); the second and third consultants were poorly treated and pressured to remove any negative remarks. It is firmly established that the project was not adequately supervised, the alerts arising from faulty processes raised only small alarms that did not lead to actions, appeared not to have reached senior management and those who were reached appear to have ignored them. Very rarely was any timely remedial action noted.

3.4 OBJECTIVE D

How and when, where applicable, were deficiencies in the S&L Project escalated? Why were deficiencies in the S&L Project not raised earlier at a senior management level and communicated to stakeholders?

56. The review finds this question to cover two periods, one during the course of the S&L project, 2010 to 2017; and a second period, from late 2017 to 2020, that covers the deficiencies in communications to senior management and to stakeholders.
57. The steps taken to escalate the attention to deficits in the S&L project were most often inadequate and hence insufficient steps were taken by UNDP to resolve the issues. The review establishes that the earliest signals that all was not well with the S&L project emerged in 2011, when the UNDP and the project team did not meet the GEF specifications to review relocating the executing/implementing ministry which was located in the Federal Agency for Science and Innovation.
58. There were additional yellow and orange lights with the memo of the first international consultant, followed by the memo by the RTA proposing to reduce the size of the budget

⁴¹ The first (2011) consultant was terminated early; the RTA was ignored (2012 and later); the second and third consultants were poorly treated and pressured to remove any negative remarks.

⁴² Governance requires control mechanisms that ensure that goals, strategies, directions are coherent. The mechanisms must ensure these are carried out systematically and effectively. Risk management identifies, and, responds appropriately to risks that adversely affect realization of objectives. Compliance is achieved through management processes which identify the requirements, assess compliance and risks, then prioritize and initiate corrective actions necessary. There was a complete lack of a systemic overview.

of the annual work plan, given a concern for poor performance and inadequate evidence of a well prepared work schedule. The review considers these to be important in retrospect.

59. The earliest red flag that could not be considered other than a red flag emerged with the 2012 audit of the Project Office, conducted in 2011, within year one of the project commencement. Again there were yellow and orange lights, in 2012, then a clear red light with 2013 management audit⁴³. From then on, the systems and controls threw out warning lights at least once, or more than once, annually, with increased frequency of red lights from 2013-2015. This continued until the TE in March 2017, when the report with its confidential section triggered an investigation that began in May 2017.
60. Based on the communications sent by the first whistleblower, it appears that reports alleging corruption had been made by him in 2015, the international consultant (Pashyk) had reported on possible corruption and the RTA had also reported the findings of Pashyk. It appears that the OAI did not determine that there was sufficient evidence basis to open an investigation of the Project. That was a missed opportunity and among the serious concerns raised during this review.
61. Overall, the situation observed was one where there were pressures to keep the funds flowing, combined with a pattern of not taking responsibility and series of actions that suggest incompetence, poor supervision, ducking responsibility to worse, where individuals suppressed information for their personal reasons.

3.5 OBJECTIVE E: WHISTLE BLOWERS

62. Here the question asked for a review of whether UNDP's whistleblower⁴⁴ and non-retaliatory policies were properly applied in the context of whistleblowers linked to the S&L Project, to examine and comment whether policies have been applied effectively; and whether concerns raised by whistleblowers have been satisfactorily assessed by the Ethics Office to determine if there is prima facie evidence to be investigated.
63. There are two persons who have stated that they see themselves as whistleblowers. (it is planned that Annexes (XX1 and XX2) not attached now, would provide more details on their

⁴³ The review could not determine who received audit report of 2013. BPPS states that a review of their files do not show this report to have been shared with the Bureau. It is assumed that it was shared with RBEC.

⁴⁴ The issues around Whistle-blowers is a specialized one for legal experts and how to protect them is a global concern. There are conflicting rights and obligations, and different national and organizational practices. The UN system does have an elaborate set of guidelines, policies and practices, with some applying across all UN organizations and also with variations between some organizations. Covering this area fully and critically is beyond the scope of this review and outside the expertise of the reviewer.

specific cases⁴⁵. The UNDP has an extensive set of policies, structures and people that are available to all staff and non-staff to report on corruption.

64. The two whistleblowers had independently raised charges of corruption in the management of the S&L project. The whistleblowers carried formal responsibilities on the S&L project and had made more specific charges of corruption, which included individuals involved in the management, supervision and implementation of the project. Some of the allegations go beyond the S&L project to the operations of the project support office (PSO) and the supervision and oversight of the S&L project and others, to include allegations of mismanagement or worse at the Regional Bureau/Office and at New York HQ. The whistleblower complaints went further than the charges made in the Special Appendix to the TE.
65. The review determines that independent verifications do confirm a number of the allegations by the whistleblowers but others cannot be verified, and some will be recommended for investigation. The review believes each case is complex, without simple answers, and believes some mistakes have been made in the engagements with them.
66. Whistleblowers play a significant role in correcting mistakes and bringing wrongdoing to the attention of appropriate authorities. Hence, encouraging a well-functioning system and processes to secure their cooperation while also protecting them from retaliation is a shared concern all over the world. This shared concern is reflected in various articles of the United Nations Convention against Transnational Organized Crime and its Protocols, and the United Nations Convention against Corruption.
67. An emerging area of concern on whistleblowers is new forms of retaliation against them, and may have a relevance. It has been reported that an easier way of retaliation against whistle blowers has been to file criminal charges against the whistleblower⁴⁶. The IPS project below reports that over the years there has been a surge in such new forms of retaliation - referring “whistleblowers for criminal investigations and prosecutions”. They are “cheaper and easier” than other retaliatory actions, because they can be risk free to those making the allegations if there are no consequences for those who made the allegation and the investigation closes. The review concurs that such a process is not just, and, perhaps requires at a minimum, investigation processes that allow for formal consideration of this, possibly by completion with higher priority, speed and a due

⁴⁵ The two persons who have stated that they see themselves as whistleblowers have been named in the publicly available reports, such as the article in Foreign Policy and they have individually agreed that their name can be used in this report.

⁴⁶ This information is from an organization - the Institute for Policy Studies (IPS) in Washington DC, which has a “Government Accountability” effort, and it focuses on whistleblowers related issues. See <https://ips-dc.org/> about the Institute for Policy Studies; <https://whistleblower.org/> for the website focused on issues and good practices regarding whistleblowers. The IPS points out that “criminal investigations can become perpetual, serving as a never-ending nightmare for whistleblowers. When one investigation uncovers no wrongdoing and is closed (typically only after being open for an elongated period), another retaliatory investigation can be opened the next day”. It points out that such investigations can be “far more effective at isolating the first whistleblower” compared to retaliatory actions such as dismissal from employment.

consideration of the possibility of other more effective resolutions of charges. Otherwise, all employees would be intimidated, negating the value of the good whistleblower policy, to draw attention to problems.

68. The review considered the questions raised by and about the whistleblowers carefully and it has also spent a significant and disproportionate amount of time to their weight in the TOR, on this question. The interactions with the whistleblowers added several complex dimensions, including a lack of complete reliability in the information available to this review; second, that some are a base for recommended investigations; and, that the issues of “retaliation” affecting the second whistleblower were on going during the review period⁴⁷.
69. It is our estimate at this time that the policies that exist at UNDP addressing corruption and whistleblowers are comparable to the best. The review has no found no reason to dispute the fact that the policies and procedures regarding whistleblowing and protections were applied as per the rules and procedures of the Ethics Office , and, there is no evidence that UNDP undertook any retaliatory actions. The review affirms clearly, that there is no evidence that the UNDP undertook any punishments or retaliatory actions against either individual for having blown the whistle.
70. But this does not result in complete satisfaction for the whistleblowers. Any "retaliation", even if by disgruntled individuals, if correct, must be guarded against, with faster and better investigations. Some of the allegations made, deal with individuals who may now be working at the UNDP, and independently, it is recommended that additional follow up investigations are required. It is concluded that the structures that support whistleblowers, beginning with reporting by a whistleblower, the transfer of responsibilities between different units within UNDP⁴⁸, were not in fact seamless (as with the S&L project already discussed) and can be improved. But as in many areas, declarations of good intent are a small, additional and useful steps towards effective implementation are worthy of consideration: examine if the office of the Ombudsman could play a larger role as a single point for guidance, mediation, coordination; and determine on an urgent basis if each unit is adequately staffed and if there are barriers to coordinate responses, and some specific to the two individuals concerned. There could also be additional empirical work done, with surveys and statistical methods to arrive at more actionable findings on the actual performance and perceptions of those who have interacted with the whistleblower systems currently in place.
71. The review considers that additional steps to examine if the office of the Ombudsman could play a larger role as a single point for guidance, mediation, coordination; if each unit is adequately staffed; and if there are barriers to coordinate responses, should be a matter for urgent action. There can be additional empirical work done, with surveys and statistical

⁴⁷ No new information was accepted after 15 November 2020.

⁴⁸ The Ethics Office has an excellent publication to guide staff on where to go, what to do for different problems.

methods to arrive at more actionable findings on the actual performance and perceptions of those who have interacted with the systems in place.

3.6 OBJECTIVE D: STAKEHOLDER COMMUNICATION

72. This section begins with the investigations begun by OAI following the submission of the Special Appendix (March 2017) by the consultants for the Terminal Evaluation (see **XX** for details). This appropriately caused an investigation to be launched by the OAI, the supreme and independent authority within the UNDP to investigate all such charges. The findings of the TE were also available to Member States who were members of the Executive Board of UNDP. The OAI in a “Management Letter” following its investigation into allegations of Procurement Fraud within the project and the local office, stated in its conclusions that “OAI found that the allegations of procurement fraud were not substantiated and has therefore decided to close the case. Nevertheless, OAI has detected a number of irregularities that, although they do not amount to misconduct, need to be addressed” so the same mistakes are not repeated in the future. The letter referenced the Special Appendix of the TE, “which cited several circumstances concerning the structure and management of the S&L Project that contributed to a "toxic environment" facilitating the alleged misappropriation of GEF funds from the project”, and noted flaws in the selection of Steering Committee members, “who were allowed to apply for tenders and were awarded contracts, which created conflicts of interest”. The letter proceeded to confirm five “weaknesses in the implementation”; and said “applicable policies, rules and procedures were not duly followed, specifically: Procurement Rules and Procedures; Financial Rules and regulations; Guidelines for National Implementation (NIM) of UNDP supported projects.” It concluded that “UNDP Russia failed to fully understand the abovementioned policies, rules and procedures,..” OAI made only a forward-looking recommendation to the UNDP Regional Center in Istanbul, that should apply in its oversight of future NIM projects,” Steering Committee members should not be allowed to have conflicts of interest”. Given that that was already in the UNDP policies and guidelines, the recommendation does not appear to be sufficient.
73. As the formal processes of evaluation and investigations progressed slowly, there were also two whistleblowers, who had raised charges of corruption in the management of the S&L project. The whistleblower complaints went further than the charges made in the Special Appendix to the TE. The whistleblowers carried formal responsibilities on the S&L project and had made more specific charges of corruption, which included individuals involved in the management, supervision and implementation of the project. Some of the allegations go beyond the S&L project to the operations of the project support office (PSO) and the supervision and oversight of the S&L project and others, to include allegations of mismanagement or worse at the Regional Bureau/Office and at New York HQ.
74. There were many exchanges such as - 9 August 2018: The UNDP Administrator provided an update to the GEF CEO and transmitted a Briefing Document prepared by OAI. 16 October

2018: The GEF Trustees requested that UNDP provide an update on the steps taken to address the recommendations of the OAI investigation. On 9 November 2018: UNDP provided a report with a summary overview of standard UNDP policies, with discussions held between donor countries and the Director of OAI, on addressing project-level issues through audits and investigations. The attached Memo was also shared with the members of the GEF Council, complemented with several teleconferences between the GEF Secretariat, UNDP and GEF Trustees. Similarly further discussions continued on December 2018 with a briefing on the margins of the GEF Council meeting in Washington, D.C. with the participation of GEF Trustees, the GEF Secretariat and a number of donor countries, including Norway, Canada, Netherlands and France. The GEF Executive Coordinator, UNDP’s OAI and the UNDP Legal Office participated. Sporadic briefings and discussions continued led by the GEF Executive Coordinator, the Head of the UNDP OAI and the UNDP Legal Office and a number of Member States continued to express concern.

75. Finally, the concerned Member States wrote to the Administrator on 5 March 2020 that only “an independent review of UNDP’s handling of the S&L Project will provide answers to many of the questions and concerns we have raised which, after UNDP’s reviews and investigations, are still outstanding”⁴⁹.

76. In principle, the review determined that two items produced by UNDP and shared with the Board appear to have been incompetent or misleading, or possibly determinations of a technical and legal nature were not adequately explained. The first item is from the OAI (30 November 2018) on the topic of “Briefing on OAI investigations in UNDP Russia”. After twelve months of investigations, on 9 May 2018, OAI issued the Letter to UNDP Management mentioned in para 67. This was highly puzzling to the Member States and also to the reviewer. The two tables below examine 10 points made by OAI and provides the reviewer’s comment:

	OAI identified the weaknesses as:	Reviewer comment
1	Business associations and representatives of private companies were invited to participate in the Steering Committee as members;	It was not only an issue of participation, which is good. The issue was that the Steering Committee never made clear who was actually making decisions and who was participating for sharing knowledge and information.
2	These individuals participated in the process to approve the Annual Work Plans (AWP) for the following year, and reviewed the compliance of the activities of the previous AWP;	The somewhat loose and undefined SC approved AWP and reviewed past work.

⁴⁹ This letter for the review asked the same six questions in the TOR for the review. In addition it had suggested the use of auditors to determine whether “wrongdoing, including misappropriation of funds occurred” and, if so, “identify the persons or entities responsible”, which we have suggested as a follow up.

3	Once the tenders were launched, companies owned by some members of the Steering Committee were allowed to bid;	Precisely, a problem.
4	The Terms of Reference for the activities contained in the AWP were sometimes shared with these Steering Committee members for comments before launching the tenders.	Again the sharing by itself was not wrong, as that may lead to improved specifications. But the persons who receive it and comment on it, cannot then bid on it.
5	Moreover, companies owned by some members of the Steering Committee were granted contracts for implementing the activities contained in the AWP, which had previously been reviewed by members of the Steering Committee and approved by the Steering Committee.	This seemed entirely wrong. Thus the OAI findings mixed different activities and the right and wrong of the same.
OAI identified the weaknesses as:		Reviewer comment
1	Business associations and representatives of private companies were invited to participate in the Steering Committee as members;	It was not only an issue of participation, which is good. The issue was that the Steering Committee never made clear who was actually making decisions and who was participating for sharing knowledge and information.
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3	Once the tenders were launched, companies owned by some members of the Steering Committee were allowed to bid;	Precisely, a problem.
4	The Terms of Reference for the activities contained in the AWP were sometimes shared with these Steering Committee members for comments before launching the tenders.	Again the sharing by itself was not wrong, as that may lead to improved specifications. But the persons who receive it and comment on it, cannot then bid on it.
5	Moreover, companies owned by some members of the Steering Committee were granted contracts for implementing the activities contained in the AWP, which had previously been reviewed by members of the Steering Committee and approved by the Steering Committee.	This seemed entirely wrong. Thus the OAI findings mixed different activities and the right and wrong of the same.

	Other concerns raised in the TE and OAI views on them	Reviewer comment
1	a. Irrelevant Implementing Partner – given the Implementing Partner was selected by the government according to procedures - no irregularity was observed.	<p>First that is an irrelevant point. For 3 years GEF had said the partner was not right. GEF had asked for a review after 12 months of implementation. That did not happen.</p> <p>Also governments do not dictate implementing partners; they suggest, and UNDP can make a decision.</p>
2	b. Incorrect project stakeholders and subsequent conflicts of interest: OAI verified that all key stakeholders identified in the Pro-Doc were invited to participate in the Steering Committee. However, these also included business associations who then participated in tenders, resulting in conflicts of interest. This was against UNDP rules and procedures.	<p>This observation, first, seems to misunderstand, the list of stakeholders in a project document, are not legally determinations, but technical recommendations.</p> <p>The OAI however - agrees there were conflicts of interest. The conflicts of interest are established as facts by the investigation. They appear to have been extensive. The wording – “it was against rules” appears to the reviewer to have been an understatement of the challenges faced in the project.</p>
3	<p>Misappropriation was claimed - because the technical reports produced were irrelevant to the project.</p> <p>OAI confirmed - those reports were actually requested by the Steering Committee, they were produced as requested and their relevance can only be assessed technically.</p> <p>There were conflicting opinions in this regard. The National Project Director and the programme management team were of the opinion that all the reports were relevant for the project.</p> <p>As there were differences of opinion as to the relevance of the reports, OAI was not able to determine if the reports were irrelevant and misappropriation took place.</p>	<p>The review supports the finding that the reports were “requested by the Steering Committee – which OAI confirmed. But it also confirmed the same SC as a problem above.</p> <p>They had in fact been assessed technically and found wanting. OAI does not say if it did not trust the technical assessment but suggests that the National Project Director – who had not been seen again by anyone since his arrest for corruption - and the unnamed “programme management team” as there had been 3 managers, were of the opinion that all the reports were relevant.</p> <p>A highly mystifying set of facts and conclusions, or simply a poor description of the facts.</p>
4	d. Role of UNDP office: There is evidence from interviews that the UNDP office tried to advise the National Project Director about the UNDP rules and procedures regarding	The evidence that someone at “the UNDP office tried to advise the National Project Director about the UNDP rules and procedures regarding inter alia potential

	inter alia potential conflict of interests, but the National Project Director would not always follow UNDP's recommendations	conflict of interests”, could have been buttressed with evidence. Second, efforts to give advice , to a National Project Director – who also did not follow UNDP recommendations from the RTA as well, who did not encourage external supervision or consultants – does not absolve the “someone” who should have called in for more help if needed.
5	e. Hiring of personnel: OAI reviewed all the recruitment files of the S&L project staff and consultants and could not find any evidence of wrongdoing.	This simply appears wrong and is contradicted in the paragraph 20, about the IC. The same person has been mentioned in the separate audit reports of the office. His case has been mentioned by the whistleblowers and evaluators. The contract was seen by the reviewer and it was unusual in its lack of specifications of work and outputs. So, again, very odd and inexplicable for the reviewer.

77. Most charitably the OAI report could have been written by someone for whom the English language was unfamiliar, or it was drafted by a highly trained legal scholar and so remains unintelligible to those who are not so trained.

78. The scope, findings, speed, oversight and communications of OAI investigations has emerged as one of the most serious concerns during this review. The allegations that the project involved some networks of friends and family members, that the national project director was suspended and charged with corruption (though the review has no further information on the decisions in court), that at least two contracts for professional services were highly irregular are established as facts.

79. In its review of the investigations, and based on the feedback from consultants who were interviewed for the review, the quality, speed and judgements used in the relevant investigations ongoing since 2017 are areas of deep concern for the reviewer.

80. The second item that guided the UNDP response was prepared by **BPPS**. This memo was better written but also made specious excuses. It suggested, for example, that the NIM modality was responsible for any problems; UNDP did its best; and as UNDP BPPS had anticipated all along - “We are therefore only now expecting to see these results of the GEF investment – **which were never in doubt – materializing at the outcome-level and contributing to the market transformation in Russia⁵⁰**”. This statement is so technically

⁵⁰ Emphasis is added here.

unsound that it challenges the level of expertise used at BPPS, where a fact that certain events took place can, post facto, be attributed to efforts made by the UNDP project.

81. The review repeats (discussed earlier) that the approaches across the different practices and business units in UNDP operated in "silos" – where critical management, information systems and controls, were lacking and incomplete so often the information reaching more senior levels was absent, dilatory, often were attempts at deflection and not focused on solutions. The executive team at UNDP has been systematically bereft of sufficient, complete, accurate and timely information and independent analysis to enable the EXO to take appropriate management decisions and to share the information with the key stakeholders, first the Member States, the Executive Board, GEF and affected countries. A primary goal of this review is to provide the EXO (and others at UNDP) and the members of the Board with the analysis and review that should ideally be available to the EXO

4. CONCLUSIONS

82. **The review was asked six questions. First, whether the UNDP S&L Project was managed effectively to ensure that it met its objectives⁵¹.** The evidence seen and summarized earlier leads to a firm conclusion that the project was not managed efficiently or effectively. It is seen along the time line provided in Annex XX that during the entire history of the S&L project, from its approval to closure, the project was beset with problems. The governance, risk management and controls in place were systematically reviewed and show that the problems that beset the project set off many warning lights along the way. The warning lights do prove and confirm the value of many processes that have been set out by UNDP. The most concerning for this review is that the failures were not caused due to a lack of warnings but despite the warnings.
83. A large number of red flags, and warnings at lower levels of alerts existed and have been documented in the report. Very few were **appropriately addressed during the project period. They were more appropriately addressed in the project evaluations, including the MTR and the Terminal Evaluation, and by the other independent international consultants who were engaged.** Management actions during the S&L project appear to have been severely deficient and highly inadequate, along several dimensions.
84. In several cases, at multiple times, the processes followed lacked due diligence to ensure good management of the fiscal resources for the project. The reviewer finds most concerning issues to have been the poor sharing of information available between units, poor follow-up, a surprising lack of concern by some individuals, and weaknesses in the investigations into the project and related matters. The above lacunae allowed for **conflicts of interest and potential “fraud” to persist through long periods, as the deficiencies, which were multiple and required coordinated management, were never fully addressed. Deficiencies in communications prevented the senior most management levels to be fully cognizant of the issues and the communications to stakeholders were deficient.**
85. Several reasons contributed to the failures noted. Many are narrow, project- and situation-specific. The review believes the larger framework that contributed to, and that needs the attention of the Board, stems from the relentless pressures to do more with less, pressures to keep funds flowing. This was seen especially at the PSO, which was completely dependent on fund flows, and yet the risk assessments failed to provide the degree of technical and managerial capacity matching international standards.

⁵¹ The conclusions were shared with the UNDP Ex Office orally and in notes, in advance of the final draft of the report. This has been done given the critical importance of the findings to follow up actions by UNDP and as the review resulted in noting many charges made against individual staff members which cannot be covered here due to privacy and other reasons.

86. The review confirms that a number of individuals were able to game the relatively weak systems of governance and technical capacity and most important, in relations to remedial actions, when none were seen by those who gained from the existing weaknesses.
87. There were two persons who have stated that they see themselves as whistleblowers. Annexes (XX and XX) would subsequently provide more details on their cases⁵². It does appear from the review that existing whistleblower and non-retaliatory policies were applied, but the effectiveness of their applications, in each case, raises some doubts and concerns. Each case had challenges that made satisfactory assessments difficult. Whistleblowers have always been met with ambivalence and many surveys show organizations may suffer more from the more natural tendency to keep their heads down when aware of problems at work which they were afraid to mention. A balance is required to encourage whistleblowers in as many ways as possible as opposed to “willful blindness.” In fact, their perseverance has contributed to the high levels of external scrutiny that was required.
88. To round up the conclusions of this review, it has been determined in this review that the execution of the S&L project suffered from many actions and inactions by UNDP staff responsible at different units, levels and locations. Clearly, the project was not managed efficiently or effectively during the entire history of the project. The facts found during the review also establish that the problems and challenges faced went beyond the S&L project, and a number of other climate change related and GEF-supported projects also suffered from inadequate and inappropriate supervision and management.
89. This takes us to the larger question of what the facts of mismanagement that are confirmed establish? At one extreme it is believed by the whistleblowers that the extrapolation of the facts established clearly proves that a coterie within the UNDP “conspired and colluded” to enrich themselves, defraud UNDP and protected each other from consequences. In our view, we believe the evidence and actions taken by national authorities strongly suggest that the national project leader of the S&L project was corrupt. A number of actions taken in the project appear nepotistic, such as some of the individual contracts and tendered activities, which were certainly improperly shared between friends and family.
90. It is our view that the case of the S&L project had two facets. The first relates to overall weaknesses that are not uncommon within the UNDP GEF portfolio. UNDP has estimated cases of fraud as being under 2%. But the cases of delays in project execution, tendencies to overlook incompetence and to carry on without making more systematic changes, are much more common. Such inefficiencies serve to obscure more serious problems as in the S&L case, and make them systemic.

⁵² The two persons who have stated that they see themselves as whistleblowers have been named in the publicly available reports, such as the article in Foreign Policy and they have individually agreed that their name can be used in this report. The annexes have not been cleared with them after considerable discussions and as currently written can potentially affect future investigations and so have been held back.

91. We suggest that the S&L case can best be understood as a “black swan⁵³” type event. We do not wish to debate the issue of “unpredictability”, but emphasize, even though an event was outside “regular expectations”, we should change our expectations. The point that the pandemic illustrates is that the likely emergence of a dangerous virus was predictable, even if its occurrence and extreme impacts were an unexpected “outlier” that morphed from an initially small event into a global one with extensive negative impacts. Similarly, the full ramifications of the S&L case morphed from smaller actions into cumulative effects, outside the regular expectations of most UNDP staff. This review cautions that we must avoid the potential fallacy of post facto logic for explanations of what happened.
92. Taleb says⁵⁴ one way to reduce downside exposure is by ensuring more slack into the system, greater redundancy, parallel processes, to invest more in data-gathering and analysis to pick up the early warning signs. The parallel step is to avoid the conviction that once informed, actions will follow, as it did not happen in the S&L case. In parallel decision-makers must be more active and add messages that are delivered by people. But unless the culture and practice changes, people who would sound an alarm remain silent and their inputs remain unknown. At the same time, many alarms are false, and organizations need protocols for listening; for determining the next steps, with better anticipation of the consequences of the events flagged, while gauging their significance, without paralysis from analysis.
93. Therefore, UNDP must be better prepared to evolve as the world becomes a more complex system, with connections and interdependencies, better understand and learn what is happening and what it means for the organization. It must strengthen resilience and move away from away from a decades long effort to make all organizations more “efficient”. Efficiency, as measured by total funds disbursed as compared to the cost of delivery, is too simple a metric; it does not capture many important aspects of quality of delivery and fails often to strike the balance with resilience. This review finds that too many people involved in the project and its management worked only on narrowly defined components, missing the whole.
94. The simple availability of appropriate rules, policies and guidelines is insufficient in effective actions being undertaken. The UNDP has clear rules on procurement that applied to the S&L and these rules apply to all other projects. The rules were violated on many occasions on the S&L project. The use of mandatory rules is often insufficient by itself without

⁵³ The “black swan” theory was developed by Nassim Taleb Taleb, discussed in “The Black Swan: The Impact of the Highly Improbable (1st ed.). London: Penguin. April 2007. Here it is used as a metaphor to describes events that have the key characteristics of “a surprise”, with major negative effects, which then are often inappropriately rationalised, as a few events that were hard-to-predict, and beyond normal expectations. Its relevance here is the message on managing risks appropriately, where they cannot be eliminated. The “black swan” ideas became more important with the subsequent global financial crisis (2007/2008), and some argue the current pandemic of 2020 due to the coronavirus, is a similar “black swan” event. Those who disagree that it provides a good fit argue that many people, experts, government and intergovernmental agencies have experienced dangerous global outbreaks earlier and predicted their recurrence.

⁵⁴ Taking improbable events seriously: An interview with the author of The Black Swan, Allen Webb, DECEMBER 2008, McKinsey Quarterly.

qualitative judgements and guidance. The S&L project was audited by national auditors during each year of its operations. Each audit provided the project with a completely satisfactory rating.

95. The review finds that there were a number of individuals and units working for UNDP who did not perform their work at the levels of clearly specified standards. A number have stated to the reviewer, and in their notes, that they were afraid of repercussions. The most common fear mentioned by UNDP staff was of negative performance review if they did not hew to the demands made by superiors, and the possible loss of their job.
96. This review placed a higher evidentiary value on reports prepared by external consultants. All external consultants (five different individuals), beginning in 2011, reported different degrees of dissatisfaction with the project and its activities. Each of them reported a certain amount of surprise, bemusement and, over time, highly negative reports on the quality of outputs, on the capacities of individuals working on the project, and on some of the processes followed. All of them were threatened with non-payment for their work and one consultant had his contract terminated due to his negative views.

5. RECOMMENDATIONS

97. It is not possible for UNDP to completely remove conflicts of interest that will always exist in an organization so large and complex, and necessarily multifaceted and complicated processes that are required cannot be simplified without losing effectiveness. But how people and groups work do respond to the systems of Incentives and penalties that operate. The review of the S&L case suggests some specific and immediate steps, recommended below. Others will require ongoing efforts to achieve changes in the work culture that reward greater transparency and remove fears of unfair reprisals aimed at anyone who signals issues and challenges which need to be addressed.
98. A holistic approach is required; it is not simply a matter of tightening processes and adding more rules, oversight, audits and investigations. The review found the rules and procedures to have been largely adequate and, if fully followed, would not have led to the unravelling uncovered in the S&L project. Our view suggests parallel efforts towards the medium term towards making the UNDP more open, more effective and more accountable to all stakeholders, so as to continue to make real differences to peoples' lives everywhere. A more open system requires openness not only to governments, but also many others. Effectiveness requires improved feedback and learning from partners, beneficiaries, staff and independent contractors. The S&L project has underlined the importance of technical reports and advice by independent, short term contractors⁵⁵. It also underlines several lacunae in their hiring and in their use which can easily nullify their value towards more effective work.
99. The recommendations suggested below can achieve needed improvements. They are not aimed at perfection, and are key steps forward, requiring on going attention and work, and are needed to keep UNDP in step with larger changes in its environment. Depending on further reviews, and the wishes of the Member States, the Administrator and senior staff may wish to lead a multi-pronged campaign that moves UNDP away from the simpler metric of getting projects completed and funds disbursed as the dominant paradigm, and add corruption in projects as another metric, changing the work culture, and making it more acceptable to talk about mistakes and corruption, reducing the incentives of silence.
100. The UNDP must act with speed to comprehensively address the many different issues that are raised in the review. **Some of them deal with individuals who may be now be working at UNDP. This requires speedy follow up investigations**, keeping a humane approach to the individuals concerned, while being fair, and this requires narrowly focused investigations by an outside resource to ensure independence. This review cannot determine if some individuals were only negligent or worse, or the most appropriate courses of action.

⁵⁵ One report suggests that UNDP could be using such technical consultants with the short term assignments in similar numbers as its more regular staff.

101. For the two whistleblowers the situation requires each to be handled differently, with a common approach to each case. The fact that the policies and procedures regarding whistleblowing and protections were applied as per the rules and procedures of the Ethics Office, and there is no evidence that UNDP undertook any retaliatory actions, does not result in complete satisfaction. Management may consider mechanisms, outside of the “Protection against Retaliation” policy, that could be made available for all whistleblowers to pursue claims of unfair treatment (e.g. request for management evaluation, abuse of authority charges, and possibly others) and promote their availability.” The review suggests further review of courses of action that would be most appropriate, now and subsequently, and also to report on any of their charges that may require further response and/or investigation (as suggested in earlier).
102. **Given the conclusion of this review that the project was not managed either efficiently or effectively; that this pattern should have been apparent and should normally have resulted in remedial actions; and the fact that the problems continued and raised major alerts that were not escalated and appropriately managed; suggests that the UNDP should make a restitution to GEF of its entire management fee for the S&L project. To align incentives and penalties, the management fees that are returned should be taken from the budgets of RBEC and BPPS in equal proportion.**
103. UNDP must continue the processes that have begun with the parallel reviews of the RBEC and GEF portfolio, which have been undertaken prior to, and continue independent of, this review. The review commends the process being used by RBEC; this could be a model to be extended to other regions. The review commends the statistical nature of the BPPS review undertaken so far, and supports the systemic changes being examined. Both provide elements of actions which encourage cultural changes whereby cooperation across units is encouraged and utilized to break down silos.
104. The Administrator and the Executive Board of UNDP must form a review process that can examine the functioning of the offices that are independent of the Administrator. The OAI, IEO and other units should provide more statistical analyses of problems and effectiveness to show trends by specific problem areas, by country, region and portfolio.
105. Perhaps the UNDP guidance on reporting needs to be simpler and clearer, with penalties for non-compliance. A small and well understood list of events could be elevated in the procedures, where the failure to report certain facts to an immediate supervisor, or to the investigators, could be made grounds for disciplinary action.
106. The UNDP should seek to enhance the positive and important roles played by independent external consultants, by increasing safeguards for external review and evaluation processes and persons engaged by UNDP on contracts and by examining the following: First, while promoting and continuing with the decentralized evaluation process, in order to reduce the conflict between the manager whose performance may be in question, who is also tasked to approve and make payments, a parallel copy could be sent to the IEO, where the IEO could step in to resolve issues of the nature raised in the S&L case. Second, parallel reporting can

more easily allow for early initiations of investigations where warranted. Third, all consultants could be provided with a simple statement (reflecting compliance requirements) in the same way that evaluators are required to declare any conflicts of interest.

107. UNDP must take immediate, and medium and longer term, measures to reduce its vulnerability to risks. Risk management, we believe, should be more aware about lessening the impact of what is not known and not easily anticipated. It is not only an attempt to develop more audits, more sophisticated controls and improved IT systems. They often perpetuate the illusions of predictive accuracy, and always need to be combined with the human beings in the systems, who are oriented to faster and better information about its many different environments and contexts in which UNDP works and integrating a more systemic view of its operations.
108. The Office of the Administrator may consider setting up a task force, led by the EXO and comprising the senior most officers in UNDP, with the task of building and establishing a strong network, across its units. This could provide a model where all nodes and subgroups begin working together, with coordinated engagement with partners, to deliver on its missions both globally and locally. This task force can continue the work begun in this review and ensure an ongoing examination of and improved understanding of who does what, who is accountable for what, how the many disparate pieces are held together, improved monitoring that ensures actions are taken at the right levels, and information communicated to the right people, with a review of different dashboards, supporting decisions at all levels and improving the flow of information and decisions to the senior most levels. The review may include current processes of individual performance appraisals.
109. The Executive Board may consider with the Administrator options for a crisis (or systems) management team led by the EXO, with either core staff or a mode where staff are to be drawn into EXO, thereby keeping it flexible, open and with enhanced ability to address future cases, or potential “black swan” events, speedily and efficaciously.

ANNEXES

ANNEX 1: Review Terms of Reference

ANNEX 2. Information sources - bibliography, documents and individuals interviewed, and who provided information (keeping in mind any privacy concerns)

ANNEX 3: FLAGS/ALERTS BY THEIR SEVERITY

Other details – actual records, findings, data, information

ANNEX XX1: Whistleblower One

ANNEX XX2: Whistleblower Two

ANNEX XX3: THE OFFICE IN MOSCOW

ANNEX XX4: Clear time lines of events, alerts raised and actions taken, or not.

ANNEX XX5:

ANNEX XX6:

ANNEX 1: TERMS OF REFERENCE

Consultants to review UNDP's handling of the "Standards and Labels for Promoting Energy Efficiency in Russia"

Background

From 2010-2017, the UNDP oversaw a nationally implemented project called the "Standards and Labels for Promoting Energy Efficiency in Russia" (S&L Project). The goal of the S&L Project was to set new energy efficiency standards for lighting and household appliances (e.g., refrigerators and AC units). The S&L Project was approved and financed with \$7.8 million from the Global Environment Facility (GEF). In line with GEF Council Policies and UNDP Policies and Procedures, the Project was executed by the Russian Government.

UNDP is initiating an external review of its handling of the S&L Project. The purpose is to review the governance, risk management and controls in place for S&L during its design and implementation phase up to its closure in 2017, including reviewing associated evaluations, audits and investigations. The review may assist UNDP to further refine controls, risk management and governance arrangements established by UNDP for the GEF-funded projects since the closure of the S & L project. The review is aligned with the UNDP Accountability System, including its Oversight policy and Legal Framework, in which the UNDP Administrator has the sole responsibility for holding UNDP staff accountable for misconduct following legal advice and UNDP Office of Audit and Investigation (OAI) has the sole responsibility to investigate alleged individual misconduct in UNDP. The review is motivated to determine whether UNDP had the right tools to manage, escalate or investigate the S&L Project from a governance perspective and managed the project fully aligned with the UNDP Accountability System. Interested candidates must apply through this UNDP job site.

https://procurement-notice.undp.org/view_notice.cfm?notice_id=65650

Duties and Responsibilities

Scope

These terms of reference entail a post-facto, independent review of UNDP's handling of the S&L Project. The scope of the assignment is to review:

1. Whether the UNDP S&L Project was managed effectively to ensure that it met its objectives.
2. Whether the correct processes were followed to ensure that fiscal resources for the project were prudently managed. This will include a review on the scope and outcomes of the OAI investigation into the S&L project.
3. If UNDP's management of the S&L Project was appropriate and existing oversight and accountability policies were effectively implemented at the country, regional and head

office. This will include a review of whether conflicts of interest and alleged fraud were sufficiently managed and escalated in the S&L Project.

4. How and when, where applicable, deficiencies in the S&L Project were escalated and why deficiencies in the S&L Project were not raised earlier at a senior management level and communicated to stakeholders.
5. UNDP's existing whistleblower and non-retaliatory policies and their application in the context of whistleblower(s) linked to the S&L Project have been applied effectively and concerns raised by whistle-blowers have been satisfactorily assessed by the Ethics Office to determine if there is prima facie evidence to be investigated.
6. Whether any red flags were raised during the course of the S&L Project and if so, whether they were appropriately addressed in the Project's Terminal Evaluation.

ANNEX 2: PEOPLE AND DOCUMENTS CONSULTED

People Contacted

UNDP Staff

Executive Office
Achim Steiner
Mourad Wahba
Darshak Shah
Michele Candotti

Office of Audit and Investigations (OAI)

Helge Osttveiten
Brett Simpson, Deputy Director, Head of Investigations, Investigations Section
Moncef Ghrib, Chief, Office of Audit and Investigations
Alan Pereira
Luis Guijarro

Peter Liria Jr., Director of the **Ethics Office**
Simon Hannaford, Chief Legal Officer, Director, **Legal Office**

Bureau for Policy and Programme Support (BPPS) – GEF Funds:

Haoliang Xu
Adriana Dinu
Pradeep Kurukulasuriya
Nancy Bennet

Bureau for External Relations and Advocacy (BERA) – works with member states
Gulden Turkoz-Cosslett
Nick Rene Hartmann
Muni Ahlawat

UNDP RBEC

Regional Bureau for Eastern Europe and Central Asia (RBEC) which hosted/managed/supervised the Russia project office of UNDP between 2011 and 2018.

Mirjana Spoljaric Egger
Dmitri Katelevsky

John O'Brien, RTA based in Istanbul

IEO

Arild Hauge
Richard Jones
Oscar Garcia

NON UNDP:

Olivier Adam, Executive Coordinator of the United Nations Volunteers (earlier at UNDP)

Colum Lynch, Foreign Policy writer on UN Affairs.

Roland Wong, Consultant, TE

Frank Klinckenberg , Consultant, Project scoping/design; and, adviser 2011

Alexei Zakharov, National Consultant, S&L project

Yury Pashyk, Consultant

Jeroen Ketting , Consultant

Dmitry Ershov, former UNDP Project Manager for Russia S&L

MEMBER STATES

New Zealand

Rachael Pringle, First Secretary (Development), NZ

Nathan HOLLIS, Director Multilateral Team, NZ

Peter Shackleton, Deputy Director Multilateral Team, NZ

Netherlands

Lina Titulaer

Martijn Engels.

Canada

Christine Spoerel, Global Affairs Canada

Karine Tardif

USA

Dani Maniscalco, Economic and Social Affairs Advisor, U.S. Mission to the United Nations
(meeting could not be held due to technical reasons)

List of Documents Reviewed

First tranche of documents:

1. Project document
2. Mid-term evaluation
3. Foreign Policy article
4. Terminal evaluation -

5. Office for Audit and Investigations (OAI) - audit of the Project Office in Russia in 2013, and 2015

List of project document links provided by BPPS:

Very long, TBD.

COLUM LYNCH, AMY MACKINNON Greed and Graft at U.N. Climate Program, August 14, 2019
Whistleblowers and experts allege corruption at a United Nations Development Program project for reducing greenhouse gas emissions in Russia, according to a Foreign Policy investigation.

CII Working Group, 2014. General Principles for Reviews of CII Investigation Offices conducted by external experts. The working group was comprised of representatives of the African Development Bank, FAO, IACA, OLAF, UNDP, UNFPA, UNOIOS, and the World Bank.

Many additional documents have been reviewed and include office memo, emails and notes.
The complete list of documents examined will be greatly expanded and provided in the report while personal, privileged information that has been provided to the reviewer such as investigations are not provide

ANNEX 3: ALERTS BY THEIR SEVERITY

5 Lights Legend

-  Stop
-  Slow, stop may be required
-  Caution, watch, slow
-  Small shift in system status
-  All clear, systems working well.

