



General Assembly

Distr.: General
5 August 2019

Original: English

Seventy-fourth session

Item 146 of the provisional agenda*

Report on the activities of the Office of Internal Oversight Services

Audit of the international component of the Extraordinary Chambers in the Courts of Cambodia

Report of the Office of Internal Oversight Services

Summary

Pursuant to General Assembly resolution [73/279 A](#), the Office of Internal Oversight Services (OIOS) conducted an audit of the international component of the Extraordinary Chambers in the Courts of Cambodia to assess whether the operations of the international component of the Extraordinary Chambers were effective and efficient in supporting the achievement of the mandate of the component.

Overall, the international component of the Extraordinary Chambers made progress in executing its mandate by supporting the completion of three cases, identifying efficiency-enhancing measures and effective processes to mitigate funding challenges, and gradually reducing its staffing capacity. The United Nations Assistance to the Khmer Rouge Trials, which is the administrative mechanism that supports the role of the Organization in the Extraordinary Chambers, applied cost-saving measures and streamlined processes in response to dynamic operational requirements. However, there is a need to monitor compliance with the requirement that defence lawyers be members of their home bar associations and to review and revise the memorandum of understanding with the Economic and Social Commission for Asia and the Pacific for the provision of administrative support. In addition, while no recommendation is made, the United Nations Assistance to the Khmer Rouge Trials could liaise with the judicial chambers and offices through the Office of Administration of the Extraordinary Chambers to improve adherence to the timelines set out in the quarterly completion plans for the remaining cases, as there had been some extensions against the projected timelines.

OIOS issued four recommendations to address the issues raised in the audit. The United Nations Assistance to the Khmer Rouge Trials accepted the recommendations and initiated action to implement them.

* [A/74/150](#).



The annex to the present report contains comments received from the Assistant Secretary-General for Programme Planning, Finance and Budget, Controller, on the draft report of OIOS on the audit.

I. Background

1. Pursuant to General Assembly resolution [73/279 A](#), the Office of Internal Oversight Services (OIOS) conducted an audit of the international component of the Extraordinary Chambers in the Courts of Cambodia.

2. The Extraordinary Chambers were established under the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, as promulgated in 2001 and amended in 2004, and in accordance with the Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea signed on 6 June 2003. The Agreement regulates the cooperation between the parties in bringing to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979. The Extraordinary Chambers commenced their activities in February 2006 and became fully operational after the adoption of their internal rules in June 2007. The Extraordinary Chambers are composed of three judicial chambers¹ and two judicial offices,² as well as one administrative office. They comprise Cambodian and international judges and staff in the national and international components of the court, respectively. The Government of Cambodia is responsible for the national component costs, while the international component is funded through voluntary contributions from the international community.

3. The United Nations Assistance to the Khmer Rouge Trials is the administrative mechanism that supports the role of the United Nations in the Extraordinary Chambers. It is headed by a Coordinator at the D-1 level who is also the Deputy Director of the Office of Administration of the Extraordinary Chambers. The central objective of the United Nations Assistance to the Khmer Rouge Trials is to provide international assistance to the Extraordinary Chambers in accordance with article 17 of the Agreement between the United Nations and the Royal Government of Cambodia. It is responsible for: (a) the remuneration of the international judges, the international co-investigating judge, the international co-prosecutor, the Deputy Director of the Office of Administration and other international personnel; (b) the cost of utilities and services; (c) the remuneration of defence counsel; (d) the travel of witnesses; (e) the safety and security arrangements; and (f) other limited assistance as needed to ensure the smooth functioning of the judicial chambers and offices.

4. The Controller is the designated programme manager of the project. The Capacity Development Programme Management Office of the Department of Economic and Social Affairs provides administrative and management support under delegated authority from the Department of Management Strategy, Policy and Compliance, through the Controller. The Office of Legal Affairs provides legal support and advice. The United Nations Assistance to the Khmer Rouge Trials, through the Office of Administration of the Extraordinary Chambers, prepares the budget of the international component of the Chambers. The Economic and Social Commission for Asia and the Pacific (ESCAP) provides administrative support to the United Nations Assistance to the Khmer Rouge Trials under a memorandum of understanding.

¹ The Pre-Trial Chamber, the Trial Chamber and the Supreme Court Chamber.

² The Office of Co-Investigating Judges and the Office of the Co-Prosecutors.

5. The governance mechanism, through which strategic guidance and oversight of the international component of the Extraordinary Chambers are provided, comprises the group of interested States, the steering committee and the principal donors group. The group of interested States consists of approximately 24 Member States and is responsible for providing financial support to the Extraordinary Chambers, and deliberating on the project budget. The steering committee, which was established in 2008, consists of members of the Government of Cambodia and the principal donors group, which are the key donors to the Extraordinary Chambers. The group functions as an informal consultative mechanism for discussing budgetary and administrative matters and emerging operational issues in preparation for formal steering committee meetings. In 2008, the Secretary-General designated a Special Expert on the United Nations Assistance to the Khmer Rouge Trials to provide advice and strengthen the management and administration of the international component of the Extraordinary Chambers. That role was discontinued on 11 October 2018.

6. The group of interested States approved a budget of \$16 million for the international component of the Extraordinary Chambers for 2019, which included authorization for 115 posts (11 D-2, 1 D-1, 4 P-5, 11 P-4, 18 P-3, 6 P-2, 11 National Professional Officer, 11 Field Service and 42 Local level).

7. From its inception in 2006 to 31 March 2019, the international component of the Extraordinary Chambers incurred expenditure of \$263.2 million for its mandated activities. From 2012, the voluntary contributions received were insufficient to cover the expenditure. To address the adverse cash position, the General Assembly has, since 2014, authorized the Secretary-General to enter into commitments for the international component. In its resolutions [68/247 B](#), [69/274 A](#), [70/248 A](#), [71/272 A](#), [72/262 A](#) and [73/289 A](#), approving the commitment authority in previous years, the General Assembly has limited its use such that voluntary contributions are used first, with any remaining balance at the year-end returned to the regular budget. Table 1 shows the financial position of the international component from 2014 to 2018.

Table 1
Financial position of the international component of the Extraordinary Chambers in the Courts of Cambodia

(United States dollars)

<i>Year</i>	<i>Budget</i>	<i>Voluntary contributions received (plus interest)</i>	<i>Regular budget appropriation</i>	<i>Opening balance</i>	<i>Expenditure charged to voluntary contributions</i>	<i>Expenditure charged against appropriation</i>	<i>Total expenditure</i>	<i>Unspent balance</i>
2014	23 421 900	16 785 300	–	655 700	21 728 100	–	21 728 100	–
2015	27 096 600	17 647 200	12 100 000	(4 287 100)	13 360 100	10 678 400	24 038 500	1 421 600
2016	25 697 700	13 141 200	10 926 800	–	13 141 200	10 407 700	23 548 900	519 100
2017	23 763 000	9 474 100	11 000 000	–	9 474 100	10 619 000	20 093 100	381 000
2018	17 713 700	8 512 100	8 000 000	–	8 512 100	6 856 200	15 368 300	1 143 800

8. As at 31 March 2019, the Extraordinary Chambers had completed three cases, resulting in the conviction of one individual in case 001 and two individuals in case 002/01 and in a dismissal in case 004/01. Table 2 shows the status of the ongoing cases.

Table 2
Status of ongoing cases as at 31 March 2019

<i>Case number</i>	<i>Accused</i>	<i>Status</i>	<i>Duration</i>	<i>Next milestone</i>
002/02	Khieu Samphan Nuon Chea	Trial Chamber issued a full written judgment on 28 March 2019 convicting the accused of the charges	11.7 years	Supreme Court Chamber decision if the Trial Chamber judgment is appealed
003	Meas Muth	Co-investigating judges issued separate closing orders on 28 November 2018	9.6 years	Pre-Trial Chamber decision on whether to send the case for trial or end judicial proceedings
004	Yim Tith	Co-prosecutors filed separate final submissions in May and June 2018. Defence filed a response on 26 November 2018	9.6 years	Closing order expected by the second quarter of 2019 ^a
004/02	Ao An	Co-investigating judges issued separate closing orders on 16 August 2018	9.6 years	Pre-Trial Chamber decision on whether to send the case for trial or end judicial proceedings

^a Co-investigating judges issued separate closing orders on 28 June 2019.

II. Objective and scope

9. The objective of the audit was to assess whether the operations of the international component of the Extraordinary Chambers were effective and efficient in supporting the achievement of the mandate of the Extraordinary Chambers.

10. OIOS conducted the audit from February to May 2019. The audit covered the period from January 2017 to March 2019 and included the following key areas: (a) case completion; (b) funding sustainability and cost-saving measures; and (c) administration.

11. The audit methodology included: (a) interviews of key personnel; (b) reviews of relevant documentation; (c) analytical reviews of data; and (d) sample testing of recruitment, general operating expenses, contractual services, and consultants and experts.

12. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

III. Audit results

A. Case completion

1. Additional measures could be implemented to minimize delays in the completion of cases

13. In 2014, the General Assembly, in its resolution [68/247 B](#), requested the Secretary-General to ensure that the Extraordinary Chambers prepared a strategy with a clear road map for completing the remaining cases. The Office of Administration of the Extraordinary Chambers was preparing quarterly completion plans in collaboration with the judicial chambers and offices that were providing projections for the case timelines. To expedite the completion of cases, the international co-investigating judge reduced the scope of the judicial investigations in cases 003, 004 and 004/02 pursuant

to the adopted amendments to the internal rules of the Extraordinary Chambers, and the Trial Chamber limited the scope of case 002. In addition, the Office of Administration used a variety of staffing options, including consultants, short-term staff and linguistic personnel, to ensure the provision of timely translation and transcription services for the judicial chambers and offices. Some delays were encountered in achieving the timelines established in the quarterly completion plans. For example, in the first-quarter completion plan, the original timeline projected for issuing the full reasoned judgement in case 002/02 was the third quarter of 2018. That projection was revised to the fourth quarter of 2018 in the second-quarter completion plan, and the judgment was issued on 28 March 2019. For case 003, the closing orders were expected during the third quarter of 2018 according to the first-quarter completion plan, with that projection revised to the fourth quarter of 2018 in the second-quarter completion plan. The closing orders were issued on 28 November 2018 in the working language of each judge, and the translations were issued in February 2019.

14. According to the Office of Administration of the Extraordinary Chambers and the judicial chambers and offices, the inability to meet the milestones indicated in the completion plan was caused by several factors. These include:

(a) The nebulous nature of the trials and other judicial processes, and external factors such as illness of the accused and the number and availability of witnesses and experts, which made it difficult to predict the exact workload of the Extraordinary Chambers;

(b) Funding challenges, which resulted in the issuance of short-term contracts to staff and affected their morale and productivity;

(c) High staff turnover, as staff sought more stable jobs, not only because they were receiving short-term contracts, but also owing to the decrease in the activities of the Extraordinary Chambers as the remaining cases drew closer to completion. To mitigate staff turnover, the Office of Administration provided other categories of staff, including consultants and short-term staff, to fill critical vacancies; the loss of staff and consultants with institutional memory, however, had an impact on case progression;

(d) The need to review and revise a large number of previously transcribed documents during the judgment drafting period, which delayed the completion of the judgments.

15. The members of the Extraordinary Chambers also informed OIOS that, at the time of their formulation, the completion plans had contained the most accurate projections possible for the remaining cases, and that a number of unknown factors, including future developments in the judicial proceedings, might affect the projections. Nonetheless, going forward, the United Nations Assistance to the Khmer Rouge Trials would liaise with the judicial chambers and offices to obtain their proposals on appropriate mechanisms or procedures to minimize delays in the completion of cases. OIOS therefore made no recommendation on this issue.

2. There is a need to ensure that translation requirements are provided proactively to the Interpretation and Translation Unit to ensure improved planning regarding resource requirements and better projection of timelines to achieve judicial milestones

16. Legal documents such as decisions and judgments from the Extraordinary Chambers needed to be published in English, Khmer and French. While the review by OIOS of translation deadlines did not indicate undue delays in the English and Khmer translations, the judicial offices did not always proactively notify the Interpretation and Translation Unit of their translation requirements. For example, the Unit made several attempts to obtain timeline projections for translation work in order to better plan the provision of the service. In the response of the Trial Chamber to one such request in May 2018, it was stated that translation requirements could not be anticipated far in advance, and that it would only be possible to provide estimated targets that were subject to change. This was because decisions of the Trial Chamber were subject to unpredictable review cycles. While OIOS acknowledges this constraint, estimated targets of translation requirements should be provided proactively to the Unit ensure improved planning regarding resource requirements.

17. In another instance, the Trial Chamber had initially indicated in the second-quarter completion plan for 2018 that only the Khmer and English translations of the judgment for case 002/02 would be issued by the end of the fourth quarter of 2018, with the French version to follow. However, in October 2018, the Trial Chamber indicated that it required the French translation by 31 December 2018. In its response, the Interpretation and Translation Unit indicated that, while it was hoped that the translation would be completed by 31 December 2018, a more realistic completion date, given the workload, was 31 January 2019. Although the Unit successfully delivered the translated judgment to the Trial Chamber in English and Khmer on 16 November 2018 and in French on 2 January 2019, it had to go to extraordinary efforts to meet the deadlines, including using consultants and outsourcing the translation. Given that judicial offices have the discretion to issue their closing orders or decisions in their choice of language, translation requirements may differ from original projections. Consequently, the judicial offices should ensure that the Unit is informed of revised translation needs in a prompt manner.

Recommendation 1

The United Nations Assistance to the Khmer Rouge Trials, through the Office of Administration of the Extraordinary Chambers in the Courts of Cambodia, should liaise with the judicial chambers and offices to ensure that revised translation requirements are duly communicated and considered in the projection of completion timelines for the remaining cases.

The United Nations Assistance to the Khmer Rouge Trials accepted recommendation 1. Recommendation 1 remains open pending the receipt of evidence of actions taken to proactively communicate translation requirements in order to improve the planning regarding resource requirements and the projection of timelines.

B. Funding sustainability

1. The strategy to ensure the sustainability of the funding of the Extraordinary Chambers could be updated

18. Noting with concern the adverse cash position and difficult financial position of the Extraordinary Chambers, the General Assembly, in its resolution [68/247 B](#), requested the Secretary-General to intensify his efforts to obtain additional voluntary contributions to fund the activities of the Extraordinary Chambers. In 2016, the Special Expert, in collaboration with the principal donors group, developed a fundraising strategy that included the convening of events to update the group of interested States on the work of the Extraordinary Chambers and demonstrate why the work merited the continued financial support of Member States. The fundraising strategy also involved discussions between the Special Expert and donors on the scheduling of pledges and the possible consolidation of payments to ensure that the international component was able to meet its monthly obligations for staff salaries and expenses. However, the Special Expert's services were discontinued in October 2018. The Department of Economic and Social Affairs explained that the Secretary-General, in coordination with the principal donors group and the steering committee, had continued to pursue the fundraising strategy without the Special Expert since that time. For example, an awareness-raising event had been organized in May 2019, and regular meetings between the relevant Secretariat offices and the principal donors group continued to be held and regular communication with the Government of Cambodia maintained. The Department added that, while the fundraising strategy remained valid because the financial circumstances and activities had not changed significantly since 2016, it would update the document to reflect the discontinuation of the position of Special Expert. On the basis of that assurance, OIOS made no recommendation on this issue.

2. Further cost-saving opportunities could be identified

19. In order to cope with funding challenges, the United Nations Assistance to the Khmer Rouge Trials established measures to cut costs and improve operational efficiency. For example, recruitment was frozen for posts that did not have to be filled immediately, such as those of court security and witness and expert personnel, since there were no ongoing trials and pending cases were at other stages of the judicial process. No critical posts, such as those in the judicial chambers and offices, were subject to a recruitment freeze. As at 31 December 2018, 29 posts previously occupied by international staff had been converted and filled by locally recruited staff with the required skills, resulting in savings of \$2.2 million.

20. In addition, the United Nations Assistance to the Khmer Rouge Trials did not purchase any vehicles during the reporting period. Since the vehicles acquired in 2005 had already exceeded their useful life, OIOS sought to establish whether the related maintenance costs were reasonable. Generally, those costs decreased from \$16,309 for the 24 vehicles held in 2017 to \$13,587 for 20 vehicles in 2018. In view of the reduced activity of the Extraordinary Chambers, further cost-savings may be realized by reducing the size of the vehicle fleet to align it to the needs of the Extraordinary Chambers. The United Nations Assistance to the Khmer Rouge Trials indicated that it would assess the size and composition of its fleet and determine whether they were commensurate with its operational requirements.

C. Administrative support

1. Lack of clarity in the roles and responsibilities of offices supporting the Extraordinary Chambers could pose a risk

21. The United Nations Assistance to the Khmer Rouge Trials is managed under a tripartite arrangement between the Office of the Controller, the Office of Legal Affairs and the Department of Economic and Social Affairs. The specific roles and responsibilities of the three key parties have not been formally documented. In practice, the Controller provides strategic guidance on high-risk financial management decisions, the Department of Economic and Social Affairs provides administrative and management support and the Office of Legal Affairs provides support on legal and administrative issues and is the focal point for the Secretary-General in the nomination of international judges and the co-prosecutor. The United Nations Assistance to the Khmer Rouge Trials also received support from the Special Expert until the funding for that post was discontinued. The Coordinator of the United Nations Assistance to the Khmer Rouge Trials has delegation of authority for finance, human resources management and procurement transactions.

22. Despite the existence of this tacit agreement on the division of responsibilities among the offices since the establishment of the United Nations Assistance to the Khmer Rouge Trials, the current arrangements may not be sustainable and effective in ensuring accountability, in particular during this period of reform in the Secretariat. For example:

(a) The Department of Economic and Social Affairs had accepted the responsibility of administering the trust fund of the United Nations Assistance to the Khmer Rouge Trials for the three years for which funds were first received, from 2006 to 2008. The Department continued to administer the United Nations Assistance to the Khmer Rouge Trials beyond 2008 and, in December 2018, contacted the Under-Secretary-General of the then Department of Management, now the Department of Management Strategy, Policy and Compliance, to express the view that the current substantive nature and administrative structure of the trust fund exceeded the scope of the technical cooperation projects that the Department of Economic and Social Affairs was resourced or mandated to implement, and that the administration of the United Nations Assistance to the Khmer Rouge Trials should therefore fall under the mandate and expertise of the Department of Management Strategy, Policy and Compliance. The Department of Economic and Social Affairs has not received a response to date.

(b) In addition to raising funds for the international component of the Extraordinary Chambers, the Special Expert was responsible for maintaining dialogue with the Government of Cambodia on high-level and sensitive issues and liaising with interested parties to keep them abreast of emerging issues. With the elimination of the position of the Special Expert, it was unclear to whom the responsibility for performing those functions had been assigned.

23. To mitigate the risk arising from the lack of clarity in the assignment of roles and responsibilities, OIOS suggested that the Department of Management Strategy, Policy and Compliance, in conjunction with the Office of Legal Affairs and the Department of Economic and Social Affairs, document the distribution of functions for managing the international component of the Extraordinary Chambers. However, the Department of Management Strategy, Policy and Compliance was of the view that adopting a protocol to formalize the distribution of tasks might be unnecessary at the current stage of operations of the Extraordinary Chambers and could be detrimental to the current methodology of coordinated management decisions because the issues

addressed in New York, other than administrative matters, have overlapping elements and naturally involve all three offices.

2. The staffing requirements of the international component were reorganized to cope with the dynamic workload

24. Overall, there was high turnover of international staff as they sought more stable jobs in the light of the decrease in the activities of the Extraordinary Chambers as the remaining cases neared completion. To ensure that the turnover did not affect judicial activities, the United Nations Assistance to the Khmer Rouge Trials filled all critical posts, including with short-term staff, contractors and consultants. From 1 January 2017 to 28 February 2019, the United Nations Assistance to the Khmer Rouge Trials completed nine standard recruitments in an average of 101 days against a target of 120 days, and one recruitment from the roster within 46 days. In addition, nine temporary job openings were filled in an average of 54 days. The United Nations Assistance to the Khmer Rouge Trials also established individual consultant contracts in accordance with the provisions of the relevant administrative instructions and other guidelines, such as the authority to grant extensions to defence and victim support consultants beyond 24 months.

25. Other innovative measures to cope with the reduced staff capacity included allowing consultants and contractors to work remotely. This gave the United Nations Assistance to the Khmer Rouge Trials access to a wide range of contractors, some of whom were unable to reside in Cambodia. In addition, one Trial Chamber judge who had taken up an assignment in another country following the completion of the trial for case 002 worked remotely and was being paid only for hours worked. Remote working was a practice that had been employed successfully in other tribunals. Furthermore, the freeze on recruitment to certain posts would be lifted if any of the open cases were to go to trial. OIOS concluded that the United Nations Assistance to the Khmer Rouge Trials had established adequate measures to mitigate the potential adverse impact of staff attrition in order to cope with the dynamic workload.

3. Controls over general operating expenditure were adequate

26. The review by OIOS of a sample of transactions related to general operating expenses, contractual services, and furniture and equipment in 2017 and 2018 valued at \$1.8 million showed that the expenditure was valid and that the payments were supported by invoices and payment requests. In addition, all certified original invoices were properly reviewed by the Budget and Finance Section, which checked the vendor names, quantity and invoice amount against the amounts committed. OIOS concluded that controls over general operating expenditure were adequate.

4. There is a need to monitor compliance with the requirement that defence lawyers be members of their home bar associations

27. In December 2018, the Bar Association of Cambodia issued a directive requiring all foreign lawyers practicing at the Extraordinary Chambers to provide the Bar Association with a document certifying the validity of their registration in the bar association of their country of origin at least 15 days before the expiry of their registration. Non-compliance with that requirement would result in de-registration by the Bar Association and ineligibility to continue to work at the Extraordinary Chambers. However, the Defence Support Section of the Extraordinary Chambers did not establish a mechanism to monitor compliance with the procedure. Also in December 2018, the Bar Association dismissed a foreign lawyer on establishing that the lawyer was not a member of the bar association of his country of origin. The Extraordinary Chambers had been unaware that the lawyer's membership had lapsed in 2016. There are seven foreign lawyers serving in the defence teams of the

Extraordinary Chambers and, as at 28 February 2019, their certifications were valid. However, inadequate monitoring of compliance with the eligibility requirements established by the Bar Association may affect operational efficiency in case completion.

Recommendation 2

The United Nations Assistance to the Khmer Rouge Trials should establish mechanisms to monitor the continued eligibility of foreign lawyers to serve as members of the defence teams of the Extraordinary Chambers in the Courts of Cambodia.

The United Nations Assistance to the Khmer Rouge Trials accepted recommendation 2. Recommendation 2 remains open pending the receipt of evidence of the monitoring of the continued eligibility of foreign lawyers serving in the defence teams of the Extraordinary Chambers.

5. There is a need to review and revise the memorandum of understanding with the Economic and Social Council for Asia and the Pacific

28. The United Nations Assistance to the Khmer Rouge Trials and ESCAP have an ongoing memorandum of understanding that defines the administrative support to be rendered by ESCAP and their respective responsibilities and accountabilities. Under the memorandum of understanding, ESCAP provides human resources management and financial and general administrative services and the United Nations Assistance to the Khmer Rouge Trials reimburses ESCAP with a fixed lump-sum amount and an additional \$1,130 for each recruitment.

29. According to the memorandum of understanding, the key roles of ESCAP in administering the national and international staff and United Nations officials included contract management, benefits management and personnel actions related to entitlements such as home leave and education grant. With reduced judicial activity as the case proceedings were coming to an end, the number of both international and national staff decreased from 139 as at 31 March 2017 to 121 as at 31 December 2017, falling further to 90 by 31 December 2018. OIOS is of the view that a decrease in the total number of staff should result in a decrease in the volume of staff administration tasks performed by ESCAP, with a corresponding reduction in the fixed lump-sum amount. However, the lump sum amount increased from \$264,500 in 2018 to \$384,500 in 2019, which represents the cost of two and three local level posts for 2018 and 2019, respectively, and a proportion of services provided by Professional staff. The additional reimbursement of \$1,130 for each recruitment remained the same.

30. ESCAP was required to initiate and administer the recruitment process for both international and national staff to the United Nations Assistance to the Khmer Rouge Trials. The only responsibility assigned to the United Nations Assistance to the Khmer Rouge Trials in the memorandum of understanding was to provide ESCAP with the staffing table and related job descriptions. However, the United Nations Assistance to the Khmer Rouge Trials was performing most of the recruitment tasks, including: (a) creating the job openings/temporary job openings in Inspira; (b) scheduling, organizing and conducting interviews; (c) compiling assessment reports following the interviews; and (d) organizing the travel of international staff recruited. ESCAP was only pre-screening candidates, reviewing the list of candidates shortlisted by the United Nations Assistance to the Khmer Rouge Trials and issuing the offer letter. There was therefore a need to clarify the tasks to be conducted by each party in the

memorandum of understanding and determine whether the lump sum and the fee of \$1,130 paid to ESCAP for every recruitment were still justified.

Recommendation 3

The United Nations Assistance to the Khmer Rouge Trials should: (a) review and establish whether ESCAP is providing all required services in accordance with the memorandum of understanding signed between the two parties; and (b) determine whether the reimbursement to ESCAP is commensurate with the services received and, if necessary, renegotiate the fee specified in the memorandum of understanding.

The United Nations Assistance to the Khmer Rouge Trials accepted recommendation 3. Recommendation 3 remains open pending the receipt of evidence of the review and renegotiation of the memorandum of understanding with ESCAP.

6. There is a need for the United Nations Assistance to the Khmer Rouge Trials to follow up on compliance with the requirement for all staff to complete mandatory training and timely performance appraisals

31. The staff of the United Nations Assistance to the Khmer Rouge Trials were required to comply with all applicable United Nations regulations and rules, including the policies on completing mandatory learning programmes within six months of joining the Organization ([ST/SGB/2018/4](#)) and on completing performance evaluations of staff by 30 June of each year ([ST/AI/2010/5](#)). As at 15 March 2019, of the 71 staff members who were required to complete mandatory training, 11 had not completed all of the nine mandatory training courses, and 5 of those 11 staff members had not completed any of the courses. For the 2016/17 period, performance appraisals had been completed for 98 per cent of staff, while the figure for the 2017/18 period was 83 per cent. Although the administration of the United Nations Assistance to the Khmer Rouge Trials was following up on the requirement to complete mandatory training and performance evaluations, supervisors and heads of offices were not ensuring compliance.

32. The Extraordinary Chambers has established several initiatives aimed at integrating gender into their programme of work. These included activities organized by the Victims Support Section, such as radio shows on gender-based violence during the Khmer Rouge regime; activism against gender-based violence campaigns in the regions with the participation of civil parties; training on gender sensitivity for practicing lawyers; and training on gender-responsive project monitoring and evaluation for staff working with project design and implementation for local and international organizations.

33. However, of the 30 internationally recruited staff as at 15 March 2019, only 10 (33 per cent) were female. In April 2012, the United Nations Assistance to the Khmer Rouge Trials appointed a focal point for women to advise the administration on integrating gender and improving gender parity in the work place. According to the United Nations Assistance to the Khmer Rouge Trials, it had been difficult to attract applicants because it was in the downsizing phase of its operations. Given that explanation, OIOS is not making a recommendation, but would encourage the United Nations Assistance to the Khmer Rouge Trials to consider improving its gender parity targets during any future recruitment actions.

Recommendation 4

The United Nations Assistance to the Khmer Rouge Trials should ensure that supervisors and heads of offices follow up on the requirement for all staff to complete mandatory training and performance appraisals by the respective target date.

The United Nations Assistance to the Khmer Rouge Trials accepted recommendation 4. Recommendation 4 remains open pending the receipt of evidence of improvement in the completion of mandatory training and performance appraisals.

(Signed) Heidi **Mendoza**
Under-Secretary-General for Internal Oversight Services
August 2019

Annex

Comments received from the Assistant Secretary-General for Programme Planning, Finance and Budget, Controller, on the draft report of the Office of Internal Oversight Services on the audit of the international component of the Extraordinary Chambers in the Courts of Cambodia

1. I refer to your memo of 18 July 2019 enclosing a copy of the draft report on the audit of the international component of the Extraordinary Chambers in the Courts of Cambodia.
2. I am pleased to return the enclosure, duly completed with a consolidated management response from all offices involved in providing the assistance of the United Nations to the Extraordinary Chambers. It is our intention to implement the recommendations expeditiously, as outlined in the enclosure. Your Office will be kept informed as these recommendations are implemented.
3. I wish to take this opportunity to thank the audit team for its analysis and the efforts made to ensure a consultative process with the offices concerned. I also appreciate the detailed briefing provided during the exit conference, as well as your agreement to take into consideration various comments raised by the offices involved in ensuring the international assistance to the Extraordinary Chambers, in line with the Agreement between the United Nations and the Royal Government of Cambodia.
4. I thank you, on behalf of the Department of Economic and Social Affairs, the Office of Legal Affairs, the United Nations Assistance to the Khmer Rouge Trials and the Department of Management Strategy, Policy and Compliance, for your review and positive consideration of our responses.

Enclosure

Management response to the recommendations of the Office of Internal Oversight Services

<i>Recommendation</i>	<i>Critical/ important^a</i>	<i>Accepted?</i>	<i>Client comments</i>
<p>Recommendation 1</p> <p>The United Nations Assistance to the Khmer Rouge Trials, through the Office of Administration of the Extraordinary Chambers in the Courts of Cambodia, should liaise with the judicial chambers and offices to ensure that revised translation requirements are duly communicated and considered in the projection of completion timelines for the remaining cases</p>	Important	Yes	The individual responsible for implementing the recommendation is the Coordinator of the United Nations Assistance to the Khmer Rouge Trials, with implementation expected by the third quarter of 2019
<p>Recommendation 2</p> <p>The United Nations Assistance to the Khmer Rouge Trials should establish mechanisms to monitor the continued eligibility of foreign lawyers to serve as members of the defence teams of the Extraordinary Chambers in the Courts of Cambodia</p>	Important	Yes	The individual responsible for implementing the recommendation is the Coordinator of the United Nations Assistance to the Khmer Rouge Trials, with implementation expected by the third quarter of 2019
<p>Recommendation 3</p> <p>The United Nations Assistance to the Khmer Rouge Trials should: (a) review and establish whether the Economic and Social Commission for Asia and the Pacific (ESCAP) is providing all required services in accordance with the memorandum of understanding signed between the two parties; and (b) determine whether the reimbursement to ESCAP is commensurate with the services received and, if necessary, renegotiate the fee specified in the memorandum of understanding</p>	Important	Yes	The individual responsible for implementing the recommendation is the Coordinator of the United Nations Assistance to the Khmer Rouge Trials, with implementation expected by 31 December 2019 (the date of expiry of the current memorandum of understanding with ESCAP)
<p>Recommendation 4</p> <p>The United Nations Assistance to the Khmer Rouge Trials should ensure that supervisors and heads of offices follow up on the requirement for all staff to complete mandatory training and performance appraisals by the respective target date</p>	Important	Yes	The individual responsible for implementing the recommendation is the Coordinator of the United Nations Assistance to the Khmer Rouge Trials, with implementation expected by the third quarter of 2019

^a Critical recommendations address critical and/or pervasive deficiencies in governance, risk management or control processes, such that reasonable assurance cannot be provided with regard to the achievement of control and/or business objectives under review. Important recommendations address important (but not critical or pervasive) deficiencies in governance, risk management or control processes, such that reasonable assurance regarding the achievement of control and/or business objectives under review may be at risk.