



## INTERNAL AUDIT DIVISION

### REPORT 2015/038

Audit of the construction of a new office facility for the Mechanism for International Criminal Tribunals in Arusha

Overall results relating to the construction project were initially assessed as partially satisfactory. Implementation of one important recommendation remains in progress.

FINAL OVERALL RATING: PARTIALLY SATISFACTORY

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# AUDIT REPORT

## Audit of the construction of a new office facility for the Mechanism for International Criminal Tribunals in Arusha

### I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the construction of a new office facility for the Mechanism for International Criminal Tribunals (MICT) in Arusha.

2. In accordance with its mandate, OIOS provides assurance and advice on the adequacy and effectiveness of the United Nations internal control system, the primary objectives of which are to ensure (a) efficient and effective operations; (b) accurate financial and operational reporting; (c) safeguarding of assets; and (d) compliance with mandates, regulations and rules.

3. MICT was established by Security Council resolution 1966 (2010) to continue the functions of: the International Criminal Tribunal of the former Yugoslavia (ICTY) for the prosecution of persons responsible for serious violations of international humanitarian law committed in the Territory of the former Yugoslavia since 1991; and the International Criminal Tribunal for Rwanda (ICTR) for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the Territory of Rwanda, and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighboring states, between 1 January 1994 and 31 December 1994. Pursuant to Security Council resolution 1966 (2010), the Mechanism was established with two branches with functions commencing on 1 July 2012 for the Arusha branch, and on 1 July 2013 for The Hague branch. Furthermore, in accordance with Article 27 of the statute, the Mechanism shall be responsible for the management, including preservation and access, of the archives of the Tribunals. The archives of both the Tribunals shall be co-located with the respective branches of the Mechanism.

4. The Secretary-General's report A/66/754 provided the rationale for construction of the new office facility in Arusha, as well as a project outline summary. The General Assembly approved the financing of the construction at a cost of \$8.8 million. Initially, \$3 million was approved in February 2012 (resolution 66/240). By resolution 67/244 B, the General Assembly authorized the Secretary-General to establish a multi-year special account to record income and expenditure for the project. Having considered the budget proposals of MICT for the biennium 2014-2015, which included the resources for the project, the General Assembly, by resolution 68/257, appropriated an additional amount of \$5.8 million, bringing the total resources for the project to \$8.8 million. Table 1 shows the actual expenditures for 2013 and 2014, and projected expenditures for 2015.

**Table 1: Expenditures of the new office facility in Arusha (in United States dollars)**

<i>Description</i>	<i>Approved</i>	<i>Actual expenditure</i>		<i>Sub-total 2013/2014</i>	<i>Projected expenditures from January 2015 to completion of the project</i>	<i>Total</i>
		<i>2013</i>	<i>2014</i>			
Construction	6 365 887	-	2 912	2 912	6 362 975	6 365 887
Architect fees	636 589	-	636 589	636 589	-	636 589
Project supervision, management, travel	734 886	168 315	234 739	403 054	331 832	734 886
Contingency	1 050 371	-	151 680	151 680	898 691	1 050 371
<b>Overall costs (inclusive of contingency)</b>	<b>8 787 733</b>	<b>168 315</b>	<b>1 025 920</b>	<b>1 194 235</b>	<b>7 593 498</b>	<b>8 787 733</b>

Source: Secretary-General's report A/69/734

5. Initially, the project duration was estimated at five years and three months. In response to a request by Member States, the project team chaired by the Registrar of the Mechanism, in consultation with the Office of Central Support Services (OCSS), took a number of actions to reduce the project schedule to four years.

6. All the pre-construction phase activities were completed on 28 February 2015. These included site selection, recruitment of project staff, conceptual design, cost estimation, hiring of architectural consultant, actual design, issuance of tender for the construction contract, contract negotiations and award, and mobilization by the construction contractor. Construction was expected to last 12 months, with projected occupancy in early 2016.

7. The composition of the project team was completed in April 2013 when a full-time Project Manager was brought on board. The Project Manager reported to the Head of the Registry (Arusha branch) and was responsible for integrated project management, coordination and timeliness of action. The Mechanism worked in close cooperation with OCSS, including the Procurement Division (PD) and the Overseas Properties Management Section Office, which provided the necessary guidance and support. The Department of Safety and Security and the Office of Information and Communications Technology provided advice on detailed functional requirements for the facility. In addition, the Office of Legal Affairs (OLA) provided legal advice and drafted key legal documents related to the project.

8. Comments provided by MICT are incorporated in *italics*.

## **II. OBJECTIVE AND SCOPE**

9. The audit was conducted to assess the adequacy and effectiveness of MICT governance, risk management and control processes in providing reasonable assurance regarding **effective management of the construction of the new office facility for MICT in Arusha**.

10. The audit was included in the 2014 OIOS work plan for MICT due to the high risks generally associated with construction projects. In addition, General Assembly resolution 67/244 B requested the Secretary-General to entrust OIOS with ensuring effective oversight of the implementation of the construction of the facility and submit key findings to the General Assembly in the context of OIOS annual reports.

11. The key controls tested for the audit were: (a) strategic planning and risk assessment; and (b) regulatory framework. For the purpose of this audit, OIOS defined these key controls as follows:

(a) **Strategic planning and risk assessment** - controls that provide reasonable assurance that strategic planning mechanisms are in place and implemented effectively, and that risks to achieving objectives are assessed and appropriately managed.

(b) **Regulatory framework** - controls that provide reasonable assurance that policies and procedures: (i) exist to guide the operations of the construction of the new office facility; (ii) are implemented consistently; and (iii) ensure reliability and integrity of financial and operational information.

12. The key controls were assessed for the control objectives shown in Table 2.

13. OIOS conducted this audit from 5 November 2014 to 28 February 2015. The audit covered the period from 1 January 2012 to 28 February 2015.

14. OIOS conducted an activity-level risk assessment to identify and assess specific risk exposures, and to confirm the relevance of the selected key controls in mitigating associated risks. Through interviews, analytical reviews and tests of controls, OIOS assessed the existence and adequacy of internal controls and conducted necessary tests to determine their effectiveness.

### III. AUDIT RESULTS

15. The MICT governance, risk management and control processes examined were initially assessed as **partially satisfactory**<sup>1</sup> in providing reasonable assurance regarding **the effective management of the construction of the new office facility for MICT in Arusha**. OIOS made four recommendations to address issues identified in the audit. Strategic planning and risk assessment were assessed as partially satisfactory because there was a need for MICT to strengthen fraud awareness and prevention. MICT also needed to develop a project management plan to guide the day-to-day activities of the project. Regulatory framework was assessed as partially satisfactory because there was need to establish procedures for managing change orders and to include associated costs in the budget submission for biennium 2016/2017.

16. The initial overall rating was based on the assessment of key controls presented in Table 2 below. The final overall rating is **partially satisfactory** as implementation of one important recommendation remains in progress.

**Table 2: Assessment of key controls**

Business objective	Key controls	Control objectives			
		Efficient and effective operations	Accurate financial and operational reporting	Safeguarding of assets	Compliance with mandates, regulations and rules
<b>Effective management of the construction of the new office facility for MICT in Arusha</b>	(a) Strategic planning and risk assessment	Partially satisfactory	Satisfactory	Partially satisfactory	Satisfactory
	(b) Regulatory framework	Partially satisfactory	Partially satisfactory	Partially satisfactory	Partially satisfactory
<b>FINAL OVERALL RATING: PARTIALLY SATISFACTORY</b>					

<sup>1</sup> A rating of “**partially satisfactory**” means that important (but not critical or pervasive) deficiencies exist in governance, risk management or control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

## A. Strategic planning and risk assessment

Risk register for the project was in place and shared with all risk owners and stakeholders

17. Project risk assessment is essential to ensure that risks are identified, assessed and appropriately mitigated. Risk registers need to be complete and regularly updated indicating the likelihood and impact of the identified risks. Senior management, risk owners and stakeholders need to monitor the risks periodically so that appropriate mitigating actions are taken in a timely manner.

18. MICT had established a Project Management Team (PMT), which had developed a risk register detailing the risks related to the project. The risk register identified and categorized risks by specific areas and by nature. All risks were quantified and assessed for their likelihood and potential impact. Each risk had an overall risk score and was assigned to the respective risk owners. Mitigation measures and action plans had been prepared and monitored. The risk register was regularly communicated to senior management and the legal team and also shared with all risk owners and stakeholders. OIOS therefore concluded that appropriate measures were in place for identifying, assessing, and communicating risks and mitigation measures to stakeholders and risks owners, with the exception of fraud risk which is discussed below.

There was need to strengthen fraud awareness and prevention

19. Construction projects are a high risk area for fraud and corruption. Fraud risks need to be adequately addressed through effective prevention and detection measures. OIOS review of the controls regarding fraud prevention showed that MICT had put in place the required segregation of duties and adequately defined decision-making authority at various levels. The PMT staff members involved in procurement-related activities of the project were trained on procurement ethics and integrity. However, the PMT members or MICT staff members closely involved in the construction project were not trained on fraud awareness and prevention in procurement and/or construction. The lack of training and awareness on fraud may result in fraud indicators or red flags not being identified by PMT and could lead to potential financial losses, result in adverse impacts on the reputation of MICT, and negatively affect project implementation.

**(1) MICT should ensure that the Project Management Team members are provided with fraud awareness training on potential fraud schemes and red flags in construction projects.**

*MICT accepted recommendation 1 and stated that this recommendation has been implemented in two stages: (1) all PMT members have completed the online course on “Ethics and Integrity in Procurement”; (2) on 5 May 2015, all PMT members attended training on fraud awareness, led by the Chief of Investigations of OIOS, Nairobi. Based on the action taken by MICT, recommendation 1 has been closed.*

A project management plan needed to be developed

20. Establishing a project management plan (PMP) increases the chances of successful project implementation. A PMP should include all aspects of the project, including its management, setting, structure and framework. A PMP normally provides information about the project, its scope and purpose, the delegated responsibilities and authorities, the standard operating procedures (SOP) and any other important aspects needed for the day-to-day management of the project. The PMP should be current and updated on a regular basis.

21. PMT had developed specific project management tools such as a stakeholder matrix, a stakeholder register and a communication management plan. PMT also used automated project management planning. However, only an initial draft PMP document was created by PMT at the beginning of the project. The draft document required additional work to effectively meet operational needs. PMT explained that information needed for the PMP existed but was scattered around different source documents and files. Due to competing priorities relating to the project, the PMP could not be finalized. OCSS had advised that the PMP was quickly needed (as also the SOP) for managing the construction project on a day-to-day basis. Lack of a PMP may adversely impact project implementation.

**(2) The MICT Project Management Team should finalize the project management plan to guide the day-to-day activities of the construction project.**

*MICT accepted recommendation 2 and stated that the Mechanism Project Management Plan has been finalized. OIOS reviewed the PMP and concluded that it was adequate. Accordingly, recommendation 2 has been closed.*

## B. Regulatory framework

Controls over the procurement and contract administration of the contract with an architectural and engineering firm were satisfactory

22. MICT had engaged an architectural and engineering firm to assist PMT in the appraisal, design and tendering process. The procurement process was conducted by the ICTY Procurement Section based on a specific delegation of authority from PD for this procurement exercise. The selection of the consulting firm was made in compliance with the provisions of the United Nations Procurement Manual. MICT conducted a market survey and published an expression of interest in various media including the PD website, to which 34 responses were received. MICT received 18 proposals in response to the request for proposals, which were evaluated by the technical evaluation team established specifically for that purpose in ICTY. A separate team conducted a financial evaluation. The selected firm, which was the second lowest with a bid for \$774,700, was found suitable and cleared by the Headquarters Committee on Contracts. The contract was established in consultation with OLA and PD to ensure its consistency with United Nations contractual practices. The signed contract had defined appropriate key performance indicators and deliverables. OIOS review of supporting documents showed that the invoices processed at the time of the audit were appropriately verified with reference to the deliverables, before payments were made. OIOS therefore concluded that controls over the procurement and contract administration processes for the contract during the period under review were satisfactory.

There was need to establish procedures for change orders

23. Construction and capital projects should not proceed without prior agreement on how change orders would be handled. While change orders should be kept to a minimum to reduce their impact on the schedule, budget and scope of the project, procedures for initiating, reviewing and authorizing change orders should be established and documented. MICT was yet to develop procedures for managing change orders. Although the construction work had not started at the time of the audit, it was essential for the Mechanism to develop change order procedures before ground works started. These procedures needed to clearly set out the delegation of authority for preparing, reviewing, certifying and approving change orders. Further, these procedures need to be established before the start of construction activities to minimize the risk of disputes. Lack of transparent procedures to manage change orders may lead to cost overruns and potential losses.

**(3) MICT should establish a clear, transparent procedure for processing change orders during the construction phase of the new office facility in Arusha.**

*MICT accepted recommendation 3 and stated that it has adopted a procedure for processing change orders. OIOS reviewed the change order procedure and determined that it was adequate. Accordingly, recommendation 3 has been closed.*

Associated costs were not included in the project budget

24. Lessons learned from past construction projects suggest that associated (or indirect) costs should be calculated and included in the project budget from inception. The cost estimate should cover indirect costs such as security requirements, office furniture and information and communications technology (ICT) equipment, which do not constitute renovation or construction costs but are considered as associated costs.

25. The budget for the new office facility in Arusha did not include any associated costs. PMT explained that associated costs were assumed to be negligible as MICT was committed to undertaking all efforts to reuse ICTR furniture and/or equipment, where such assets were viable and required. There was no need for swing space and there were no incidental costs that may affect the operations of MICT. However, PMT confirmed that associated costs needed to be considered and whatever was needed for the new facility (ICT equipment, furniture, video, security systems) and not already included in 2014/2015 biennium budget will be requested through the 2016/2017 budget relating to the judicial calendar and transitional arrangements.

**(4) MICT should ensure that associated costs are clearly identified and included in the budget submission to assure the availability of funds to meet these costs.**

*MICT accepted recommendation 4 and stated that budget submissions are being prepared, reflecting, inter alia, this recommendation. MICT will submit its budget proposal to Programme Planning and Budget Division in May 2015. Recommendation 4 remains open pending receipt of the MICT budget submission for the biennium 2016/2017, showing the inclusion of estimates relating to associated costs.*

Procedure was put in place for expenditures charged to contingency

26. On the basis of lessons learned from the past capital projects, the General Assembly approved a contingency of \$1.05 million representing 15 per cent of the construction costs. The contingency aimed to cover unforeseen situations, such as field conditions, errors and omissions by the architect or other unexpected contractual issues. All costs related to the project but not attributable to one of the predefined categories (construction costs, project management costs, consultancy fees and travel of staff members) would be paid through this contingency.

27. The MICT management reporting system contained detailed information regarding the budget and expenditures. As of the end of January 2015, an amount of \$151,680 had been spent from contingency. This amount mainly related to the difference between the estimated consultant fees and the value indicated in the signed contract. However, it also included \$9,468 towards other costs which should have been covered by the travel budget, rather than contingency. This amount of \$9,468 was later identified as misattributed to contingency because of the use of an incorrect budget code. To prevent such situations in future, the Mechanism put in place a specific procedure for the usage of a MICT construction project account which also covers contingency. Based on the actions taken by MICT, OIOS concluded

that appropriate measures were in place to ensure that expenditures are not incorrectly charged to contingency.

#### **IV. ACKNOWLEDGEMENT**

28. OIOS wishes to express its appreciation to the Management and staff of MICT for the assistance and cooperation extended to the auditors during this assignment.

(*Signed*) David Kanja  
Assistant Secretary-General for Internal Oversight Services

## STATUS OF AUDIT RECOMMENDATIONS

### **Audit of the construction of a new office facility for the Mechanism for International Criminal Tribunals in Arusha**

<b>Recom. no.</b>	<b>Recommendation</b>	<b>Critical<sup>2</sup>/ Important<sup>3</sup></b>	<b>C/ O<sup>4</sup></b>	<b>Actions needed to close recommendation</b>	<b>Implementation date<sup>5</sup></b>
1	MICT should ensure that the Project Management Team members are provided with fraud awareness training on potential fraud schemes and red flags in construction projects.	Important	C	Action completed.	Implemented
2	The MICT Project Management Team should finalize the project management plan to guide the day-to-day activities of the construction project.	Important	C	Action completed.	Implemented
3	MICT should establish a clear, transparent procedure for processing change orders during the construction phase of the new office facility in Arusha.	Important	C	Action completed.	Implemented
4	MICT should ensure that associated costs are clearly identified and included in the budget submission to assure the availability of funds to meet these costs.	Important	O	Receipt of the MICT budget submission for the biennium 2016/2017, showing the inclusion of estimates relating to associated costs.	31 May 2015

<sup>2</sup> Critical recommendations address significant and/or pervasive deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance cannot be provided regarding the achievement of control and/or business objectives under review.

<sup>3</sup> Important recommendations address important deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

<sup>4</sup> C = closed, O = open

<sup>5</sup> Date provided by MICT in response to recommendations.

## **APPENDIX I**

### **Management Response**

## Management Response

### Audit of the construction of a new office facility for the Mechanism for International Criminal Tribunals in Arusha

Rec. no.	Recommendation	Critical <sup>1</sup> / Important <sup>2</sup>	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	MICT should ensure that the Project Management Team members are provided with fraud awareness training on potential fraud schemes and red flags in construction projects.	Important	Yes	Registrar	5 May 2015	This recommendation has been implemented in two stages: (1) All Project Management Team members have completed the online course on “Ethics and Integrity in Procurement”; (2) on 5 May 2015, all Project Management Team members attended a training on fraud awareness, led by the Chief of Investigations of OIOS, Nairobi.
2	The MICT Project Management Team should finalize the project management plan to guide the day-to-day activities of the construction project.	Important	Yes	Project Manager/Registrar	11 May 2015	The Mechanism Project Management Plan has been finalised.
3	MICT should establish a clear, transparent procedure for processing change orders during the construction phase of the new office facility in Arusha.	Important	Yes	Registrar	11 May 2015	The Mechanism has adopted a procedure for processing change orders.
4	MICT should ensure that associated costs are clearly identified and included in the budget submission to assure the availability of funds to meet these costs.	Important	Yes	Registrar	31 May 2015	Budget submissions are being prepared, reflecting, <i>inter alia</i> , this recommendation. The MICT will submit its budget proposal to PPBD in May 2015.

<sup>1</sup> Critical recommendations address significant and/or pervasive deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance cannot be provided regarding the achievement of control and/or business objectives under review.

<sup>2</sup> Important recommendations address important deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.