



INTERNAL AUDIT DIVISION

REPORT 2014/151

Audit of the post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

Overall results relating to the effectiveness of the contractor's compliance with the provisions of the post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo were initially assessed as unsatisfactory. Implementation of three critical and two important recommendations remains in progress

FINAL OVERALL RATING: UNSATISFACTORY

23 December 2014

Assignment No. AP2014/620/05

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AUDIT REPORT

Audit of the post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).
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. MONUSCO awarded a contract for the provision of post exchange services for an initial two years effective from 1 July 2009, and later granted three one-year extensions. The third extension expired on 30 June 2014 but was extended to 31 August 2014 to allow the contractor to close the contract. MONUSCO was in the process of establishing a new post exchange contract and had no post exchange services from 1 September 2014.
4. The contractor operated post exchange shops in Kinshasa, Goma, Bunia and Bukavu since 2009. The Mission's Contracts Management Section had, until 30 June 2012, overall responsibility for overseeing and managing post exchange operations. Thereafter, the daily management of the contract was the responsibility of the Post Exchange Coordinator who was a field service staff member of the Supply Section. MONUSCO had appointed post exchange committees for Kinshasa, Bunia and Goma.
5. Post exchange sales during the period from 1 July 2009 to 30 April 2014 were \$13.3 million in Kinshasa, \$3.7 million in Bukavu, \$4.7 million in Bunia and \$9.8 million in Goma.
6. Comments provided by MONUSCO are incorporated in italics.

II. OBJECTIVE AND SCOPE

7. The audit was conducted to assess the adequacy and effectiveness of MONUSCO governance, risk management and control processes in providing reasonable assurance regarding the **effectiveness of the contractor's compliance with the provisions of the post exchange contract in MONUSCO**.
8. The audit was included in the 2014 risk-based work plan of OIOS based on a request from MONUSCO due to concerns relating to the contractor's performance, as well as reputational risks associated with the contractor's non-compliance with the terms and conditions of the contract.
9. The key control tested for the audit was regulatory framework. For the purpose of this audit, OIOS defined this key control as the one that provides reasonable assurance that policies and procedures: (a) exist to guide post exchange operations and ensure the contractor's compliance with the post exchange contract; (b) are consistently implemented and complied with; and (c) ensure the reliability and integrity of financial and operational information.

10. The key control was assessed for the control objectives shown in Table 1.

11. OIOS conducted this audit from April to July 2014. The audit covered the period from the inception of the contract on 1 July 2009 to 30 April 2014 and included a field visit to the contractor’s shop and warehouse in Kinshasa.

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

III. AUDIT RESULTS

13. The MONUSCO governance, risk management and control processes examined were initially assessed as **unsatisfactory**¹ in providing reasonable assurance regarding the **effectiveness of the contractor’s compliance with the provisions of the post exchange contract in MONUSCO**. OIOS made five recommendations to address issues identified. MONUSCO needed to: (a) request the post exchange contractor to account for all goods imported on behalf of the Mission to ensure that they were fully accounted for and sold only to authorized post exchange customers; (b) seek legal advice and implement action to protect the interest of the United Nations regarding the tax notice issued by the Government to the contractor; (c) implement procedures to review and monitor price increases proposed by the contractor; and (d) develop and implement performance measurement criteria and key performance indicators to enable proper monitoring and reporting on performance of post exchange operations.

14. The initial overall rating was based on the assessment of the key control presented in Table 1. The final overall rating is **unsatisfactory** as implementation of three critical and two important recommendations remains in progress.

Table 1: Assessment of key control

Business objective	Key control	Control objectives			
		Efficient and effective operations	Accurate financial and operational reporting	Safeguarding of assets	Compliance with mandates, regulations and rules
Effectiveness of the contractor’s compliance with the provisions of the post exchange contract in MONUSCO	Regulatory framework	Unsatisfactory	Unsatisfactory	Unsatisfactory	Unsatisfactory
FINAL OVERALL RATING: PARTIALLY UNSATISFACTORY					

¹ A rating of “**unsatisfactory**” means that one or more critical and/or pervasive important deficiencies exist 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.

Regulatory framework

The contractor did not maintain records that reconciled with all merchandise imported on behalf of the Mission

15. Article 15.1 of the post exchange contract required the contractor to maintain separate and complete records for goods imported for sale in post exchange shops. The contractor was also required to make available its records for audit by MONUSCO and/or United Nations auditors for five years from the effective date of commencement of the contract or one year from the date of termination or expiration of the contract.

16. A review of the contractor's sales records, import documents and books of accounts, and a visit to the contractor's warehouse in Kinshasa indicated that separate, complete and accurate records were not maintained. Also, neither MONUSCO nor the contractor had a reconciliation of items sold against goods imported duty-free. As a result, the Mission and the contractor were unable to confirm that all goods imported under United Nations privileges were exclusively sold through MONUSCO post exchange shops.

17. This resulted as MONUSCO had not established terms of reference for post exchange committees that required regular meetings for review of the contractor's compliance with the terms of the contract. For example, between 2010 and 2014, the post exchange committee for Kinshasa met only four times, and those for Goma and Bunia met once. As a result, goods imported duty-free by the contractor for sale in post exchange shops could not be fully accounted for, exposing the Mission to reputational and financial risks if items imported exclusively for MONUSCO were available on the open market.

(1) MONUSCO should request the post exchange contractor to provide a full account of all goods imported on behalf of the Mission for review and action, if deemed necessary, by the Mission.

MONUSCO accepted recommendation 1 and stated that it had sent a letter to the post exchange contractor requesting copies of all records of importation and sales slips. It would analyze these documents for full contract compliance and continue to ensure adequate oversight of the new post exchange contractor. Recommendation 1 remains open pending receipt of evidence that required documents have been received from the contractor and the records reconciled.

(2) MONUSCO should implement controls for ensuring that: (a) all goods imported duty-free by future post exchange contractors are fully accounted for and sold only to authorized post exchange customers; and (b) future post exchange contractors satisfactorily comply with the terms of their contracts.

MONUSCO accepted recommendation 2 and stated that it would ensure that the required controls are built into the new post exchange contract. Recommendation 2 remains open pending receipt of the new post exchange contract and controls implemented to ensure contractor's compliance with the terms of the contract.

Post exchange contract was reassigned to a subsidiary of the contractor

18. The United Nations Procurement Manual required contracts with complex or sensitive legal issues to be reviewed by the MONUSCO Legal Office prior to finalization. The Manual provided that the decision to submit a contract for legal review rested with the Chief Procurement Officer.

19. A review of correspondence between the contractor and MONUSCO Procurement Section indicated that on 31 December 2013, the Procurement Section amended the post exchange contract following a request by the contractor to assign the contract to its subsidiary company. The terms and conditions of the contract did not change. Although the Supply Section requested the Procurement Section to consult the Legal Office on the new contract arrangement, the Procurement Section did not do this, as the contract amendment was within its delegated authority. However, MONUSCO needed to conduct a legal review as the amended contract had legal and tax implications, given that the subsidiary, unlike the parent company, was domiciled in the Democratic Republic of the Congo.

20. In July 2014, the Congolese Ministry of Finance issued a tax notice for \$9.7 million to the subsidiary company. The company sought MONUSCO assistance in resolving the matter, citing the conditions of the Convention on the Privileges and Immunities of the United Nations included in the contract, which exempted the United Nations including its subsidiary organs from all direct taxes and customs duties. The relevant Ministry had secured the subsidiary company's warehouses pending a resolution of the tax notice.

(3) MONUSCO should seek legal advice and implement actions to protect the interests of the United Nations regarding the tax notice issued to its post exchange contractor.

MONUSCO accepted recommendation 3 and stated that it had sought legal advice and informed the contractor and relevant national authorities accordingly. The MONUSCO Procurement Section would seek legal advice on all tax related issues relating to the new post exchange contract. Recommendation 3 remains open pending receipt of evidence of successful resolution of the tax matter and actions taken to protect the interest of the United Nations.

The contractor unilaterally increased prices and did not guarantee lowest available prices

21. Article 5.3 of the post exchange contract required the contractor to ensure competitive pricing, and maintain the unit prices of goods for the first two years of the contract, which ended on 30 June 2011. The contract required subsequent price revisions to be considered during contract extensions. The contractor was required to guarantee that merchandise was obtained from manufacturers at the lowest available wholesale prices net of discounts and rebates.

22. A review of sale prices for nine months during the audit period indicated that the contractor unilaterally increased the price of six line items more than three times without the consent of the Procurement Section. These price increases were made as the Mission did not respond to the contractor's request to the Procurement Section on 10 November 2011 to revise the pricing policy. The Procurement Section could not provide a reason for the lack of response to the contractor's request as the former Chief Procurement Officer had left the Organization. Additionally, although MONUSCO awarded three one-year extensions to the contractor, the Procurement Section did not request guarantees to confirm that the contractor obtained merchandise from manufacturers at the lowest available wholesale prices. Therefore, as a result of the lack of procedures for monitoring prices charged by the post exchange contractor, there was a risk that MONUSCO staff were paying rates that were higher than what was agreed in the contract.

(4) MONUSCO should implement procedures to review post exchange contractors' requests for price changes and enforce the contractual requirement of a guarantee that merchandise is obtained from manufacturers at the lowest available wholesale prices.

MONUSCO accepted recommendation 4 and stated that it would include relevant clauses in the new post exchange contract to regulate the process of price changes and confirmation of lowest

available wholesale prices. Recommendation 4 remains open pending receipt of a copy of the new post exchange contract with relevant clauses regulating price changes and lowest available wholesale prices.

The performance of the post exchange contractor was not satisfactory and some performance indicators were not appropriate for post exchange operations

23. The United Nations Procurement Manual required MONUSCO to develop evaluation criteria for measuring vendor performance, and to prepare monthly performance review meeting reports. The Manual also required a Local Vendor Review Committee to review contractors whose performance was rated as unsatisfactory and to recommend related corrective actions.

24. A review of available reports indicated that the evaluation criteria established by MONUSCO were more suited to engineering and construction contracts rather than post exchange activities. For example, performance assessments under the Quality of Work and Material section of the report indicated that five of the six questions were not applicable. Also, performance reports prepared during the contract period repeatedly highlighted poor performance related to inadequate supervision of post exchange staff by the management of the contractor. MONUSCO did not take any action to resolve these issues.

25. A Local Vendor Review Committee meeting on 16 August 2012 recommended the termination of the contractor's services in Kinshasa due to unsatisfactory performance. However, the Director of Mission Support authorized the retention of the contractor to ensure availability of post exchange services to staff. As a result, MONUSCO continued to use the post exchange contractor even though its services were less than satisfactory.

(5) MONUSCO should develop and implement specific performance measurement criteria, including suitable key performance indicators, for use in monitoring and reporting on the performance of post exchange operations.

MONUSCO accepted recommendation 5 and stated that it had developed specific key performance indicators that would be included into the new post exchange contract. Recommendation 5 remains open pending receipt of a copy of the new post exchange contract with the specific key performance indicators for monitoring and reporting on the performance of post exchange operations.

IV. ACKNOWLEDGEMENT

26. OIOS wishes to express its appreciation to the Management and staff of MONUSCO 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 post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

Recom. no.	Recommendation	Critical ¹ / Important ²	C/ O ³	Actions needed to close recommendation	Implementation date ⁴
1	MONUSCO should request the post exchange contractor to provide a full account of all goods imported on behalf of the Mission for review and action, if deemed necessary, by the Mission.	Critical	O	Receipt of evidence that required documents have been received from the contractor and the records reconciled.	30 March 2015
2	MONUSCO should implement controls for ensuring that: (a) all goods imported duty-free by future post exchange contractors are fully accounted for and sold only to authorized post exchange customers; and (b) future post exchange contractors satisfactorily comply with the terms of their contracts.	Critical	O	Receipt of the new post exchange contract and controls implemented to ensure contractor's compliance with the terms of the contract.	30 March 2015
3	MONUSCO should seek legal advice and implement actions to protect the interests of the United Nations regarding the tax notice issued to its post exchange contractor.	Critical	O	Receipt of evidence of successful resolution of the tax matter and actions taken to protect the interest of the United Nations.	30 March 2015
4	MONUSCO should implement procedures to review post exchange contractor requests for price changes and enforce the contractual requirement of a guarantee that merchandise is obtained from manufacturers at the lowest available wholesale prices.	Important	O	Receipt of a copy of the new post exchange contract with relevant clauses regulating price changes and lowest available wholesale prices.	30 March 2015
5	MONUSCO should develop and implement specific performance measurement criteria, including suitable key performance indicators, for use in monitoring and reporting on the performance of post exchange operations.	Important	O	Receipt of a copy of the new post exchange contract with the specific key performance indicators for monitoring and reporting on the performance of post exchange operations	30 March 2015

¹ 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.

² 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.

³ C = closed, O = open

⁴ Date provided by MONUSCO in response to recommendations.

APPENDIX I

Management Response



Mission de l'Organisation des Nations Unies
pour la Stabilisation en République
démocratique du Congo

United Nations Organisation Stabilization
Mission in the Democratic Republic of Congo

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STABILIZE

CONSOLIDATE PEACE

INTEROFFICE MEMORANDUM

19 December 2014
Ref. ODMS/14/OM/04145

To: Ms. Eleanor T. Burns
Director, Internal Audit Division, OIOS

From: Guy Siri
Director of Mission Support
MONUSCO

Subject: **Assignment No. AP2014/620/05 – Draft Audit Report – Audit of the Post Exchange contract in MONUSCO**

1. Your interoffice memorandum reference IAD-14-7-5-7 (29) dated 8 December 2014 refers.
2. Attached please find Mission response in respect of the recommendations in the draft audit report of the above-mentioned audit subject. Supporting documents will be provided to the Resident Audit Team only.

Kind regards.

Cc Mr. Rajesh Chadha, O-i-C, Integrated Support Services, MONUSCO
Ms. Richard Lorne Johnson, Chief, Supply Section, MONUSCO
Mr. Robert Sekabembe, Officer-in-Charge, Procurement Section, MONUSCO
Ms. Jacoba Genis, Audit Focal Point, MONUSCO
Mr. Laud Botchwey, Chief Resident Auditor for MONUSCO, OIOS
Ms. Cynthia Avena-Castillo, Professional Practices Section, Internal Audit Division, OIOS

Attachment: Management Response

Peace it!

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APPENDIX I

Management Response

Audit of the post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

Rec. no.	Recommendation	Critical ⁶ / Important ⁷	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	MONUSCO should request the post exchange contractor to provide a full account of all goods imported on behalf of the Mission for review and action, if deemed necessary, by the Mission.	Critical	Yes	Contract Manager (Supply Officer)	30 March 2015	The Mission has sent a letter to the current post exchange contractor requesting copies of all records of importation and all individual staff sales slips. Copy of the supporting document has been provided to the audit team. When received, these will be analyzed for full contract compliance. The Mission will continue to ensure that this important oversight requirement is implemented in the new post exchange contract.
2	MONUSCO should implement controls for ensuring that: (a) all goods imported duty-free by future post exchange contractors are fully accounted for and sold only to authorized post exchange customers; and (b) future post exchange contractors satisfactorily comply with the terms of their contracts.	Critical	Yes	Chief Procurement Officer / Contract Manager	30 March 2015	The Mission will ensure that required oversight controls are built into the new post exchange contract.

⁶ 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.

⁷ 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.

Management Response

Audit of the post exchange contract in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

Rec. no.	Recommendation	Critical ⁸ / Important ⁹	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
3	MONUSCO should seek legal advice and implement actions to protect the interests of the United Nations regarding the tax notice issued to its post exchange contractor.	Critical	Yes	Chief Procurement Officer/ Contract Manager	Implemented	The Mission sought legal advice to protect the interest of the United Nations and have informed the National Authorities and the contractor accordingly. Supporting documentation has been provided to the audit team. MONUSCO Procurement Section will seek legal advice on all tax related issues with regard to the new post exchange contract.
4	MONUSCO should implement procedures to review post exchange contractor requests for price changes and enforce the contractual requirement of a guarantee that merchandise is obtained from manufacturers at the lowest available wholesale prices.	Important	Yes	Chief Procurement Officer	30 March 2015	The Mission will include relevant clauses in the new post exchange contract to regulate the process of price changes as well as to obtain the lowest available wholesale prices.
5	MONUSCO should develop and implement specific performance measurement criteria, including suitable key performance indicators, for use in monitoring and reporting on the performance of post exchange operations.	Important	Yes	Chief Procurement Officer	30 March 2015	The Mission has developed specific Key Performance Indicators (KPIs) that will be included into the new post exchange contract.

⁸ 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.

⁹ 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.