



INTERNAL AUDIT DIVISION

REPORT 2016/148

Audit of governance arrangements at
the Mechanism for International
Criminal Tribunals

While essential governance mechanisms
were in place, accountability for
management of resources needed to be
strengthened

7 December 2016
Assignment No. AA2015/261/03

Audit of governance arrangements at the Mechanism for International Criminal Tribunals

EXECUTIVE SUMMARY

The objective of the audit was to assess the adequacy and effectiveness of governance, risk management and control processes over the governance arrangements at the Mechanism for International Criminal Tribunals (MICT). The audit covered the period from April to June 2016 and included a review of governance mechanisms at MICT and the related regulatory framework.

Since its establishment in July 2012, MICT had put in place essential governance mechanisms to support the accomplishment of its objectives. These consisted of a combination of processes and structures to inform, direct, manage and monitor the activities of MICT. However, there was a need to strengthen accountability for management of the Mechanism's resources.

OIOS made three recommendations. To address issues identified in the audit, MICT needed to:

- Clarify with the Executive Office of the Secretary-General the need for a Senior Manager's Compact between the Registrar and the Secretary-General to ensure that there is no gap in accountability for management of resources;
- Develop a consolidated summary risk register at the corporate level to assure that senior management is aware of and proactively manages the risks faced by it; and
- Finalize all pending performance assessments for the 2014-2015 and 2015-2016 performance cycle and take steps to ensure that staff and their supervisors complete all individual work plans at the beginning of the cycle in accordance with the administrative instruction on performance management.

MICT accepted the recommendations and has initiated appropriate action to implement them.

CONTENTS

	<i>Page</i>
I. BACKGROUND	1-2
II. AUDIT OBJECTIVE, SCOPE AND METHODOLOGY	2
III. OVERALL CONCLUSION	2
IV. AUDIT RESULTS	3-6
A. Governance mechanisms	2-4
B. Regulatory framework	4-6
V. ACKNOWLEDGEMENT	6
ANNEX I Status of audit recommendations	
APPENDIX I Management response	

Audit of governance arrangements at the Mechanism for International Criminal Tribunals

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of governance arrangements at the Mechanism for International Criminal Tribunals (MICT).
2. MICT was established pursuant to Security Council resolution 1966 (2010) to continue the essential functions of: (a) the International Tribunal for the former Yugoslavia (ICTY); and (b) the International Criminal Tribunal for Rwanda (ICTR). MICT was established with two branches – one at Arusha (for ICTR) from 1 July 2012 and the other at The Hague (for ICTY) from 1 July 2013.
3. Tables 1 and 2 provide information related to the MICT financial and human resources for the biennia 2014-2015 and 2016-2017.

Table 1: MICT budget by component

Component	2012-2013 expenditures	2014-2015 revised appropriation	2016-2017 estimates
A. Chambers			
1. Arusha Branch	20	2 696	3 096
2. The Hague Branch	48	1 444	4 536
Sub-total	68	4 140	7 632
B. Office of the Prosecutor			
1. Arusha Branch	2680	11 638	11 143
2. The Hague Branch	335	6 113	10 146
Sub-total	3 015	17 751	21 289
C. Registry			
1. Arusha Branch	7 663	53 510	68 674
2. The Hague Branch	4 291	30 594	46 071
3. Support Office in NY	-	-	407
Sub-total	11 954	84 104	115 152
D. Records management and archives			
1. Arusha Branch	395	4 292	3476
2. The Hague Branch	1 142	5 235	3140
Sub-total	1 537	9 527	6 616
Total requirements (gross)	16 574	115 522	150 689
Income			
Income from staff assessment	1 155	7 177	10 859
Total requirement (net)	15 419	108 345	139 830

Table 2: MICT temporary posts

Category	2014-2015	2016-2017
Professional and higher		
Arusha Branch		
Under Secretary General	1	1
Professional	34	37
The Hague Branch		
Professional	31	31
New York	-	1
Total, Professional and higher	66	70

General Services and other		
Arusha Branch		
Local and field staff	35	81
The Hague Branch		
Local and field staff	25	26
Total General Service and other	60	107
Grand total	126	177

Note: Due to the temporary nature of MICT, the posts were funded through General Temporary Assistance.

4. Comments provided by MICT are incorporated in italics.

II. AUDIT OBJECTIVE, SCOPE AND METHODOLOGY

5. The objective of the audit was to assess the adequacy and effectiveness of governance, risk management and control processes over the governance arrangements at MICT.

6. This audit was included in the 2015 risk-based work plan of OIOS due to the risk that potential weaknesses in governance arrangements that could arise from combining ICTY and ICTR into a single entity, adversely affecting the effective functioning of MICT and the delivery of its mandate.

7. OIOS conducted this audit from April to June 2016. The audit covered the period from 1 July 2013 to 30 June 2016. Based on an activity-level risk assessment, the audit covered higher and medium risks in the governance arrangements at MICT and the related regulatory framework, including the accountability framework.

8. The audit methodology included: (a) interviews of key personnel; (b) review of relevant documentation; and (c) analytical reviews of data. OIOS also undertook a survey of 852 MICT and ICTY staff members belonging to various categories who had dual responsibilities (referred to as “double-hatting”) for managing both entities. The survey elicited 298 responses.

III. OVERALL CONCLUSION

9. Since its establishment in July 2012, MICT had put in place essential and appropriate corporate governance mechanisms to support the organization in accomplishing its objectives. These consisted of a combination of processes and structures implemented to inform, direct, manage and monitor the activities of MICT and assist it in achieving its objectives. However, there was a need for MICT to: (i) address the lack of a Senior Manager’s Compact between the Secretary-General and the Registrar, who is responsible for managing MICT resources; (ii) develop a consolidated summary risk register for MICT to facilitate proactive management of risks; and (iii) ensure that individual performance assessments and related work plans are finalized for all staff in accordance with the applicable administrative instruction.

IV. AUDIT RESULTS

A. Governance mechanisms

Corporate governance mechanisms were generally adequate

10. Since its establishment in July 2012, MICT had put in place essential corporate governance mechanisms to support the organization in accomplishing its objectives. These consisted of a

combination of processes and structures implemented to inform, direct, manage and monitor the activities of MICT and assist it in achieving its objectives. These mechanisms mainly comprised the following:

- Use of the United Nations Secretariat's standards, processes and practices to promote the Organization's values and ethics;
- Reporting of MICT activities to governing bodies on a regular basis;
- Coordination with Member States to clarify the MICT mandate;
- Setting clear roles and assigning appropriate functions to MICT staff members;
- Establishment of management committees to provide Senior Management with advice and support in decision making processes;
- Implementation of risk management and internal control processes in various parts of MICT in order to identify and address the risks faced by it; and
- Implementation of an accountability framework using the United Nations Secretariat's standards, processes, guidance and tools.

11. MICT had established an organization structure aligned to its mandate and needs. The organization structure reflected the need for independence between the three judicial organs of MICT. OIOS therefore concluded that the corporate governance mechanisms for MICT were generally adequate.

Lack of Senior Manager's Compact between the Secretary-General and the Registrar needed to be addressed

12. The Secretary-General's report to the General Assembly (A/64/640) titled "Towards an accountability system in the United Nations Secretariat" stated that the critical linkage between institutional accountability and individual accountability is established through the work plans contained in the annual performance compacts for Senior Managers and the performance appraisal system for staff at all levels below that of the Assistant Secretary-General. The use of Senior Manager's Compacts was extended to the Assistant Secretaries-General in 2008.

13. Performance compacts constitute annual contracts between the Secretary-General and his most senior officials. They integrate into one document the objectives, expected results and associated performance measures that are specific to each department/entity under the strategic framework and programme budget. In addition, the Secretary-General has asked Senior Managers to incorporate into their compacts various managerial targets, such as those related to implementation of the recommendations of oversight bodies and matters related to financial management.

14. No compacts with the Secretary-General had been established for the three Principals (i.e., the President, Prosecutor and Registrar) of MICT. OIOS was informed that this was because the programme of MICT was not derived from the United Nations Secretariat's strategic framework and programme budget but from the mandate given to it by the Security Council. The three Principals were accountable to the Security Council with regard to implementation of the MICT mandate. Since MICT activities did not fall under the Secretariat's strategic framework, Senior Manager's Compacts between the three Principals and the Secretary-General were never put in place.

15. The MICT Registrar was provided the delegation of authority for financial and human resources management for which he should be accountable. OIOS is of the view that the lack of a Senior Manager's Compact between the Secretary-General and the MICT Registrar constitutes a gap in the accountability framework that needs to be addressed, particularly since the Registrar is responsible for managing the financial and human resources of MICT.

(1) MICT should clarify with the Executive Office of the Secretary-General the need for a Senior Manager’s Compact between the Registrar and the Secretary-General to ensure that there is no gap in accountability for management of resources.

MICT accepted recommendation 1 and stated that it sought the required guidance from the Department of Management who advised that a modified compact would be appropriate in light of the specific nature of the Mechanism’s mandate and the existence of other monitoring and accountability structures. Management will continue to work with the Office of Legal Affairs and the Department of Management as appropriate in the implementation of this recommendation. Recommendation 1 remains open pending receipt of the Senior Manager’s Compact between the Secretary-General and the Registrar of the MICT.

Need to develop a consolidated risk register for MICT

16. The United Nations Enterprise Risk Management (ERM) and internal control policy defines the risk owners of the organization and provides information regarding their responsibilities including: (i) regularly reviewing the risks owned by them; (ii) determining where internal control deficiencies relating to their risks may be identified, proposing mitigation measures and monitoring risk treatment; and (iii) updating relevant risk information and contributing to risk reporting. The ERM and internal control methodology states that once completed, the outcomes of the risk assessment process shall eventually be captured in the organization’s risk register, the central repository of all relevant risk information that will be maintained by the organization. Further, the policy states that each unit location shall maintain the relevant sub-set of risks within the risk register, reflecting any relevant changes in the risk environment. A comprehensive review shall be completed at least annually, as a result of the periodic risk assessment.

17. MICT had developed some risk registers for various parts of the Registry, such as the Archives and Records Section, the Safety and Security Section and the Information and Technology Support Section. Further, a detailed risk register had been prepared for the construction of a new office facility in Arusha, and the Chief Administrative Officer had developed a risk register for ICTY liquidation. Also, the MICT Witness Support and Protection Unit was in the process of developing a risk register for victims and witnesses activities.

18. While MICT had developed risk registers for most of its components, there was no summary risk register documenting the risks at the corporate level. The lack of such a document may lead to inconsistent risk management practices and/or omission of certain parts of the Mechanism from the risk management process.

(2) MICT should develop a consolidated summary risk register at the corporate level to assure that senior management is aware of, and proactively manages, the risks faced by it.

MICT accepted recommendation 2 and stated that it has developed and circulated among the senior management a consolidated summary risk register, which will be periodically updated. Based on the action taken by MICT, recommendation 2 has been closed.

B. Regulatory framework

An appropriate regulatory framework was in place to support governance

19. A comprehensive regulatory framework is required to provide overall guidance and direction to an organization’s activities and enable the achievement of its objectives in accordance with its mandate.

Since its establishment in July 2012, MICT made efforts to put in place the essential elements of a regulatory framework to support its governance processes. These included judicial-related documents such as the MICT rules of procedure and evidence, practice directions, codes of professional conduct for judges and the Prosecution Counsel, a policy for the provision of support/protection to victims and witnesses, and a set of guidelines and directives related to the Defence. MICT also developed sets of administrative and management policies and guidance documents relating to financial management, human resources management and the construction of new office facility in Arusha. OIOS therefore concluded that the regulatory framework for governance in MICT was generally adequate.

MICT complied with the requirements for the financial disclosure programme

20. Sound governance mechanisms comprise tools to put organizational values into practice, including prevention of conflict of interests and promotion of integrity. The Secretary-General's bulletin ST/SGB/2006/6 established the financial disclosure and declaration of interest statement programme. The responsibility for monitoring of the implementation of the financial disclosure programme was assigned to the Ethics Office.

21. MICT had a focal point in charge of implementing the financial disclosure programme within the Mechanism. The focal point liaised with the Ethics Office on a regular basis and monitored that eligible staff members fulfilled their obligations as per the provisions of the ST/SGB and the guidelines from the Ethics Office.

22. MICT enrolled staff members who had specific responsibilities falling under the provision of Section 2.1 (c) of the ST/SGB. Section 2.1 (c) requires that all staff members whose principal occupational duties relate to the investment of the assets of the United Nations, the United Nations Joint Staff Pension Fund or of any accounts for which the United Nations has fiduciary or custodial responsibility have an obligation to file an annual financial disclosure statement. OIOS therefore concluded that MICT complied with the requirements of the financial disclosure programme.

Leadership Dialogue sessions were conducted as required

23. The United Nations Ethics Office developed tools to help management to meet ethical expectations set by the Organization for its staff members. One of these tools is the Leadership Dialogue initiative which requires that all managers in the Secretariat host a dialogue session with their direct reports on an annual basis. By discussing important issues such as staff member's responsibilities as international civil servants, the Leadership Dialogue aims to contribute towards enhancing ethical behaviour in the Organization.

24. MICT had assigned a focal point in charge of the Leadership Dialogue, who liaised with the Ethics Office on an annual basis to ensure that the Leadership Dialogue sessions were held in MICT as intended.

Staff performance assessment and individual work plans needed to be finalized for all staff

25. According to administrative instruction ST/AI/2010/5 on Performance Management and Development System, staff members are required to complete each stage of the electronic Performance Assessment System (e-PAS) for which they are responsible without delay. The First Reporting Officer (FRO) is responsible for developing individual work plans with staff members at the beginning of each performance cycle and to conduct the midpoint review and final evaluation in a timely manner. All e-PAS are expected to be finalized by 30 June of each year (the performance cycle ends on 31 March). The Second Reporting Officer (SRO) is required to hold the First Reporting Officer accountable for the timely

appraisal of the staff member's performance. Additionally, MICT is required to establish Joint Monitoring Groups to monitor and review the implementation of e-PAS.

26. MICT implemented the e-PAS system for the 2013-2014 and 2014-2015 cycles. The Mechanism, in conjunction with ICTY, put in place Joint Monitoring Groups as required, and was in the process of reviewing compliance with the ST/AI concerning the implementation of performance management for the 2014-2015 and 2015-2016 performance cycles. Statistics provided by MICT during the audit showed that for the 2014-2015 cycle, MICT e-PAS completion rate was about 70 per cent (representing 77 out of 109 staff members on fixed-term contracts. Final figures for the 2015-2016 performance cycle were not available at the time of the audit. Also, there were delays in preparation and approval of the individual e-PAS work plans in some cases.

27. Delays in completion of e-PAS increased the risk that MICT could fail to recognize and correct under-performance in a fair, equitable and timely manner.

(3) MICT should: (i) finalize all pending performance assessments for the 2014-2015 and 2015-2016 performance cycles; and (ii) take steps to ensure that staff and their supervisors complete all individual work plans at the beginning of the cycle in accordance with the administrative instruction on performance management.

MICT accepted recommendation 3 and stated that it has ensured the completion of the pending performance appraisals for the 2014-15 cycle. With regard to the 2015-16 cycle, MICT has taken steps to ensure that staff and their supervisors complete outstanding performance assessments by issuing broadcast and targeted messages and re-circulated ST/AI/2010/5. Additionally, the Mechanism's Joint Monitoring Group has circulated a survey on the performance assessment system, in the context of the reporting on compliance rates and the provision of recommendations to Office of Human Resources Management. Following this sensitization campaign, 95 per cent of the assessments have been completed and more are being finalized. For the 2016-17 cycle, MICT has taken steps to ensure that staff and their supervisors complete all individual work plans in accordance with the administrative instruction on performance management, through the broadcast of messages, and, most recently, a reminder regarding the mid-point review. Based on the action taken by MICT, recommendation 3 has been closed.

V. 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) Eleanor T. Burns
Director, Internal Audit Division
Office of Internal Oversight Services

STATUS OF AUDIT RECOMMENDATIONS

Audit of governance arrangements at the Mechanism for International Criminal Tribunals

Rec. no.	Recommendation	Critical ¹ / Important ²	C/ O ³	Actions needed to close recommendation	Implementation date ⁴
1	MICT should clarify with the Executive Office of the Secretary-General the need for a compact between the Registrar and the Secretary-General to ensure that there is no gap in accountability for management of resources.	Important	O	Receipt of the modified Senior Manager's Compact between the Secretary-General and the Registrar of the MICT	30 June 2017
2	MICT should develop a consolidated summary risk register at the corporate level to assure that senior management is aware of, and proactively manages, the risks faced by it.	Important	C	Action completed	Implemented
3	MICT should: (i) finalize all pending performance assessments for the 2014-2015 and 2015-2016 performance cycles; and (ii) take steps to ensure that staff and their supervisors complete all individual work plans at the beginning of the cycle in accordance with the administrative instruction on performance management.	Important	C	Action completed	Implemented

¹ 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.

² Important recommendations address important (but not critical or pervasive) deficiencies 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.

³ C = closed, O = open

⁴ Date provided by MICT in response to recommendations.

APPENDIX I

Management Response

Management Response

Audit of governance arrangements at the Mechanism for International Criminal Tribunals

Rec. no.	Recommendation	Critical ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	MICT should clarify with the Executive Office of the Secretary-General the need for a compact between the Registrar and the Secretary-General to ensure that there is no gap in accountability for management of resources under the authority delegated to the Registrar by the Secretary-General.	Important	Yes	Registrar	30 June 2017	Management has sought the required guidance from the Department of Management who advised that a modified compact would be appropriate in light of the specific nature of the Mechanism's mandate and the existence of other monitoring and accountability structures. Such monitoring structures include reporting to and/or reviewing by the OLA, OHRM, the internal justice system, PPBD, internal and external audits, General Assembly and Security Council, and the Mechanism of Rules of Procedure and Evidence. Management will continue to work with Office of Legal Affairs and the Department of Management as appropriate in the implementation of this recommendation.
2	MICT should develop a consolidated summary risk register at the corporate level to assure that senior management is aware of, and proactively manages, the risks faced by it.	Important	Yes	Registrar	Implemented	Management has developed and circulated among the senior management a consolidated summary risk register, which will be periodically updated. Management therefore requests that OIOS consider this recommendation to be fully

¹ 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.

² Important recommendations address important (but not critical or pervasive) deficiencies 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.

Management Response

Audit of governance arrangements at the Mechanism for International Criminal Tribunals

Rec. no.	Recommendation	Critical ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
						implemented.
3	MICT should: (i) finalize all pending performance assessments for the 2014-2015 and 2015-2016 performance cycles; and (ii) take steps to ensure that staff and their supervisors complete all individual work plans at the beginning of the cycle in accordance with the administrative instruction on performance management.	Important	Yes	Registrar	Implemented	<p>Management has ensured the completion of the pending performance appraisal for the 2014-2015 cycle. Management therefore requests that the relevant portion of the recommendation be considered as closed.</p> <p>With respect to the 2015-2016 cycle, Management has taken steps to ensure that staff and their supervisors complete outstanding performance assessments by issuing broadcast and targeted messages and re-circulating ST/AI/2010/5 on “Performance Management and Development System”. Additionally, the Mechanism's Joint e-pas Monitoring Group has circulated a survey on the performance assessment system, in the context of the reporting on compliance rates and the provision of recommendations to OHRM. Following this sensitization campaign, 95% of the e-pas have been completed and more are being finalized.</p> <p>Management wishes to note the following: a) the sensitization measures taken to achieve a 100% completion rate referred to above, b) the timeline under 8.1 of ST/AI/2010/5, which requires staff</p>

Management Response

Audit of governance arrangements at the Mechanism for International Criminal Tribunals

Rec. no.	Recommendation	Critical ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
						<p>and their supervisors to discuss overall performance by the end of July 2016; c) the current e-pas completion rate of 95%; d) the breadth of this audit which covers the entire governance framework of a new institution; and e) the presence of OIOS at the Mechanism ensures continued monitoring and oversight. In light of the above and, whilst fully agreeing with the need to complete any outstanding performance appraisal as expeditiously as possible, Management kindly asks that the relevant part of the recommendation be downgraded to an opportunity for improvement.</p> <p>With respect to the 2016-2017 cycle, Management has taken steps to ensure that staff and their supervisors complete all individual work plans in accordance with the administrative instruction on performance management, through the broadcast of messages, and, most recently, a reminder regarding the mid-point review. Management therefore requests that the relevant portion of the recommendation be considered as closed.</p>