



INTERNAL AUDIT DIVISION

REPORT 2016/004

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. Management has implemented the recommendations.

FINAL OVERALL RATING: SATISFACTORY

16 February 2016
Assignment No. AA2015/261/01

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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. The International Residual Mechanism for the Criminal Tribunals was established by Security Council resolution 1966 (2010) to continue the functions of: (a) the international criminal tribunal for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991; and (b) the international criminal tribunal 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 neighbouring states between 1 January and 31 December 1994.
4. At the last four sessions of the General Assembly, the Secretary-General presented specific reports on the construction of the new facility in Arusha. The General Assembly, in its resolution 66/240B, provided additional guidance on the construction project and requested that the Secretary-General, through the Office of Central Support Services (OCSS) of the Secretariat, take into account lessons learned and best practices from past construction projects in implementing the project and draw, in particular, from the experience and know-how acquired from capital projects, including construction at the United Nations Office at Nairobi, the Economic Commission for Africa and the capital master plan at United Nations Headquarters.
5. The project duration was initially estimated at five years and three months. In response to the request of Member States, the project team chaired by the Registrar of MICT and composed of representatives of MICT and OCSS took a number of actions to reduce the project schedule by a total of 15 months – i.e., from five years and three months to four years.
6. The General Assembly approved the financing of the construction at a cost of \$8.8 million. Initially, \$3 million was approved in February 2012 (by resolution 66/240). In 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 construction of the facility. For the biennium 2014-2015, by its resolution 68/257, the General Assembly appropriated an additional amount of \$5.8 million, bringing the total appropriation for the project to \$8.8 million. Table 1 shows the actual expenditure as of 30 September 2015 and projected expenditure from October 2015 to completion of the project.

Table 1: Actual and projected expenditure for construction of the new office facility in Arusha

<i>Description</i>	<i>Approved</i>	<i>Actual expenditures</i>			<i>Projected expenditure from October 2015 to completion of project</i>	<i>Total</i>
		<i>2013</i>	<i>2014</i>	<i>September 2015</i>		
Construction	6 365 887	-	2 912	6 362 975	-	6 365 887
Architect and project management						
Architect fees	636 589	-	636 589	-	-	636 589
Project supervision and management	635 800	155 919	166 560	95 782	217 539	635 800
Travel	99 086	12 396	68 179	18 511	-	99 086
Subtotal	7 737 362	168 315	874 240	6 477 268	217 539	7 737 362
Contingency	1 050 371	-	151 680	251 898	646 793	1 050 371
Total	8 787 733	168 315	1 025 920	6 729 166	864 332	8 787 733

Source: Secretary-General's report A/69/734 dated 19 January 2015 and MICT budget management report

7. MICT worked with OCSS, which provided guidance and support during project implementation. MICT also sought and received assistance of other key stakeholders in the Secretariat. The Department of Safety and Security and the Office of Information and Communications Technology provided advice on detailed functional requirements for the facility in the areas of security and information and communications technology. In addition, the Office of Legal Affairs provided legal advice to the project team 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. This audit was included in the 2015 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 construction of the new office 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) project management; and (b) regulatory framework. For the purpose of this audit, OIOS defined these key controls as follows:

- (a) **Project management** – controls that provide reasonable assurance that the construction project is managed efficiently and effectively to ensure that it is completed in time and within budget; and
- (b) **Regulatory framework** - controls that provide reasonable assurance that policies and procedures: (i) exist to guide the operations of the construction project; (ii) are implemented effectively; 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 the audit from 15 September to 21 December 2015. The audit covered the period from 1 January to 21 December 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**¹ in providing reasonable assurance regarding **effective management of the construction of the new office facility for MICT in Arusha**. OIOS made two recommendations to address issues identified in the audit.

16. Project management was assessed as satisfactory because MICT had put in place appropriate controls to: (a) monitor the progress of construction and provide regular updates to senior management; and (b) manage relations with stakeholders to ensure that the project meets their expectations. With regard to regulatory framework, controls over the procurement process for engaging the construction contractor were generally satisfactory. However, there was need for MICT to: (i) ensure that contractor claims are processed expeditiously to avoid potential delays in project completion; and (ii) monitor the contractor’s compliance with the contractual provision concerning submission of a revised project schedule based on the time extension authorized/agreed to by MICT.

17. The initial overall rating was based on the assessment of key controls presented in Table 2 below. The final overall rating is **satisfactory** as MICT has taken action to implement both the audit recommendations.

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
Effective management of the construction of the new office facility for MICT in Arusha	(a) Project management	Satisfactory	Satisfactory	Satisfactory	Satisfactory
	(b) Regulatory framework	Partially satisfactory	Satisfactory	Satisfactory	Satisfactory
FINAL OVERALL RATING: SATISFACTORY					

¹ 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. Project management

Project completion was expected to be on schedule

18. MICT had established oversight mechanisms for the project, which included monitoring and review of progress reports. The Project Management Team (PMT) monitored the progress of the project and provided regular updates to senior management.

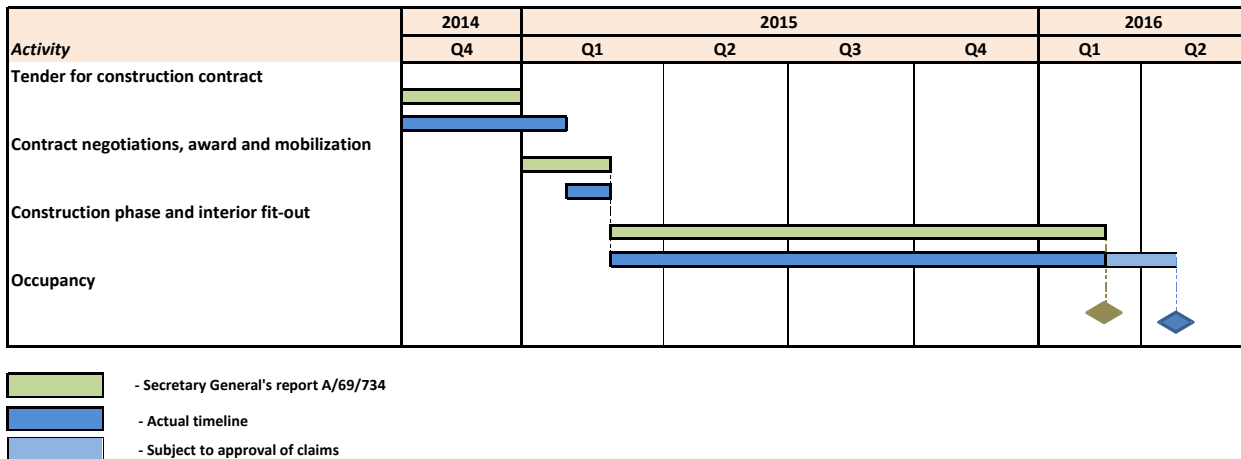
19. Based on the last updates obtained from the MICT Registry, the facility was expected to be occupied in the second quarter of 2016. As of December 2015, the construction of three buildings (court building, archive building and office building) was ongoing. The superstructures of the court and archive buildings were progressing on schedule, and construction of the second floor of the office building had started. Picture 1 below depicts the site condition on 31 December 2015.

20. The contractor's request for an extension of completion time by 35 days had been reviewed and approved by MICT. The extension agreed to is reflected in the summary of the project schedule presented in Chart 1 below. Three change order proposals had been received as of 30 September 2015 and were under review by PMT. These proposals were expected to have minor cost implications (less than \$5,000) and PMT was looking for savings from the contract to offset the cost increase, if possible. According to PMT, no significant delay was anticipated in the construction as the contractor was scaling up its workforce to ensure that the agreed schedule was met. Based on the information provided to OIOS, it appeared that the project was generally progressing on schedule, without any indication of significant increase in cost.

Picture 1: View of the construction site in Arusha (31 December 2015)



Chart 1: Project schedule for the new office facility at Arusha (as of October 2015)



Management of main stakeholders was adequate

21. Coordination, consultation, and communication with stakeholders are essential to ensure that the project meets their expectations. PMT identified project stakeholders, put in place a stakeholder management plan, and held consultations with stakeholders during the design and construction phases. All parties were kept informed of the project status. Also, MICT established a dedicated working group (the “Procurement, Installation, Moving and Occupancy Working Group”) to help coordinate office relocation, asset management and procurement for the new office facility. Terms of reference for the working group were adopted in March 2015 and the group included staff members from security, information and communications technology, procurement, general services, registry and PMT. Biweekly meetings took place and the working group adopted a detailed and time bound work plan to monitor the move and occupancy of the new office facility. OIOS therefore concluded that controls relating to stakeholder management were in place and operating satisfactorily.

B. Regulatory framework

Contractor claims needed to be disposed of expeditiously to avoid potential delays in project completion

22. Delays in construction could result from adverse weather conditions, shortage of material, low quality of drawings and design, poor performance of a contractor or sub-contractor, or from adverse unexpected events. These delays could lead to submission of claims by the construction contractor. In the contract between MICT and the construction firm, there was an agreed process for claims, including templates and timelines. As per contractual conditions, MICT is expected to analyze and approve the claim before acceptance, and the contractor is expected to submit a revised project schedule 14 days after the claim is agreed to.

23. At the time of the audit, the contractor had submitted one non-financial claim for extension of time to allow for adjustment to architectural drawings due to uneven ground conditions. This claim was submitted in May 2015 to request an extension of project duration corresponding to the time required for clarifications from the consulting firm on adjustment of drawings. Construction was stopped for close to five weeks pending clarification on the drawings. However, the contractor agreed to compensate for the delay by scaling up its workforce to meet the project milestones.

24. OIOS reviewed the claim and concluded that the project team followed the claim process as set forth in the contract. PMT consulted with the consulting firm on the claim and concluded that it was legitimate and appropriately supported. Although PMT had conducted a preliminary assessment by July 2015, it did not submit the claim to Procurement Division for review and appropriate response until 11 December 2015, representing a delay of 128 days. PMT attributed the delay to competing priorities. On 18 December 2015, the Director of Procurement Division informed the contractor about the agreed time extension and reminded the contractor about its obligation to submit a revised project schedule, in terms of Article 8.4 of the contract, which requires the contractor to submit a revised project schedule 14 days after the claim is agreed to. At the time of the audit, the revised schedule was yet to be received.

(1) MICT should take steps to ensure that contractor claims are processed expeditiously and also establish a reasonable timeframe for disposing of such claims to avoid potential delays in project completion.

MICT accepted recommendation 1 and stated that it has developed a procedure which outlines the internal steps required to ensure the timely processing of contractor claims, which was provided to OIOS. OIOS reviewed the claim procedure developed by MICT and found it to be adequate. Based on the action taken by MICT, recommendation 1 has been closed.

(2) MICT should ensure that the contractor submits a revised project schedule in accordance with Article 8.4 (c) of the contract.

MICT accepted recommendation 2 and stated that the contractor submitted a revised project schedule to the MICT on 27 January 2016, which was provided to OIOS. OIOS reviewed the documents provided by MICT and found them to be adequate. Based on the action taken by MICT, recommendation 2 has been closed.

Controls over the procurement process for engaging the construction contractor were satisfactory

25. In February 2015, MICT had engaged a construction contractor to build the new facility in Arusha. The procurement action for this contract was performed by Procurement Division through a procurement officer based at the Regional Support Centre in Entebbe (Uganda). The selection of the contractor was made in accordance with the provisions of the Procurement Manual. Procurement Division conducted a market survey and published an expression of interest in various media including the MICT website and local newspapers. Fifty-five potential vendors were identified and invited to bid, out of which 10 vendors were shortlisted and attended the mandatory site visit. With the support of the Office of Legal Affairs, OCSS and the consulting firm, Procurement Division and MICT developed a detailed and comprehensive tender document (Request for Proposal), which was sent to the 10 shortlisted vendors, of whom seven submitted proposals. These were assessed technically by a Technical Evaluation Committee. Among the seven bidders, two passed the three different stages of technical evaluation. Thereafter, Procurement Division and the consulting firm separately evaluated their commercial proposals.

26. Procurement Division presented its recommendation to the Headquarters Committee on Contracts and requested the Committee's advice to enter into negotiation with the recommended vendor for an amount up to \$7.3 million. Negotiations resulted in total contract cost of \$6.6 million, which was close to the budget estimate of \$6.3 million. The difference of \$0.3 million would be funded through contingency. Negotiations ended on 19 February 2015 and the contract was established in consultation with the Office of Legal Affairs and Procurement Division to ensure consistency with United Nations contractual

practices. OIOS therefore concluded that controls over the procurement process for engaging the construction contractor were generally satisfactory.

IV. ACKNOWLEDGEMENT

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

Recom. no.	Recommendation	Critical ² / Important ³	C/ O ⁴	Actions needed to close recommendation	Implementation date ⁵
1	MICT should take steps to ensure that contractor claims are processed expeditiously and also establish a reasonable timeframe for disposing of such claims to avoid potential delays in project completion.	Important	C	Action completed.	Implemented
2	MICT should ensure that the contractor submits a revised project schedule in accordance with Article 8.4 (c) of the contract.	Important	C	Action completed.	Implemented

² 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.

³ 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.

⁴ C = closed, O = open

⁵ 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 ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	MICT should take steps to ensure that contractor claims are processed expeditiously and also establish a reasonable timeframe for disposing of such claims to avoid potential delays in project completion.	Important	Yes	N/A	Implemented	The MICT has developed a procedure which outlines the internal steps required to ensure the timely processing of contractor claims, which was provided to OIOS. We note with gratitude in paragraph 27 that this recommendation will be closed.
2	MICT should ensure that the contractor submits a revised project schedule in accordance with Article 8.4 (c) of the contract.	Important	Yes	N/A	Implemented	The contractor submitted a revised project schedule to the MICT on 27 January 2016, which was provided to OIOS. We note with gratitude in paragraph 28 that this recommendation will be closed.

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.