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INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

INTERNAL AUDIT DIVISION I  
OFFICE OF INTERNAL OVERSIGHT SERVICES

TO: Mr. Robin Vincent, Registrar  
A: Special Court for Sierra Leone

DATE: 2 November 2004

REFERENCE: AUD-7:5:73(08<sup>85</sup>/04)

FROM: Patricia Azarias, Director  
DE: Internal Audit Division I, OIOS

*P. Azarias*

SUBJECT: **Audit of the Special Court for Sierra Leone**

OBJET:

1. I am pleased to present herewith our final report on the audit of the above subject, which was conducted during April – June 2004.

2. We note from your response to the draft report that the Special Court for Sierra Leone has generally accepted the recommendations. Based on the response, we are pleased to inform you that we have closed recommendations 2, 4, 13, 14, 15, 16, 17, 21, 22, 25 and 28 in the OIOS recommendation database. In order for us to close out the remaining recommendations, we request that you provide us with additional information as indicated in the text of the report and a time schedule for implementing each of the recommendations. Please refer to the recommendation number concerned to facilitate monitoring of their implementation status.

3. IAD is assessing the overall quality of its audit process and kindly requests that you consult with your managers who dealt directly with the auditors and complete the attached client satisfaction survey form.

4. I take this opportunity to thank the management and staff of the Special Court for Sierra Leone for the assistance and cooperation provided to the auditors in connection with this assignment.

Copy to: Members of the Management Committee, Special Court for Sierra Leone  
Mr. Ralph Zacklin, Assistant Secretary-General, Office of Legal Affairs  
Mr. Jean-Pierre Halbwachs, Assistant Secretary-General and Controller  
UN Board of Auditors  
Programme Officer, OIOS  
Mr. Tilchand Acharya, Chief Resident Auditor, UNAMSIL

# Office of Internal Oversight Services

## Internal Audit Division I



### Audit of the Special Court for Sierra Leone

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**Audit no:** AP2004/622/01  
**Report date:** 2 November 2004  
**Audit team:** Tilchand Acharya, Auditor-in-Charge  
Judith Atiagaga, Audit Assistant

**EXECUTIVE SUMMARY**  
**Audit of the Special Court for Sierra Leone**

The Special Court for Sierra Leone was established on 16 January 2002 pursuant to the United Nations Security Council resolution 1315 (2000) of 14 August 2000 following an Agreement between the United Nations and the Government of Sierra Leone. The Court was officially opened on 10 March 2004. It is comprised of three main components: (a) The Chambers; (b) The Office of the Prosecutor; and (c) The Registry.

Internal controls over the Court's operations were found to be generally satisfactory. However, there is scope for further improvement. OIOS found that Member States and the Court would have greatly benefited had the deliberations and decisions of the Management Committee on the Court's activities been issued as formal reports. In finalizing its exit strategy, the Court should use the process as an opportunity to take stock of its achievements, to draw lessons from areas that need improvements and to highlight the legacy the Court intends to leave behind as an instrument of justice to the people of Sierra Leone and of the region. A chart of accounts was not formally established within the Court to record receipts and expenses and to present its financial statements. The security of the Court will be affected by the drawdown of the United Nations Mission in Sierra Leone (UNAMSIL), in terms of Security Council resolution 1537 (2004).

The Court's budgets were not formulated in conformity with Financial Regulation 3.3. Furthermore, budgetary allotments did not include staffing table authorizations, and allotments were transferred between account groups without prior information to the Management Committee. Outstanding obligations in the amount of \$1,874,869 were not reviewed periodically. There was a need to formally establish an Appointment Panel, and the Court lacked a mechanism to address feedback from the separating staff members. The Court expended \$237,786 without a competitive procurement process for the rental, maintenance and repairs of vehicles. There were inordinate delays in finalizing the contract for the Integrated Security System in the amount of €780,569.94 or \$975,709.93. The physical verification of the Court's properties showed discrepancies between the inventory records and the actual quantities.

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## I. INTRODUCTION

1. The Special Court for Sierra Leone was established on 16 January 2002 pursuant to the United Nations Security Council resolution 1315 (2000) of 14 August 2000 following an Agreement between the United Nations and the Government of Sierra Leone. The Court was officially opened on 10 March 2004.

2. The primary purpose of the Court “is to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since November 1996”.

3. The Court functions in accordance with its Statute. The Statute provides for, among others, the Court’s competence and organization. In accordance with Article 6 of the Agreement between the United Nations and the Government of Sierra Leone, the expenses of the Court “shall be borne by voluntary contributions from the international community. ...Should voluntary contributions be insufficient for the Court to implement its mandate, the Secretary-General and the Security Council shall explore alternate means of financing the Special Court”.

4. The Court has made 13 indictments against persons bearing responsibility for serious violations of international humanitarian law and Sierra Leone law. Nine accused are presently in custody, two have died and two are at large. Three joint trials of three accused are scheduled for the 2004-2005 fiscal year.

5. The Court comprised of the three main components: (a) The Chambers; (b) The Office of the Prosecutor; and (c) The Registry. The Court’s proposed budget for the 2003-2004 fiscal year totaled \$34,705,626, which included salaries and common staff costs for 257 posts. For the fiscal year 2004-2005, the Court proposed \$29,982,380 as its budget with 341 established posts.

6. As a result of the continuing funding uncertainty, in his report to the General Assembly (A/58/733) the Secretary-General proposed a subvention of \$40 million for the 2004-2005 fiscal year. By its resolution 58/284, the General Assembly authorized a subvention of \$16.7 million from the regular budget appropriations for the period covering 1 July to 31 December 2004. Since its inception in 2002, the Court’s cumulative budget totaled \$84,095,126 for the three fiscal years.

## II. AUDIT OBJECTIVES

7. The objectives of the audit were to: (a) assess the Court’s effectiveness and efficiency in discharging its responsibilities in accordance with its Statute; (b) examine the adequacy and effectiveness of the Court’s internal control systems exercised in conducting its operations, and in managing its staff and resources; and (c) evaluate whether the Court’s procurement and inventory control systems assure economy and efficiency.

### **III. AUDIT SCOPE AND METHODOLOGY**

8. The audit covered the Court's operations, budgetary process and expenditures for the period 1 July 2003 to 31 March 2004. While reviewing the budgetary process, the budget formulation for the 2004-2005 fiscal year was also covered. Expenses on rental, maintenance and repairs of cars were reviewed since the inception of the Court in the year 2002 to April 2004. Furthermore, internal controls over the Court's non-expendable property as of 31 March 2004 were also reviewed.

9. The implementation status of previous audit recommendations was reviewed and followed up, where necessary. The audit was conducted in accordance with the standards for the professional practice of internal auditing in United Nations organizations. Sample tests, observations, questionnaires and interviews were used to collect information and to evaluate internal control systems.

### **IV. OVERALL ASSESSMENT**

10. Internal controls over the Court's operations were found to be generally satisfactory. The Court has taken initiatives to strengthen controls and to improve its operations. The Court's initial expectation to receive support services from the United Nations Mission in Sierra Leone (UNAMSIL) did not materialize, and consequently, it had to establish its own administrative set up amidst lack of staff and other resources. The audit identified a number of weaknesses in the Court's executive direction and management, budget and finance, human resources management, and procurement and property control.

### **V. AUDIT FINDINGS AND RECOMMENDATIONS**

#### **A. Executive Direction and Management**

##### Management Committee deliberations are not formally reported

11. A Management Committee was established to oversee and guide the operations of the Court. The Management Committee had at least 12 members, consisting of seven Member States, four United Nations Secretariat Offices: (1) Office of Legal Affairs (OLA); (2) Office of Programme Planning Budget and Accounts (OPPBA); (3) Office of Human Resources Management; and (4) Office of Central Support Services, and the Special Court for Sierra Leone. The membership of the Committee from outside of the United Nations Secretariat appeared to be donor-driven because the Court depended on voluntary contributions to finance its operations. Six of the Committee members are also the key contributors of the Court providing \$42,831,498.49 as of 31 January 2004.

12. The Management Committee provides legislative guidance to the Court. As part of its functions, the Committee examined and approved the Court's programme budget. The Court kept records of its deliberations and decisions in the minutes of the Committee meetings. The Committee also received the Court's monthly progress reports. However, the Committee's

deliberations and decisions on the activities of the Court were not documented in formal reports and disseminated for information to Member States and other interested stakeholders.

13. Although the Resolution 1315 (2000) has no explicit requirement for the Secretary-General to periodically report on the activities of the Court, OIOS believes that presentation of formal reports of the Committee would greatly help stakeholders to keep themselves abreast of the activities of the Court. These reports would also provide platforms to the Court to highlight its achievements, to draw attention to the uniqueness of its activities and to sustain continuing support from Member States. Consequent to General Assembly resolution 58/284 authorizing a subvention of \$16.7 million from the regular budget to the Court, formal reporting of the Committee's deliberations and decisions is now required under this resolution.

### **Recommendation 1**

OIOS recommends that the Court submit a proposal to the Management Committee requesting for its deliberations and decisions to be documented and published in formal reports to regularly inform Member States and other interested stakeholders on the Court's activities (AP2004/622/01/001).

14. *Management did not accept this recommendation, noting that whilst there is a need to publicize progress being made at the Court, there should be a distinction between the Special Court monthly status reports and the Management Committee's deliberations and decisions. The former are made available to the Management Committee and, through the Committee, to the Group of Interested States.* OIOS recognizes this distinction and reiterates that the Special Court and the Member States will benefit by documenting and publishing the deliberations and decisions of the Management Committee in formal reports periodically. OIOS will close this recommendation in its database upon receipt of a copy of the proposal from the Management to the Committee in this regard.

15. OIOS also noted that only a limited number of Committee members attended meetings. The Committee so far met fifty-four times since the Court's inception. The minutes of these meetings showed that the attendance ranged between 5 and 8 members out of a possible 12 members. In order for the Court to remain financially viable and to receive continued acceptance of its work, the support of the Committee members is crucial. Efforts of the Court in engaging the Committee members in particular and in seeking the support of all United Nations Member States in general will go a long way in fulfilling the Court's mandate.

### **Recommendation 2**

OIOS recommends that the Court take steps to engage the members of the Management Committee in the work of the Court by increasing the level of their attendance and participation in the Committee meetings (AP2004/622/01/002).

16. *Management accepted this recommendation and clarified that the members of the Management Committee are parties to the Agreement establishing the Court, and therefore, the Committee comprised of eight members: the Government of Sierra Leone, the United Nations, and the six Member States.* While OIOS agrees with this explanation, it believes that any additional effort from the Management to increase the current level of participation of the Committee members in their deliberations will enhance the visibility of the Court's activities. Based on the Court's response, OIOS has closed this recommendation.

#### The Court's exit strategy

17. The Court's mandate would have been achieved following the completion of the trials of 13 indicted persons. OIOS noted that the Court is currently finalizing an exit strategy, which the Board of Auditors had recommended in their report dated 26 March 2004. OIOS acknowledges and appreciates the Court's efforts in drawing up the strategy. This strategy could, however, be further refined to reflect the experiences gained in the Court's activities as well as the ground realities of delivering justice in the country and in West Africa. The process should provide the Court an opportunity to take stock of its achievements, to draw lessons from areas that need improvements and to highlight the legacy the Court intends to leave behind as an instrument of justice to the people of Sierra Leone and of the region.

18. It is OIOS' view that such a strategy should also take into account the ongoing conflicts and the United Nations peacekeeping and conflict resolution efforts in Liberia, Ivory Coast and in the Mano river region where cases of crimes against humanity, war crimes and other serious violations of international humanitarian law may be prevalent. The key stakeholders of the region such as the Economic Community of West African States (ECOWAS) and the United Nations Office in West Africa must also be engaged in the effort. Further, the Court may also draw lessons from the activities of the United Nations tribunals in the Hague and Arusha as well as those of the International Criminal Court.

19. The objective is not to seek an expansion of the Court's mandate but to highlight the current work of the Special Court for Sierra Leone as a model in the region in delivering justice and that it could serve as a hub to conduct trials of persons bearing the highest responsibility in such crimes. Management Committee's guidance and input from the Office of Legal Affairs would greatly help the Court to outline a framework for the exit strategy. Such a strategy would justify the investment of over \$80 million for the Special Court for Sierra Leone towards delivering the mandate of the Security Council.

### **Recommendation 3**

OIOS recommends that the Court use the development of its exit strategy as an opportunity to take stock of its achievements, draw lessons from areas that need improvements and reinforce the legacy the Court intends to leave behind as an instrument of justice to the people of Sierra Leone and of the region (AP2004/622/01/003).



20. Management accepted the recommendation and stated that the Court will continue to use the development and implementation of the Completion Strategy as an opportunity to take stock and make improvements. OIOS will close this recommendation in its database upon receipt of a copy of the Court's Completion Strategy.

Impact of UNAMSIL drawdown on the security of the Court

21. The United Nations Mission in Sierra Leone (UNAMSIL) currently provides security for the Court. In its resolution 1537 (2004) the Security Council extended the mandate of UNAMSIL until 30 September 2004 and authorized its residual presence of UNAMSIL until 30 June 2005. The extension provides milestones in the reduction of troop strength during Mission drawdown. By the end of 2004, the troop strength would be reduced to 5,000, which will be further reduced to 3,250 by the end of February 2005.

22. In its draft security requirement document, the Court outlined the security needs in the post 31 December 2004 presence of UNAMSIL as follows:

**Table 1: Security Requirements of the Court**

Item	Description	Remarks
Personnel	One Company of Mechanized Infantry	Company should be composed of 4 platoons. The fourth platoon to fulfill the Bonthe Contingency plan, and a company headquarters.
Equipment	Four armoured personnel carriers (APCs) and vehicle transportation for one platoon.	
	Communications equipment	Compatible with UN VHF radio communications
	Messing equipment Medical equipment Maps of Sierra Leone	To include cooking & refrigeration units
Logistics	All logistical support: Agreement between the Court and UNAMSIL	Except electricity and water
	Maintenance of APCs and vehicles	Access
	POL, ammunition and foodstuff	Access to supply
	24 flight hours per month Helicopter assets	Based on past operations To maintain a medical evacuation capability
	Bonthe contingency plan	

23. OIOS was informed that UNAMSIL's drawdown plan is inclusive of this requirement and that the security requirements post 31 December 2004 listed above were identified to the assessment team. Therefore, the force structure and logistics support contained in the resolution includes the capacity to meet the Court's requirements. The trials for nine indicted persons are scheduled to begin in the second quarter of the year 2004, and these trials could continue beyond

2004. The reduction in troop strength in UNAMSIL will have an overall impact on the security of Sierra Leone as a whole. However, the impact on the security of the Court would be significant given that some of those indicted and detained have support and sympathy within some segments of the population. Therefore, the potential for hostile acts against the Court needs to be addressed, particularly during the trials.

#### **Recommendations 4 and 5**

OIOS recommends that the Court:

- (i) Together with UNAMSIL, update contingency plans for the Mission's support of the Court to reflect reductions in troop strength (AP2004/622/01/004); and
- (ii) Continue to liaise with UNAMSIL and the Government of Sierra Leone to assess the security requirements beyond 30 June 2005 (AP2004/622/01/005).

24. *Management accepted recommendation 4 and clarified that UNAMSIL has taken the Court's requirements into consideration when formulating its deployment on the ground. With regard to recommendation 5, the Court will make a particular effort to continue the existing arrangements beyond 30 June 2005.* OIOS has closed recommendation 4 based on the Court's response. Recommendation 5 will be closed upon receipt of a copy of the Court's security needs assessment post 30 June 2005.

#### **B. Budget and Finance**

##### The Court has not formally authorized its chart of accounts

25. The Court receives remittances of voluntary contributions and records them as income. However, the Court has not formally authorized the establishment of the chart of accounts for recording receipts and expenses and presenting financial statements. The Court received contributions totaling \$49,395,665 as of 31 January 2004, which are kept in three bank accounts.

26. Financial Rule 107.2 (c) requires that "Receipts shall be recorded in the accounts on the date the remittance is received by the Court". The receipts of these contributions were recorded in the Court's books without formally establishing an account. OIOS was informed that the Court did not recognize the requirement to establish such an account and regarded the establishment of the Court as authority to record contribution remittances.

27. Although the Court currently has no other accounts, its Financial Rule 105.2 stipulates that "The Registrar may establish a Reserve Fund and such other funds as he may be requested to establish by the Management Committee or as he may deem appropriate". In the event of such a necessity, the Court will need to distinguish its individual accounts for formally establishing them and assigning each with an identifiable account code and title. Further, the Court's rules also require that only designated officials are authorized to receive contributions and such

receipts should be compatible with the mandate of the Court. This calls for formally establishing accounts to which voluntary contributions shall be recorded in the Court's books.

### **Recommendation 6**

OIOS recommends that the Court formalize the establishment of its chart of accounts that record contributions and expenses and present financial statements (AP2004/622/01/006).

28. *Management accepted the recommendation and stated that the Registrar has formally signed off the already established chart of accounts.* OIOS will close this recommendation upon receipt of a copy of the Registrar's authorization formally establishing the chart of accounts.

#### Budget formulation does not conform to Financial Regulation 3.3

29. Financial regulation 3.3 of the Special Court requires that its "budget narrative shall set out ...concrete objectives, expected results and key performance indicators for the financial period. It shall be accompanied by such information, annexes and explanatory statements as may be requested by or on behalf of the Management Committee, including a statement on the main changes in comparison with the budget of the previous financial period and such further annexes or statements as the Registrar may deem necessary and useful. The Registrar shall monitor the achievement of objectives and service delivery during the financial period and report in the context of the next proposed programme budget on actual performance attained".

30. Until its amendment effective January 2004, the Court's financial period was established as "one calendar year". However, since its inception, the Court prepared its budget for a one-year period covering from 1 July through 30 June. As shown below, cumulative budget of the Court totalled \$84,095,126 for the three fiscal years:

**Table 2: Cumulative budget of the Court as of 30 June 2005**

Items	Fiscal years (US\$)			Total
	2002-2003	2003-2004	2004-2005	
Proposed budget	19,407,120	34,705,626	29,982,380	84,095,126

31. The Court's programme budget identified the following three main budget components: (a) The Chambers; (b) The Office of the Prosecutor; (c) The Registry and Defence. The Court's programme budgets for the three fiscal years covering the period 2002-2003, 2003-2004, and 2004-2005 did not set out objectives, expected accomplishments and performance indicators. The budget listed activities and requirements of posts for each component. Requirements for non-post costs and the dollar figures for posts were not provided at the level of each component, and they were not aggregated at the component level. Further, the budget proposal had no component level comparative tables to allow for an analysis of the proposed resource requirements with the expenditures for previous fiscal year.

32. The details of non-posts resources and dollar figures for salaries and common staff costs were combined and presented at the end of the budget proposal under the "Court" component. This component provided an overview of the Court's resource requirements, which should have

been broken down at the level of each component and presented at the beginning of the proposal. Because the Financial Regulation 4.5 requires information to the Management Committee to transfer funds between sections (component), it is important to identify posts and other direct costs at the component level.

33. The present budget formulation did not articulate overall policy orientation of the Court drawing guidance from the principal instruments of the Court namely the United Nations mandate establishing the Court, the agreement between the United Nations and the Government of Sierra Leone and the Statute of the Court. These instruments and periodic advice of the Management Committee form the basis for articulating the Court's objectives, expected accomplishments and indicators of achievement at the level of each budget component. As a result, the budget formulation as it is presented now lacks a logical framework to measure the performance of the Court by linking resource requirements to its activities that aim at meeting the Court's objectives.

34. Given that the Court depends on voluntary contributions to fund its programme of work, it is important that the budget is formulated in a manner that assures the donors that the proposed resources are intended for meeting set objectives, which have identified expected accomplishments and related indicators to measure performance.

35. Management explained that the Court prepares periodic performance reports which should serve as compliance with Financial Regulation 3.3, and that it is unrealistic for the Court to foresee the indicators of achievement at the time of budget preparation. OIOS believes that it is important for the Court to be seen as complying with its own regulations in the formulation of its budget. More importantly, the Court will need to comply with the regulation more rigorously in the next budget submission as it would include a subvention from the United Nations regular budget appropriations.

### **Recommendations 7, 8 and 9**

OIOS recommends that the Court, in formulating its future budget:

- (i) Present its overall policy orientation and an overview of posts and other resources in the beginning of the budget document (AP2004/622/01/007);
- (ii) Articulate objectives, expected accomplishments and indicators of achievement at each budget component level (AP2004/622/01/008); and
- (iii) Provide the details of resource requirements for posts and other direct costs for each component (AP2004/622/01/009).

36. *Management accepted recommendations 7 and 8 and stated that these two issues are not questions capable of 'yes or no answers' but questions of degree. It anticipates that, as the Court moves progressively into the trial phase, more detail will be possible and will be included in the future budgets. Management also accepted recommendation 9. OIOS will close these*

recommendations from its database upon receipt of a copy of the Court's budget proposal for the 2005-2006 fiscal year.

#### Budgetary allotments did not include staffing table authorizations

37. The Court's Registrar issued budgetary allotments once the Management Committee appropriated the budget. These allotments were, however, made in dollar amounts and no staffing table authorizations were issued. The Court regarded the number of posts and their levels proposed in the budget as staffing table authorization.

38. A total of 340 posts were proposed in the 2003-2004 fiscal year budget. This represented a 32 per cent increase over the 2002-2003 proposal. The 2003-2004 allotments for salaries and common staff costs totaled \$16,801,589 to cover for permanent staffing (\$16,649,089) and for temporary posts (\$152,500). However, the 340 posts proposed in the 2003-2004 budget were not broken down into permanent and temporary posts.

39. Moreover, the Court redeployed resources from salaries and common staff costs to non-post budget lines. While we support exercising such flexibility, the lack of staffing table authorizations in the allotments could make it vulnerable to arbitrary changes. OIOS is of the opinion that issuing staffing table authorizations along with allotments would help Management to monitor the vacancy rate and provide a sound basis to redeploy any savings in posts to fund non-post activities.

40. Management explained that the Court issues a staffing table authorization at the beginning of every fiscal year. Upon OIOS' request, a copy of this document was provided, containing the names of post incumbents. However, it was not supported with a formal authorization by the Registrar or the Deputy Registrar. OIOS is not convinced that this document served as Registrar's authority for the Court's staffing table. Management further informed that the Registrar authorizes the allotment of funds, but is under no requirement to re-issue the staffing table already issued by the Management Committee. OIOS is not convinced with this explanation as the Management Committee appropriates the Court's budget but does not issue dollar figure allotments and staffing table authorizations. It is the responsibility of the Management to issue allotments and staffing table authorizations within the appropriations.

#### **Recommendation 10**

OIOS recommends that the Court include staffing table authorizations in allotments (AP2004/622/01/010).

41. *Management disagreed with the recommendation and stated that there would not be any internal control enhancement by re-issuing the same authorization every time an allotment is issued, when the Court has the authority to recruit and incur costs of the posts authorized in the budget.* OIOS has examined the Court's budget authorization process and determined that the Registrar issues allotments for posts only in dollar figures, which is not supported by a staffing table identifying the level of each post for which the resources have been allotted. Post levels proposed in the budget document are not an authorization from the Registrar. Staffing table

authorizations allow revisions in salary scales of posts authorized at each level. Therefore, OIOS reiterates that the Court would benefit from implementing this recommendation, and this recommendation will be closed upon receipt of a copy of initial allotment and staffing table authorization issued for the 2005-2006 fiscal year.

Allotments were transferred between account groups without prior information to the Management Committee

42. According to Regulation 4.5, “No transfer between appropriation sections may be made without authorization by the Registrar. Prior to authorizing any such transfer, the Registrar shall inform the Management Committee of his decision and the reasons therefor, and such transfer may be effected unless the Management Committee decides otherwise”.

43. OIOS found that the Court regularly redeployed resources between account groups, as follows:

**Table 3: Redeployment of Resources between Account Groups**

Redeployment Memo	Date	From		To		Amount (USD)
		Account	Name	Account	Name	
CAS-04-03-002-PP	27/3/04	8000100	Net salary	7000100	V. maintenance	50,000
		8000100	Net salary	7000104	V. purchases	500,000
		6900107	Utilities	7100103	Security building	84,400
		6900107	Utilities	7100107	Additional block	13,100
		6900107	Utilities	7100108	Cafeteria	23,600
<b>Sub-total</b>						<b>671,100</b>
CAS-03-11-003-PP	18/2/04	8000127	Temp. posts	6200XXX	Ex gratia pmpt.	10,000

44. There was, however, no evidence that the Registrar informed the Management Committee before he authorized the redeployment of above resources between these account groups. As the Court’s posts and other resources were not budgeted at the level of each appropriation section or budget component but were consolidated under the “Court”, the budgetary authorizations were not broken down by each budget section or component. As a result, Financial Regulation 4.5 was not complied with both when the budget was formulated and when budgetary allotments were issued.

45. Consequently, the level at which the resources were appropriated differed with the level the allotments were issued. This anomaly weakened the budgetary control. Furthermore, the regulation only called for informing the Management Committee of the Registrar’s intention to redeploy resources but did not require the Committee’s approval of this intention. The requirement was employed as a mere formality rather than a system of effective budgetary control.

46. The accounting structure of the Court is also not aligned with the three main components of the budget: (a) The Chambers; (b) The Office of the Prosecutor; (c) The Registry and Defence. The accounting structure has the following 15 accounting groups:

**Table 4: Accounting Structure of the Court**

Sl. No.	Account group	Account description	Sl. No.	Account group	Account description
1	6000	Office of the Prosecutor	9	6800	Communication & IT
2	6100	Defence Office	10	6900	Common services & O.
3	6200	Registry	11	7000	Transport
4	6300	Chambers	12	7100	Construction
5	6400	Witness & Victims	13	8000	Staffing
6	6500	Outreach	14	8100	Income Tax Liability
7	6600	Library	15	9000	Compensation to judges
8	6700	Security & Detention			

47. The above table shows that account group codes are assigned for both the main components of the budget and the key cost centres of the Court. OIOS was informed that the Registry and Defence component consisted of: (a) Defence; (b) Administrative services; (c) Outreach activities; and (d) Witness and victims. Generally, the expenditure codes for cost centres are issued below the level of the account group codes for each budget component so that allotments and expenses are aggregated at the level of each cost centre and are also rolled up to each budget component account group.

48. In the context of redeployment of resources between sections, each of the three budget components is considered as a separate section. Therefore, any movement of resources between these components required information to the Management Committee. Furthermore, accounting group codes are also assigned to the cost centres necessitating information to the Management Committee for redeploying resources between cost centres, and between budget components and cost centres.

49. This non-compliance could be attributed to the fact that at the time when the budget was prepared, resources were not allocated at the level of each section/budget component. As a result, the Management Committee appropriated an overall budget instead of doing so at the level of each section/budget component. Nevertheless, the allotments in dollar amounts were issued at the level of each section/budget.

### **Recommendations 11 and 12**

OIOS recommends that the Registrar:

- (i) Authorize redeployment of resources between sections/budget components based on written evidence of prior information to the Management Committee of such redeployments (AP2004/622/01/011); and
- (ii) Consider revising the Court's accounting structure to align it with its three major budget components so that allotments and expenditures are aggregated at the level of each cost centre and are also rolled up to each budget component (AP2004/622/01/012).

50. *Management accepted recommendations 11 and 12.* OIOS will close these recommendations upon receipt of a copy of formal notification to the Management Committee, as an example, of proposed transfers between sections, and upon receipt of a copy of the newly aligned account structure in the next budget cycle.

Outstanding obligations stood at \$1,874,869.10 as at 17 March 2004

51. Financial Rule 108.9 provides that “outstanding obligations...shall be reviewed periodically by the certifying or alternate certifying officers. Obligations reflected in the accounts which, in the opinion of the Registrar, are no longer valid obligations shall be cancelled from the accounts forthwith, and the resulting credit surrendered to the Registrar’s discretionary account”.

52. The Summary of Unliquidated Obligations as at 17 March 2004 for the 2002-2003 fiscal year showed \$1,874,869.10 (Annex 1) as outstanding. This represented approximately 10 per cent of total expenses for the same period. There was no evidence that certifying officers reviewed these unliquidated obligations periodically. In the face of material funding uncertainty, the periodic review of unliquidated obligations is critical in partially sustaining the Court’s operations.

### **Recommendation 13**

OIOS recommends that the Court’s certifying officers review unliquidated obligations periodically as required under Financial Rule 108.9 (AP2004/622/01/013).

53. *Management accepted recommendation 13 and stated that outstanding obligations amounting to \$1.4 million had been reviewed and discharged.* Based on the Court’s response, OIOS has closed this recommendation.

Same official certified requisitions and signed purchase orders

54. As shown in the table below, a review of a random sample of 2003-2004 disbursement vouchers disclosed that the same official certified requisitions and also signed purchase orders. Furthermore, the official concerned also issued budgetary allotments. Such a concentration of line management and executive direction functions could undermine transparency and render checks and balances ineffective.



**Table 5: Requisitions and Purchase Orders Signed by the Same Official**

DV. NO.	Date	Amount	Req. No.	Date	Amount	PO. No.	Date	Amount	
		(USD)			(USD)			(Euro)	(USD)
234SC10150	11/10/03	35,634	SCSL.03.009	30/4/03	44,550	SCSC/03/016	15/8/03	31,180	
234SC10120	9/10/03	36,605	SCSL.03.013	1/5/03	36,921	SCSL/03/033	29/8/03		36,605
234SC12089	3/12/03	70,566	SCSL.03.006	5/4/03	83,800	SCSL/03/013	18/8/03	61,886	
234SC10059	6/10/03	38,932	SCSL.03.008	29/4/03	45,350	SCSL/03/014	18/8/03		38,932
234SC11491	26/11/03	30,321	SCSL.03.010	24/9/03	39,105	SCSL/03/056	4/9/03		30,321

55. Certifying officers sign requisitions, which are then sent to the Procurement Section for processing and issuance of purchase orders. OIOS was informed that it was necessary for the official concerned to sign requisitions at that time when the designated certifying officer concerned was on leave. Alternate certifying officers were not appointed as back up for certifying officers during their absence. The existing panel of certifying officers could also be appointed alternate certifying officers for accounts to which they are not the principal certifying officers.

### **Recommendations 14 and 15**

OIOS recommends that the Court:

- (i) Appoint alternate certifying officers to cover for certifying officers during their absence (AP2004/622/01/014); and
- (ii) Establish segregation of responsibilities between the requisitioning and procurement functions (AP2004/622/01/015).

56. *Management accepted recommendations 14 and 15 and stated that necessary remedial action had been taken.* OIOS has closed these recommendations in its database.

### **C. Human Resources Management**

#### Need to formally establish an Appointment Panel

57. As part of the audit, we also reviewed the Court's staffing resources and recruitment process. In its 2003-2004 fiscal year budget, the Court estimated \$16,649,089 to cover for salaries and common staff costs of 340 posts as compared with 257 posts budgeted for the 2002-2003 fiscal year. At the end of June 2003, 88 posts were filled and 252 posts were expected to be filled during July 2003 to June 2004. According to the Court's staff recruitment statistics as at 31 March 2004, 162 posts were filled raising the total posts incumbency level to 250 posts or 76 percent of the 340 budgeted posts. This resulted in a vacancy rate of 24 per cent.

58. The Court's draft Staff Regulation 4.2 provides that "the paramount consideration in the appointment of staff shall be the necessity of securing the highest standards of efficiency, competence and integrity". This provision was further articulated in Staff Rules and in the proposed recruitment procedures dated 9 April 2003. We noted that the recruitment procedures have not yet been formally adopted pending the concurrence of the Registrar.

59. Paragraph 5 of the proposal provides that “upon reaching the vacancy deadline, a Recruitment Panel will be appointed comprising a representative of the Personnel Section and two or more representatives of the recruiting section. If deemed appropriate, representatives of other Sections may be appointed to the Recruitment Panel to assist in the assessment and selection of candidates”. The recruitment procedures did not specify representation from the Court’s staff body.

60. OIOS noted that the Recruitment Panel proposed in the recruitment procedures was not formally established although the Court followed those procedures. The Court stated that the Panel was established on an ad hoc basis and was specific to a vacancy. Designated as a Recruitment Panel, it appears that its scope may not encompass the assessment and selection of candidates for promotion and lateral appointments through vacancy announcements.

61. The Court may consider renaming the panel as Appointment Panel, which should have the mandate to review all recruitment, appointment and promotion cases. The composition and the term of office of the Panel should be formally established in an administrative instruction. Revisions to the membership and renewal of the term of office of the Panel should be published in an information circular.

#### **Recommendations 16, 17 and 18**

OIOS recommends that the Court:

- (i) Review the continued necessity of the vacant posts and expedite filling those posts that are deemed necessary (AP2004/622/01/016);
- (ii) Formally issue the appointment procedures in an administrative instruction (AP2004/622/01/017); and
- (iii) Formally establish an Appointment Panel specifying its mandate, membership, representation from the Court’s staff body and its term of office (AP2004/622/01/018).

62. *Management accepted recommendations 16 and 17 and explained the actions taken. Based on the response, OIOS has closed recommendations 16 and 17. With regard to recommendation 18, the Court agreed to include a staff representative as an observer but indicated its reluctance to create an additional panel owing to resource constraints. While OIOS recognizes these constraints, it believes that the Court’s current level of 341 posts warrants a formal establishment of an Appointment Panel to assure transparency in the appointment and redeployment/separation of its staff. OIOS therefore requests that Management reconsider its response to this recommendation and take steps to establish an Appointment Panel.*

### Lack of a mechanism to address staff feedback

63. The Court has established an exit interview system to receive feedback from the separating staff. The Court used 16 rating attributes with four ratings scale: (a) Excellent – 4; (b) Good – 3; (c) Fair – 2; and (d) Poor-1. Twenty-one separating staff members completed the exit interview during the period 31 October 2003 to 5 April 2004.

64. Of these 21 staff members, two responded N/A (Not Applicable) against the rating attributes: (a) Supervision received; and (b) Performance Appraisal System. Some of the responses had ratings of “zero”, “none” or “-1”, which we accepted as ‘Poor’ for the purpose of our analysis. The ratings as reflected in the exit interview are summarized below:

**Table 6: Feedback from Staff in Exit Interviews**

	Ratings attributes	4 - Excellent	3 - Good	2 - Fair	1 - Poor	Total
1	Conditions of service (benefits, pay etc.)	1	15	2	3	21
2	Career development and progression		7	6	8	21
3	Initial training and orientation		6	8	7	21
4	Treating staff members fairly		8	7	6	21
5	Staff morale		10	6	5	21
6	Cooperation among staff members and management	4	11	2	4	21
7	Resources given to do the work properly	4	8	4	5	21
8	Supervision received: (1 N/A)	3	9	4	4	20
9	Growth opportunities within the Court	2	6	7	6	21
10	Interest and responsiveness to staff members needs	1	8	7	5	21
11	On-going training and development	1	3	10	7	21
12	Upholding organization values	2	12	4	3	21
13	Sense of contribution to the work of the Court	8	9		4	21
14	Recognition for work well done	3	4	10	4	21
15	Performance Appraisal System: (1 N/A)	1	6	8	5	20
16	Court's concern with quality and excellence	1	10	6	4	21

65. Over 80% of the separating staff members rated “good” or “excellent” on the “sense of contribution to the work of the Court”. However, 29% to 38% of the staff rated “poor” on five areas: (a) Career development and progression – 38%; (b) Initial training and orientation – 33%; (c) Treating staff fairly – 29%; (d) Growth opportunities within the Court – 29%; and (e) On-going training and development – 33%. It is OIOS’ view that these areas need attention to improve the image of the Court as a fair employer.

### **Recommendation 19**

OIOS recommends that the Court establish a mechanism to analyze the feedback received from the separating staff members in the exit interview and address the significant areas of concern (AP2004/622/01/019).

66. Management accepted this recommendation noting that the Court has only recently established a Staff Council, which, it hopes, will assist in identifying and addressing staff concerns. Based on the Court's response, OIOS has closed this recommendation.

**D. Procurement and Property Management**

67. During the period January 2002 to April 2004, the Court expended \$273,487 for: (a) rental of vehicles - \$237,786; and (b) maintenance and repairs of vehicles – \$35,703 without the benefit of a competitive procurement process. This was not in compliance with the Court's Financial Rule 108.22.

Rental of vehicles with Global Development Four for \$237,786

68. Using exigency of service as justification under the Financial Rule 110.16, the Court rented up to twenty 4x4 vehicles from Global Development Four during August 2002 to June 2003 at a cost of \$237,786. The following table shows the rental and purchase of vehicles during the one-year period:

**Table 7: Rental and Purchase of Vehicles**

DV. No.	Date	Amount US\$	Number of hired and new vehicles				
			Month	Hired	New	Existing	Total
Funds transfer	03/10/2002	13,200	Aug.02	6			6
Funds transfer	05/11/2002	18,366	Sept. 02	9			9
Funds transfer	13/12/2002	18,040	Oct.02	11			11
Funds transfer	31/01/2003	3,120	Dec. 02	18			18
Funds transfer	06/02/2003	21,040	Jan. 03	20			20
Wire transfer	26/02/2003	41,146	Feb. 03	12			12
30.4.03BDV18	30/04/2003	58,580	Mar. 03	17			17
234SC08171	14/08/2003	64,294	Apr. 03	17	23		40
			May-03	15	0	23	38

69. The vehicles were rented solely from Global Development Four (GD4) without a written contract. The Court entered into an informal agreement with the vendor agreeing to pay \$750 per week for each vehicle by signing the vendor's Vehicle Hire Agreement. There was no evidence that the Court prepared any needs assessment of vehicles articulating specifications and terms with a view to renting them at the best value for money. No competitive process (as required under Financial Rule 108.18) was used in renting the vehicles. The Court raised two miscellaneous obligating documents: 03-MOD-054 dated 2 May 2003 and 03-MOD-015 dated 14 April 2003 for a total of \$200,000 to set aside funds for the payment of vehicle hire charges from the vendor during December 2002 to June 2003.

70. On 31 July 2003, the Procurement Section presented Case No. SCSL/03/001 in the amount of \$237,786 to the Committee on Contracts for the post-facto rental of vehicles. The case elaborated at length to justify the need for the vehicles but failed to explain the circumstances for not entering into a written contract despite the fact that the vehicles continued to be rented over a one-year period. Furthermore, this informal arrangement was not put to a competitive process and formalized in a written contract even after presenting the case to the

Committee on Contracts. The arrangement with the vendor continued even after the purchase and receipt of 23 vehicles from United Nations Mission in Bosnia and Herzegovina (UNMIBH) in May 2003.

Payment of vehicle repairs and maintenance charges in excess of \$35,000

71. Similarly, using the exigency of service, vehicle repairs and maintenance charges in excess of \$35,000 were paid to the following vendors during January 2002 to April 2004 without the benefit of a competitive procurement process. General Terms and Conditions for Vehicle Hire of GD4 provide that “all routine service, maintenance and repairs are the responsibility of GD4” and that “vehicles are insured for total loss for use within Sierra Leone”. However, the Terms and Conditions qualify this provision stating that “the client is responsible for un-insured loss. In the event of Civil Unrest, War, Demonstrations, Explosions etc., the client will reimburse GD4 in full for any such vehicle loss or damage”. There was no evidence that such an arrangement existed with John Michael Motors and SG7 Trading Company for the repairs and maintenance of vehicles.

72. Financial Rule 108.22 (c) provides that “the Registrar or such other officials authorized under rule 108.16, in agreement with the Registrar, may waive the requirements of any part of this financial rule in certain cases. However, there was no evidence that the Registrar authorized any such waiver for the above two cases on a continuing basis. The use of exigency during the initial phase of the Court’s establishment may be justifiable. The continuation of informal arrangements with the vendors for over one-half years can not be justified as exigency.

**Recommendations 20 and 21**

OIOS recommends that the Court:

- (i) Initiate immediate steps to enter into written contracts for rental, maintenance and repairs of vehicles on a competitive basis (AP2004/622/01/020); and
- (ii) Ensure that, in the future, Financial Rule 108.19 is invoked only exceptionally when there is an actual exigency of service (AP2004/622/01/021).

73. *Management accepted recommendations 20 and 21 and clarified that the Court has since entered into written contracts on a competitive basis. Every attempt would be made to minimize the use of exigency.* OIOS has closed recommendation 21. Recommendation 20 will be closed upon receipt of a copy of the contract awarded on 26 May 2004.

Advance payments in the construction of the Sierra Leone Courthouse

74. A contract for the construction of Courthouse was entered into with the Sierra Construction Systems Ltd on 24 September 2003 at an amount of \$3,040,000 which included a contingency amount of \$206,835. As of 26 April 2004, the Court had already disbursed

\$2,897,210 on the construction of the Courthouse, leaving a balance of \$432,990. As an exception, an advance payment under the terms of the Contract Preliminaries of 20 per cent (\$608,000, DV#234SC09398) of the total contract amount was made to the contractor against a bank guarantee for the same amount. An additional advance totaling \$152,000 (DV#234SC11264) was made on 10 November 2003 to cover the purchase of equipment and supplies for the mechanical and electrical sub-contractor.

75. The Committee on Contracts endorsed the payment as recommended by the Procurement Section citing exigency of service. A further advance payment of \$560,000 (DV#234SC01318) was made on 28 January 2004 to avert possibility of delays on the worksite as a result of the financial constraints that were being experienced by the Contractor. Thus, by the end of January 2004, the Court had already disbursed \$1,320,000 or 43 per cent of the contract amount to the contractor in advances. The requests for advance payments were raised through the project Architect, endorsed by the General Services Section and also supported by the Procurement Section.

76. Although the Special Court was contractually obligated to provide an advance payment of 20 per cent of the total contract value (\$608,000) under the terms of the contract, there was no justification for the payment of additional advances totaling \$712,000 to the contractor. While the advances were deducted from the interim certificates that followed, there was no justification for payment of advances in excess of the 20 per cent to the contractor that was selected through an open bidding process. OIOS believes that financial capabilities of the companies to execute the contract should have been a criterion in the evaluation of the bids, and the contract should have been awarded to the bidder that fulfilled this requirement, amongst others. Therefore, the award of the contract to Sierra Construction Systems Ltd. may not appear to be transparent.

### **Recommendation 22**

OIOS recommends that the Court ensure that in future, evaluation of bids should include financial capability of prospective vendors as one of the criteria for contract award (AP2004/622/01/022).

77. *Management accepted recommendation 22.* OIOS has closed this recommendation in its database.

Inordinate delay in finalizing the contract for the Integrated Security System (case no. SCSL/03/033 for €780,569.94 or \$975,709.93)

78. The process to finalize a contract for the supply of integrated security system equipment in the Special Court has dragged on since the initial performance specifications were produced in November 2002. Despite the lapse of 18 months, the award of the contract is still uncertain. The first solicitation in the form of request for proposal (RFP) generated a poor response with only one bid received.

79. In December 2003, the Court decided to bring in an industry expert, who designed a detailed shopping list specifying the quantity, quality and compatibility of equipment and

accessories, and also provided advice on the procurement. The same consultant proposed the sole sourcing of the contract to HOMIJ B.V. of the Netherlands, a company that was discovered to be associated with him. Accordingly, the Committee on Contracts rejected the recommendation to award the contract to HOMIJ B.V.

80. A subsequent invitation to bid (ITB) was issued on 16 February 2004 splitting the requirements for security system into Package A - electronic components and Package B - power and signal cables. Eleven firms were invited to bid for package A and 7 firms for package B. Five out of 11 firms responded to the ITB for package A and 3 firms responded to package B. OIOS found that HOMIJ BV of the Netherlands was not invited to bid, but their initial proposal/bid of \$746,171.99 was used as a benchmark to compare the bids that the other five firms submitted. GTI Beveiliging bv, which did not tender for all the items (less 9 items), was evaluated to be the lowest bidder. When the costs of those nine items were added to the bid price, GTI Beveiliging bv would still remain low i.e. \$741,886.50. However, the GTI Beveiliging bv would not provide the after sales service on 7/24 basis as this requirement was inadvertently omitted in the ITB. Management explained that in the subsequent negotiation the lowest bidder has agreed to provide the after sales service.

81. The ITB was originally prepared by the security system consultant, who designed the technical specification generally conforming to equipment available with HOMIJ BV of the Netherlands. Therefore, it appeared that other vendors may have had limited flexibility in suggesting alternatives to any items in their bids. The consultant was part of the team evaluating the bidders and he is recorded to have questioned the capabilities of some bidders, and this could be viewed as lacking transparency. In its 16 April 2004 meeting, the Committee on Contracts considered the case SCSL/03/039 and recommended that the contract be awarded to either GTI Beveiliging bv after re-negotiating the after-sales service terms, or to HOMIJ BV – who had not been invited to bid. There was no basis for the Committee on Contracts to recommend HOMIJ BV as one of the two successful bidders because this company was not invited in the re-bid. Therefore, awarding the contract to HOMIJ BV would amount to sole sourcing, which was the reason for the Committee's reservation to award the contract in the initial evaluation.

82. At the time of finalizing this report no decision had been taken to award the contract. OIOS recognizes the length of time it has taken to finalize this contract and appreciates the difficulty of attracting a high level of interest of the prospective vendors in participating to submit their bids. Because of the undue delay that has been caused, the Court should now reassess the security system as expressed by the Registrar in his memorandum of 7 May 2004. The review should also take into account the changes in technology and prices that have taken place since the end of the year 2002. Should the Court decide to award the contract to the lowest bidder, it is important that the consultant, who designed the technical specification generally conforming to equipment available with HOMIJ BV of the Netherlands and participated in the bid evaluation, fully cooperates with the Court and the lowest bidder in the contract administration.

### **Recommendation 23**

OIOS recommends that the Court, in light of the Registrar's expression of a need to reassess the requirements, review the technical specifications of the security system initially prepared and award the contract to the lowest bidder (AP2004/622/01/023).

83. *Management accepted recommendation 23 and stated that the review has taken place, and the award is being finalized.* OIOS will close this recommendation upon receipt of a copy of the contract awarded to the lowest bidder.

#### Discrepancies in inventory records

84. OIOS' previous audit of 2003 had recommended that the Special Court urgently introduce a centralized record of all assets held by the Court. This was not implemented. The current separate databases used by various asset managers do not provide adequate internal control of assets held by the Court. The Court should establish or procure software that would be managed by a staff member that is not involved in issuance of assets.

85. There was a lack of internal control in the inventory system used by the Court. For example, property in the Communications and Information Technology Section (CITS) were recorded in an Excel database whereas the Supply Section kept a separate database in Lotus Notes. The communications database was maintained by the same person who issued the items to the end users. OIOS was informed that the Court had earlier decided to transfer the data entry function to the Receiving and Inspection Unit, and as a result, the concerned staff member stopped recording new assets in the database. The transfer of functions, however, did not materialize and several items were not recorded.

86. OIOS' physical verification of property in CITS disclosed a lack of a centralized store to stock and monitor the security and movement of assets. Some equipment were kept by the Asset and Logistics Assistant, some were in the Security Section and others were kept in corridors. Several items in stock were not recorded in the database. For example, the database indicated that there were three CD Recorders in stock, but four were in stock. Likewise, the database indicated that there were six still digital cameras whereas only five cameras could be traced to the database.

87. OIOS also noted that the Special Court did not have a bar-coding system to uniquely identify each asset. Assets procured from UNAMSIL still bear UN barcodes. Only the Supply Section had introduced its own bar-coding system to identify supply items. Some assets in the Supply Section (e.g. video cassette recorders) should be part of the CITS assets. Furthermore, a Philips CD player was in stock but was not recorded in the database of the Supply Section.

88. Interviews with responsible staff also revealed that the Special Court has not established a property survey board to deliberate and advise on lost and damaged assets. Currently the lost items are reported to the Security Section where an investigation is carried out and action taken. The Board of Auditors had also raised this issue in their last audit of the Court.



## **Recommendations 24 to 27**

OIOS recommends that the Court:

- (i) Procure or develop an electronic database to centralize the recording and monitoring of all its assets (AP2004/622/01/024);
- (ii) Introduce a centralized bar-coding system for all its assets identifying each asset by a unique inventory number (AP2004/622/01/025);
- (iii) Keep communications and information technology assets in a centralized store with shelf facility for proper storage of these assets (AP2004/622/01/026); and
- (iv) Establish a Property Survey Board without further delay to advise on the lost and damaged assets (AP2004/622/01/027).

89. *Management accepted recommendations 24, 26 and 27 and clarified that necessary remedial actions had been taken.* OIOS will close these recommendations from its database upon receipt of a copy each of: (a) document showing that the Court has implemented the UN Peacekeeping Field Asset Control System (FACS) during June/July 2004; (b) evidence identifying an appropriate facility for storing communications and information technology assets; and (c) document formally establishing a Property Survey Board. *With regard to recommendation 25, the Court explained that its assets will be identified with unique decals.* OIOS is satisfied with this control, and has closed this recommendation.

## **E. Oversight**

### Monitoring and reporting of oversight recommendations needs improvement

90. Since its establishment in 2002 the Court was audited by OIOS in May 2003 and by the Board of Auditors in March 2004. In accordance with Financial Rule 109.4 (a) "The final financial statements for the financial period shall be prepared by the Registrar and shall be submitted to the Management Committee and the Office of Internal Oversight Services, with a copy to the Controller, following the end of that financial period. OIOS, however, had not received the Court's approved financial statements for the 2002-2003 fiscal year. Nonetheless, the financial statements were provided during the course of this audit. The Court should provide its approved financial statements as a matter of routine in compliance with Financial Rule 109.4.

91. OIOS believes that it is in the best interest of the Court to report the implementation status of all oversight recommendations in the fiscal year budgets and the financial statements. This will provide the Management Committee an opportunity to assess the Court's compliance with its financial regulations.

## **Recommendations 28 to 30**

OIOS recommends that the Court:

- (i) Provide its approved financial statements to OIOS for the fiscal year 2002-2003 and regularly thereafter as required under financial rule 109.4 (AP2004/622/01/028);
- (ii) Submit all audit reports and the status of the implementation of audit recommendations to the Management Committee for its consideration periodically (AP2004/622/01/029); and
- (iii) Include the implementation status of each recommendation as part of the Court's approved financial statements and future budget proposals (AP2004/622/01/030).

92. *Management accepted recommendations 28, 29 and 30.* OIOS received approved a copy of the Court's financial statements for the 2003-2004 fiscal year, and has closed recommendation 28 in its database. Recommendations 29 and 30 will be closed upon receipt of documentation showing that audit reports and status of recommendations have been submitted to the Management Committee.

## **VI. ACKNOWLEDGEMENT**

93. We wish to express our appreciation to the Management and staff of the Special Court for Sierra Leone for the assistance and cooperation extended to the auditors during this assignment.



Patricia Azarias, Director  
Internal Audit Division, OIOS

## ANNEX 1

Special Court of Sierra Leone - Year 2  
SUMMARY OF UNLIQUIDATED OBLIGATIONS BUDGE - 2002/2003  
AS AT 17 MARCH 2004

PO.NO.	PRICE
LPO# SCSL/0/115	1,035,000.00
MOD 2003#010	89.65
MOD 2003#012	17,848.91
MOD 2003#014	13,118.18
MOD 2003#021	4,133.76
MOD 2003#066	685.62
MOD 2003#070	253,594.00
MOD 2003#071	3,565.94
MOD 2003#074	801.57
MOD 2003#076	3,791.23
MOD 2003#079	2,415.00
MOD 2003#083A	14,937.94
MOD 2003#088	4,269.01
MOD 2003#089	111.11
MOD#022	2,130.95
MOD#036	11,219.51
MOD#060 SCSL/TA/103	1,488.00
MOD 2003#023	1,168.60
MOD 2003#060	1,738.77
MOD 2003#064	18,138.00
MOD 2003#084	1,295.92
MOD 2003#087	1,408.22
PO # SCSL/02/365	18,714.14
PO # SCSL/02/368	3,541.80
PO # SCSL/03/0281	167.23
PO # SCSL/03/048	535.33
PO # SCSL/03/101	779.16
PO # SCSL/02/206	1,082.09
PO # SCSL/02/206D	-0.20
PO # SCSL/02/437	651.59
PO # SCSL/02/308	23,132.00
PO # SCSL/02/358 amdt1	327,304.15
Req # SCSL.02.126	14,309.90
Req # SCSL.02.329	18,780.00
Req # SCSL.03.026	1,121.44
Req # SCSL.02.385	200.91
Req # SCSL.02.398	175
Req # SCSL.02.416	19,004.26
Req # SCSL.02.450	2,100.00
SCSL/TA/000-1	2,500.00
SCSL/TA/020-1	4,964.00
SCSL/TA/024-1	2,873.00
SCSL/TA/103-1	2,480.00
SCSL/TA/110-1	153.66
SCSL/03/038	2,883.00
SCSL/TA/009	150
SCSL/TA/130	3,377.00
SCSL/TA/015M	2,185.00
SCSL/TA/019-1	3,960.00
SCSL/TA/051-1	4,625.00
SCSL/TA/078	2,000.00
SCSL/TA/107-1	1,500.00
SCSL/TA/107M	1,500.00
SCSL/TA/108M	2,116.75
SCSL/TA/121	3,352.00
SCSL/TA/122	1,580.00
SCSL/TA/123	3,321.00
SCSL/TA/124M	1,200.00
SCSL/TA/134M	1,800.00
SCSL/TA/135	1,800.00
	<b>1,874,869.10</b>

ANNEX 2

Sl. No.	Recommendation	Status	Comments
1	<p><b>Board of Auditors: 26 March 2004</b></p> <p>Assess the impact of the material uncertainty regarding its funding on its operations and expedite its plans for future action based on its going concern assessment.</p>		
2	<p>Expedite the finalization of the policy and procedures intended to regulate investigative operations expenditure.</p>		
3	<p>Continue to review its existing financial regulations and rules to determine the ongoing applicability thereof to the operations of the Court</p>		
4	<p>(i) Establish clear and quantitative criteria for determining whether an accused person qualifies or qualifies for partial legal aid;</p> <p>(ii) Establish definitions of “indigence” and “sufficient means” and also determine a financial threshold for indigence; and</p> <p>(iii) Develop a formula to determine the amount of contribution to be made by the accused person who qualifies for partial legal aid.</p>		
5	<p>Expedite its efforts to establish effective criteria and procedures to ensure verification of the financial status of an accused who applies for legal aid and fill the position of the financial tracker.</p>		
6	<p>Expedite the finalization and signing of the remaining Legal Services Contracts.</p>		
7	<p>Expedite its efforts to develop a realistic and achievable strategy for the completion of its mandate.</p>		
8	<p>Renew its efforts to enforce compliance with its Financial</p>		

	<p>Regulations and Rules to ensure that (i) complete and accurate asset records are maintained; (ii) the progress towards the completion of the asset management control system is expedited; (iii) physical inventory checks of supplies, equipment and other properties are performed; (iv) adequate control exists over assets by the marking or bar-coding of all assets; and (v) a Property Survey Board is established.</p>		
9	<p>Renew its endeavors to fill the key vacant positions</p>		
10	<p>The Special Court should consider revising its Financial Regulations and Rules to make reference to the framework for the preparation and presentation of its financial statements.</p>		
11	<p>The Special Court should determine a specific timeframe for the preparation of and presentation of the financial statements after the end of the financial period and include such a provision in its Financial Regulations and Rules.</p>		
12	<p>The Special Court should improve its budgeting process and comply with the Financial Regulations and Rules regarding budgetary and expenditure control, as well as the transfer of funds between appropriation sections.</p>		
13	<p>The Special Court should renew its endeavors to recover any interest earned on funds transferred to the United Nations Office for Project Services in accordance with contract SIL/02/R07.</p>		
14	<p>The Special Court to perform more rigorous independent reviews of bank reconciliations on a periodic basis.</p>		
15	<p>The Special Court should engage with the Office of Internal Oversight Services (OIOS) in order to clear the recommendations partially implemented or not implemented, which are contained in the OIOS report AP2003/61/1(OBS-7).</p>		

		Office of Internal Oversight Services (OIOS): May 2003	
16	The Court agrees to the recommendation.	The Court consider costing of individual programmes and activities in its next budget cycle to provide a basis for the monitoring of actual expenditures on programme, sub-programme and activity basis (AP2003/61/1/143)	For the budget period 2003/04, the Court proposes a program based budget, based on mainstream activities, however with limited overhead distribution.
17	The Court agrees with the recommendation.	The Court set an accounting system with effect from the financial year commencing 1 July 2003, to record actual expenditures against voted provisions so as to be extract periodic financial statements that comply with Rule 111.4. This approach may require a complete evaluation of the capabilities of the Quick-books accounting package. (AP 2003/61/1/144).	Given the constraints of the Court's resources, an investigation of methodology of accounting entries is being performed to assess the suitability of the accounting package.
18	The Court agrees with the recommendation	The Procurement Section ensure strict compliance with Regulation 10.5 and Rule 110.20 in respect of all future purchases, by ensuring all substantial purchases of equipment supplies and other requirements are made by tender, based on advertisement and there is public opening of bids' (AP 2003/61/1/145).	Procurement capacity is being considerably increased by the addition of another professional procurement officer
19	The Court agrees to the recommendation.	The General Services Section take steps to urgently introduce a centralized record of all assets held by the Court indicating, among others, the date of acquisition, asset reference number, serial number (where applicable), name of supplier, acquisition and location (AP2003/61/1/146).	The Court has recruited a dedicated member of staff to perform this task who is also responsible for coordinating the recording of information from both the GSS and CITS sections.
20	The Court agrees the recommendation	A reconciliation of the centralized records of assets with the amount shown in the financial statements to ensure completeness, accuracy and reliability of the asset record (AP2003/61/1/147).	The Court has recruited a dedicated member of staff to perform this task who is also responsible for coordinating the

	recording of information from both the GSS and CITS sections.		
21	<ul style="list-style-type: none"> <li>- The Court agrees to the recommendation</li> <li>- The Court agrees to the recommendation.</li> </ul>	<ul style="list-style-type: none"> <li>- Management Committee's approval of salary scales and conditions of service for field services and local staff;</li> <li>- The establishment of a Staff Committee to act as an interface between Management and the rest of staff; and</li> <li>- A system for the hearing of appeals by staff members in the event of disciplinary action taken against them.</li> </ul>	<ul style="list-style-type: none"> <li>- The Court continues to request representation for a staff committee.</li> </ul>
22	<ul style="list-style-type: none"> <li>- The Court disagrees to the recommendation</li> </ul>	<p>The Court takes speedy action to implement the above outstanding requirements of the Staff Rules and Regulations (AP2003/61/1/148).</p> <p>The Court takes urgent steps to seek additional resources so as to enable it to fill the vacant positions shown in the above table (AP2003/61/1/149).</p>	<p>The Registrar and the Management Committee continue to request support from the Interested Parties to provide adequate funding for the Court's activities.</p>
23	The Court agrees with the recommendation.	The Personnel Section maintain a recruitment file for each vacancy announcement and documents of applications, short-listed applicants, interviews and basis of selection (AP 2003/61/1/150).	
24	The Court agrees with this recommendation.	The Personnel Section ensure that all future recruitments of international staff are done on the basis of vacancy announcements (AP 2003/61/1/151).	
25	<ul style="list-style-type: none"> <li>- The Court agrees with the recommendation.</li> </ul>	The Personnel Section expedite the preparation of job specification and descriptions for all outstanding positions to serve as a basis for future recruitment (AP2003/61/1/152).	<ul style="list-style-type: none"> <li>- The Personnel Section has commenced completing files of those staff recruited without job</li> </ul>

			description.
26	The Court adhere strictly to the requirement of Regulation 9.4 of the Staff Rules relating to age limits in respect of all future appointments (AP2003/61/1/153).	-The Court disagrees with the recommendation.	The Court reiterates its decision to consider employing staff members above the age of 62 where other candidates are not available and offers that as a 'non career' organization, available experience may take this form.
27	The Personnel Section ensure strict compliance with Rule 309.1 of the Staff Rules relating to the period of notice to be given by a staff member in event of resignation. Where the Registrar agrees to accept a shorter period notice, such acceptance should be in writing. (AP 2003/61/1/154).	- The Court agrees with the recommendation.	The Personnel Section will ensure that the written approval of the Registrar is obtained prior to a shorter period of notice is official.
28	The Personnel Section take appropriate steps to have the twenty-eight international staff members referred to above, medically cleared by the UN Medical Board until such time that the Court sets up its own arrangements for medical clearance at the time of recruitment ( AP 2003/61/1/155)	The Court agrees with the recommendation.	The Personnel Section has embarked on ensuring that any outstanding medical report is obtained
29	The Court follow up on its previous requests for information on interest earned on the advance payment to UNOPS with a view to ensuring that all interest earned is paid over promptly to the Court (AP2003/61/1/156).	- The Court agrees with the recommendation	The Finance Section has repeated its request to UNOPs to provide information and the Registrar and CASS visited the offices of UNOPs in New York on 20 May 2003, requesting the same.