



Office of Internal Oversight Services

## INTERNAL AUDIT DIVISION

# AUDIT REPORT

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## Special Court for Sierra Leone

Controls over implementation of the downsizing and completion strategy were generally adequate but additional measures are needed

31 March 2011

Assignment No. AA2010/290/01

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United Nations  Nations Unies

INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

OFFICE OF INTERNAL OVERSIGHT SERVICES - BUREAU DES SERVICES DE CONTRÔLE INTERNE  
INTERNAL AUDIT DIVISION - DIVISION DE L'AUDIT INTERNE

TO: Ms. Binta Mansaray, Registrar  
A: The Special Court for Sierra Leone

DATE: 31 March 2011

REFERENCE: IAD: 11- **00324**

FROM: Fatoumata Ndiaye, Director  
DE: Internal Audit Division, OIOS



SUBJECT: **Assignment No. AA2010/290/01 - Audit of the Special Court for Sierra Leone**

OBJET:

1. I am pleased to present the report on the above-mentioned audit.
2. In order for us to close the recommendations, we request that you provide us with the additional information as discussed in the text of the report and also summarized in Annex 1.
3. Please note that OIOS will report on the progress made to implement its recommendations, particularly those designated as high risk in its annual report to the General Assembly and semi-annual report to the Secretary-General.

cc: Hon. Justice Jon Moadeh Kamanda, President, SCSL  
Mr. Leon Kenny Romain, Acting Chief of Administrative Services, SCSL  
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors  
Mr. Rohan Wijeratne, Board of Auditors  
Ms. Susanne Frueh, Executive Secretary, Joint Inspection Unit  
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Mr. Byung-Kun Min, Special Assistant to the USG-OIOS  
Ms. Corazon C. Chavez, Chief, Nairobi Audit Service, OIOS  
Ms. Amy Wong, Programme Officer, Internal Audit Division, OIOS

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## INTERNAL AUDIT DIVISION

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### FUNCTION

*“The Office shall, in accordance with the relevant provisions of the Financial Regulations and Rules of the United Nations examine, review and appraise the use of financial resources of the United Nations in order to guarantee the implementation of programmes and legislative mandates, ascertain compliance of programme managers with the financial and administrative regulations and rules, as well as with the approved recommendations of external oversight bodies, undertake management audits, reviews and surveys to improve the structure of the Organization and its responsiveness to the requirements of programmes and legislative mandates, and monitor the effectiveness of the systems of internal control of the Organization” (General Assembly Resolution 48/218 B).*

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# EXECUTIVE SUMMARY

## Audit of the Special Court for Sierra Leone

The Office of Internal Oversight Services (OIOS) conducted an audit of the Special Court for Sierra Leone (SCSL). The overall objective of the audit was to assess the adequacy and effectiveness of internal controls in ensuring the timely and efficient implementation of the completion strategy and downsizing mechanism in SCSL. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

The transition of SCSL to the Residual Special Court is now envisaged to take place in February 2012 following the delivery of the final judgement on the Charles Taylor case. SCSL is therefore in the process of downsizing and preparing for the liquidation of assets. Due to the judicial nature of the court's work, it is difficult to implement the trial schedules as planned. SCSL has put in place contingency plans to ensure that adequate resources will be available, and is confident that the deadline of February 2012 will be met.

Internal controls over the implementation of the completion strategy and the downsizing mechanism were generally adequate and functioning as intended. However, additional measures are required to strengthen the controls, as follows:

- Objectivity, fairness and transparency in the downsizing process should be enhanced by establishing a measurement system while identifying staff for retention or retrenchment. Also, SCSL needs to ensure that the summarized overall performance assessment of staff being considered for retention or retrenchment is consistent with the assessments/ratings in their e-PAS reports;
- SCSL should conduct a 100 per cent physical verification of its assets at a definite cut-off date and reconcile discrepancies with the inventory records in the Field Assets Control System; and
- SCSL should ensure that assets subject to special disposal conditions are separately identified and disposed of in compliance with the terms and conditions of donor agreements.

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## I. INTRODUCTION

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the Special Court for Sierra Leone (SCSL). The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

2. SCSL is not a United Nations body; it is an international organization in its own right. It was created pursuant to Security Council Resolution 1315 of 14 August 2000, by an Agreement dated 16 January 2002 between the United Nations and the Government of Sierra Leone, and was ratified by a statute on 15 July 2002 by the President and the Parliament of Sierra Leone. SCSL mandate was to prosecute persons who bear the greatest responsibility for the commission for serious violations of international humanitarian law and crimes committed under Sierra Leonean law since 30 November 1996. It was the first international court to be located in a country where the crimes took place and also the first to be funded entirely from voluntary contributions from governments.

3. According to the Agreement of 16 January 2002, it will be terminated by “agreement of the Parties upon completion of the judicial activities of the Special Court”. The Charles Taylor case, which is the last case to be tried by the Court, is anticipated to be completed by February 2012. As a result the Parties have now signed an Agreement establishing a Residual Special Court. The Completion Strategy of June 2010 highlighted three priority areas of work, namely, the completion of the Taylor trial, the transition to the Residual Special Court following the delivery of the final judgement in the Taylor trial, and the transfer of the Court site and assets to the Government of Sierra Leone.

4. At the time of the audit, the Taylor trial was expected to conclude in December 2010. The trial judgement and appeals judgement, if any, are expected to be delivered in June 2011 and February 2012, respectively. To expedite the Taylor trial and implement the timelines set out in the June 2010 completion strategy, the Chamber ordered longer sitting hours in the court. The Court’s transition to the Residual Court and Archive relocation has two critical milestones, the relocation of SCSL archive and evidence to The Hague by March 2011, and the transition of the Court to the Residual Special Court in February 2012.

5. The three priority areas formed the foundation of the completion and transition budget for the period July 2010 to February 2012. The budget summary for the period July 2010 to February 2012 is presented in Table 1 below.

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**Table 1: Budget Summary for the period July 2010 to February 2012**

	<b>2010 (US\$)</b>	<b>2011 (US\$)</b>	<b>2012 (US\$)</b>	<b>Total (US\$)</b>
Judges	1,027,900	2,058,600	382,600	3,469,100
Chambers	458,400	783,300	131,200	1,372,900
Office of the Prosecutor	1,250,700	1,623,600	266,300	3,140,600
The Defense Office	859,300	834,400	30,000	1,723,700
Registry	6,740,700	6,248,100	1,376,200	14,365,000
Income Tax and Allowance for vacancy rate	1,159,600	742,500	170,400	2,072,500
<b>Total</b>	<b>11,496,600</b>	<b>12,290,500</b>	<b>2,356,700</b>	<b>26,143,800</b>

Source: July 2010 to February 2012 SCSL budget.

6. The current and budgeted staffing levels as at 31 October 2010 and the proposed downsizing staffing levels from 31 December 2010 to 29 February 2012 are shown in Table 2.

**Table 2: Actual and budgeted staff and the proposed downsizing staffing levels from December 2010 to February 2012**

	<b>October 2010 Budget</b>	<b>October 2010 Actual</b>	<b>December 2010 Budget</b>	<b>June 2011 Budget</b>	<b>December 2011 Budget</b>	<b>February 2012 Budget</b>
SCSL Freetown	62	156	52	39	35	0
SCSL Hague	49	62	44	40	30	0
<b>Total</b>	<b>111</b>	<b>218</b>	<b>96</b>	<b>79</b>	<b>65</b>	<b>0</b>

Source: July 2010 to February 2012 SCSL budget and Staff on Board as at 31 October 2010 schedule provided by SCSL.

7. Comments made by SCSL are shown in *italics*.

## II. AUDIT OBJECTIVES

8. The main objective of the audit was to assess the adequacy and effectiveness of internal controls in ensuring the timely and efficient implementation of the completion strategy and downsizing mechanism in SCSL.

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### III. AUDIT SCOPE AND METHODOLOGY

9. The audit, which was carried out in November and December 2010, covered the period from June 2008 to October 2010 and focused on the implementation of the completion strategy and the downsizing mechanism in SCSL. The audit involved reviewing guidelines and policies in place for the implementation of the completion strategy and the downsizing of SCSL, reviewing processes and activities within the Chambers, the Office of the Prosecutor and the Registry, examining relevant documentation and interviewing responsible staff.

### IV. AUDIT RESULTS

#### A. Implementation of the downsizing mechanism

10. SCSL established a Retention Strategy and Guidelines for Reduction of Staff/Reintegration Allowance in its Completion Strategy - Revised Personnel Policy. In accordance with these guidelines, the comparative review conducted between or among staff within the same grade within a section and within the same occupational group was guided by specified criteria. These criteria included the disciplinary record, performance appraisal reports, seniority in post, attendance, gender balance, Sierra Leonean nationality where applicable, educational background and relevant working experience in relation to the function and any other relevant factor.

11. SCSL also established the Advisory Committee on Personnel Questions (ACPQ) which reports directly to the Registrar. The ACPQ mandate includes, among other things, reviewing and recommending staff for appointment, re-assignment or retrenchment. It is also mandated to review cases for the downsizing of staff including reviewing the recommended staff members versus the positions to be retained, for recommendation to the Registrar, internal recruitment, and granting of administrative furlough. This Committee does not have decision making powers and cannot make policy changes.

#### Need for a measurement system for evaluating staff subject to downsizing

12. Although the criteria for evaluating proposals for downsizing staff had been identified, no measurement scales or points were allocated to each criterion. Also, minimum (passing mark) benchmarks for evaluation against the criteria were not preset. As a result, the basis for ranking staff members subject to downsizing was not evident. Mostly, qualitative evaluation was used in recommending staff members for retention or retrenchment. For example, the number of national security officers at the General Service (GS) level 3 had to be downsized from 19 to five. Eighteen of the 19 staff members were assessed by the performance appraisal reports as performing fully satisfactorily. The Section Head recommended five of the 18 to be retrenched based on his judgmental ranking and comments.

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13. In the absence of documented measurement scales or point system for ranking staff members subject to downsizing, the downsizing and retention process may not be viewed as fair and transparent.

### **Recommendation 1**

**(1) The SCSL Registrar should establish a measurement system for ranking and determining staff to be downsized or retained.**

14. *The SCSL Registrar partially accepted recommendation 1 and stated that the Administrative Committee on Personnel Questions (ACPQ) carries out a comparative review and, when necessary ranks staff according to set criteria contained in Annex 5 of the Revised Personnel Completion Strategy. The methodology of the rankings will, in future, be contained in the minutes of the ACPQ. Recommendation 1 remains open pending receipt of the documented methodologies that will be used to rank staff.*

### Inconsistencies between overall staff assessment and individual e-PAS reports

15. There were inconsistencies between the individual e-PAS report ratings and comments, and the Section Chiefs' overall assessments and comments in the synoptic reports presented to the ACPQ. When presenting recommendations for staff to be downsized, the Section Chief summarized the performance of the staff members in a synoptic report. In six cases sampled, three of the six synoptic reports prepared by the Section Chief were not consistent with the e-PAS performance appraisals rating in the following areas:

- For the national security officer at the GS level 4, the overall comment in the synoptic report for all four downsized staff was "not fully dependable," but all four staff had favorable comments in their e-PAS. Further, the average rating according to the e-PAS reports was "fully satisfactory".
- For the national security officer at the Field Service (FS) level 4, the overall comments in the synoptic report for all four retrenched staff was "unsatisfactory conduct on duty," but in their respective e-PAS reports, all four had favorable comments, with overall e-PAS ratings ranging from "fully satisfactory" to "exceeds expectations".
- For the national security officer at the GS level 3, the overall comments for all five retrenched staff were not consistent with the comments in their e-PAS reports.

16. The inconsistency between the e-PAS ratings/comments and the Section Chiefs overall assessments/comments in the synoptic reports presented to the ACPQ may lead to the view that the downsizing process lacked objectivity, fairness and transparency.

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## **Recommendation 2**

**(2) The SCSL Registrar should ensure that the Section Chiefs' overall assessment of staff performance is consistent with the comments and ratings in their e-PAS reports.**

17. *The SCSL Registrar accepted recommendation 2 and stated that Performance Appraisal Reports would be reviewed for consistency before being accepted.* Recommendation 2 remains open pending receipt of documentation of procedures requiring Section Chiefs to ensure that the overall assessment of staff performance is consistent with the comments and ratings in the staff e-PAS reports.

### No documentary evidence of consideration of all set criteria for downsizing staff

18. There was no documentary evidence that all the set criteria for downsizing staff according to the Revised Personnel Policy had been considered when reviewing cases that went before the ACPQ. The ACPQ minutes had no reference to the specific criteria considered. For the six cases reviewed by OIOS out of a population of 23, the minutes and the relevant supporting documentation did not show that the established criteria were all considered. For example, in four cases, there was no evidence that the criterion "disciplinary record" was considered. Also, in five cases, there was no evidence that the "seniority" criterion was considered.

19. In addition, the comments on the recommendations submitted to the ACPQ by the Section Chiefs and those recorded in the minutes concentrated on the "performance appraisal" criteria. In one case, reference was made to "disciplinary conduct" and "attendance". According to the ACPQ, all the criteria were deliberated on and considered at the meeting; however this was not documented in the minutes.

20. In the absence of a proper record of the criteria considered, the ACPQ process may not be viewed as fair and transparent.

## **Recommendation 3**

**(3) The SCSL Registrar should ensure that all criteria are considered and documented while reviewing each case for retention/retrenchment.**

21. *The SCSL Registrar partially accepted recommendation 3 and stated that all criteria are already considered. The minutes of the ACPQ will, in future, list the criteria used for consideration, provide ranking (where applicable) and record the discussions in each case.* Recommendation 3 remains open pending receipt of a copy of ACPQ minutes indicating the criteria used for considering cases presented for review by ACPQ.

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## B. Implementation of the completion strategy

### Completion strategy revised due to changed circumstances and timelines

22. In July 2010, SCSL prepared a completion budget covering a period of 20 months. This budget was prepared based on a revised completion strategy of June 2010 and identified three priority work areas, which are the Charles Taylor trial, SCSL transition to the residual Special Court, and the transfer of court site and assets to the Government of Sierra Leone. Since its inception in 2002, the Special Court completed three out of four cases. Currently, the Special Court has only one case to complete, i.e., the Charles Taylor case.

23. Based on the June 2009 completion strategy, the Taylor Defence case was expected to conclude in February 2010. Charles Taylor, however, took the witness stand from 14 July 2009 to 5 February 2010. Due to the unexpected length of his testimony, the completion strategy was revised in December 2009, June 2010 and December 2010. On 15 March 2011, the Taylor Defence closed its oral arguments. Thereafter, the Trial Chamber judgement will be delivered within six months, and the sentencing judgement within the following two months. This would effectively mean that the Appeals judgement which was anticipated to be in February 2012 will now be pushed forward to another two months.

### Supplemental funding of the Court and contingency planning to complete the mandate by February 2012

24. The Special Court was facing budgetary constraints due to insufficient voluntary contributions from the member countries. It had been foreseen that financial resources would be exhausted by the end of 31 October 2010. In accordance with Article 6 of the Agreement which provides that, '[s]hould 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'.

25. On 6 October 2010, the Secretary-General sought approval of the General Assembly through the President of the Security Council, for funding of up to \$17,916,560 to supplement the financial resources of SCSL to enable it to complete its mandate by February 2012. The Advisory Committee on Administrative and Budgetary Questions (ACABQ), in a draft resolution dated 23 December 2010, recommended an amount of \$12,239,344 to the Fifth Committee on the understanding that any regular budget funds appropriated for the Special Court will be refunded to the United Nations at the time of the Court's liquidation, should sufficient voluntary contributions be received. The requested amount of \$17,916,560 was recommended at a reduced level because by December 2010, SCSL had received additional voluntary funding totaling \$5,677,216.

26. According to discussions held with the three organs of SCSL, the timelines in the court schedule which had been put forward at their last plenary meeting had indicated that completion was expected to be delayed by about six

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weeks from February 2012. At the time of the audit, the Registrar reported that it was envisaged that the Court will close by February 2012. According to the Registrar, the shift in milestone may not necessarily lead to a shift of the completion strategy as a whole. However, considering that this was a trial proceeding and situations could arise that necessitate extension of the milestone; the Registrar acknowledged that additional funds may then be required. In this context, the Registry has put into place contingency plans for continued fund-raising. These contingency plans include the following:

- Regular Registry consultation with the OTP and Chambers to ensure the provision of adequate and proper support for timely achievement of the milestones;
- Continuous fund-raising from the donor countries;
- Provision of additional human resources to strengthen the Court;
- Generating savings from downsizing of posts earlier than originally planned in cases where milestones are met before the scheduled time;
- Savings from other operational costs; and
- Actively reviewing the budget and checking operational needs vis-à-vis the developments taking place in Freetown and The Hague, in consultation with respective heads of offices.

27. Inability to raise adequate funding from its donors during 2010 to meet its current expenditures, resulted in the Court seeking subvention funding from the General Assembly. In view of this, there is a risk that the same difficulties may be encountered should the Court not meet the February 2012 deadline. However, keeping in view that the Registrar did not envisage any significant delays which could lead to a shift in the completion strategy, and taking into account the above-mentioned measures that the Registry has put in place, no audit recommendation is being raised.

### C. Liquidation

#### Inadequate physical verification of assets for liquidation purposes

28. In its pre-liquidation plan SCSL identified certain steps to be followed in the liquidation process. The first step was to identify and verify all assets (expendable and non-expendable), for which SCSL relied on the Field Assets Control System (FACS) inventory records as updated by full physical verification conducted as at 31 December 2009, coupled with the intermittent spot checks conducted by the Property Control and Inventory Unit. Based on the FACS records, asset disposal plans have been prepared by the respective Self Accounting Units (SAU). As at 31 December 2009, SCSL reconciled differences between the physical count and the FACS records. However, a review of the intermittent spot checks performed since then showed discrepancies between the physical counts and the FACS records.

29. During the downsizing process, there is a possibility that assets may not be accurately identified and recorded. In the absence of a full physical

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verification at a particular cut-off point, there is a risk that the FACS inventory records may contain inaccurate information.

#### **Recommendation 4**

**(4) The SCSL Registrar should conduct full inventory of assets and reconcile the results with the Field Assets Control System inventory records.**

30. *The SCSL Registrar did not accept recommendation 4 stating that a 100 percent Court-wide inventory of assets was carried out in June 2010. Another 100 percent Court-wide inventory was in progress during the time of the audit (November 2010) and since been completed.* OIOS would like to state that at the time of the audit, Court-wide inventory count sheets and the resultant reconciliations to the Field Assets Control System records for the period from January to June 2010 were not available. Further, only spot checks were conducted in that period. Recommendation 4 remains open pending receipt of the June and December 2010 Court-wide inventory count sheets and the resultant reconciliations to the Field Assets Control System records.

#### Inadequate system in place to identify assets for disposal in accordance with special conditions of donor agreements

31. The liquidation policy provides that all assets purchased by trust funds and subject to special conditions should be disposed of in accordance with the special conditions of donor agreements. In that respect, SCSL identified all donors that have special conditions attached to the purchase of equipment. However, this identification exercise excluded funding agreements entered into prior to 2005. Further, SCSL prepared asset disposal plans which identified all the assets including those to be disposed of in accordance with special conditions of the trust fund agreements. However, except for communications and information technology equipment, not all assets purchased by trust funds and subject to special conditions had been separately identified. For example, assets purchased under European Commission contract number B7-702/2003/3049 for the Grassroots Awareness Campaign, comprising of 13 television sets, 13 video compact recorders, 12 generators, motorcycles and a vehicle had not been separately identified. There is a risk that some assets subject to special disposal conditions may not be disposed of in accordance with those terms and conditions. As a result, the special conditions of the agreements may not be complied with.

#### **Recommendation 5**

**(5) The SCSL Registrar should ensure that all assets subject to special disposal conditions are separately identified and disposed of in compliance with the terms and conditions of the relevant agreements.**

32. *The SCSL Registrar did not accept recommendation 5 stating that the Court had identified and listed all items that are subject to special disposal as directed by the donors.* At the time of the audit, the list of assets subject to

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disposal in accordance with the special conditions of the donor agreements provided to OIOS only included communications and information technology equipment. Recommendation 5 remains open pending receipt of a comprehensive list of all separately identified assets subject to special donor conditions.

## V. ACKNOWLEDGEMENT

33. We wish to express our appreciation to the Management and staff of SCSL for the assistance and cooperation extended to the auditors during this assignment.

## STATUS OF AUDIT RECOMMENDATIONS

Recom. no.	Recommendation	Risk category	Risk rating	C/O <sup>1</sup>	Actions needed to close recommendation	Implementation date <sup>2</sup>
1	The SCSL Registrar should establish a measurement system for ranking and determining staff to be downsized or retained.	Operational	Medium	O	Receipt of documented methodologies that will be used in future to rank staff.	Not Provided.
2	The SCSL Registrar should ensure that the Section Chiefs' overall assessment of staff performance is consistent with the comments and ratings in their e-PAS reports.	Operational	Medium	O	Receipt of documentation of procedures requiring Section Chiefs to ensure that the overall assessment of staff performance is consistent with the comments and ratings in the staff e-PAS reports.	Not Provided.
3	The SCSL Registrar should ensure that all criteria are considered and documented while reviewing each case for retention/retrenchment.	Operational	Medium	O	Receipt of a copy of the ACPQ minutes indicating the criteria used for considering cases presented for review by the ACPQ.	Not Provided.
4	The SCSL Registrar should conduct full inventory of assets and reconcile the results with the Field Assets Control System inventory records.	Operational	Medium	O	Receipt of the June and December 2010 Court-wide inventory sheets and the resultant reconciliations to the Field Assets Control System records.	Not Provided.
5	The SCSL Registrar should ensure that all assets subject to special disposal conditions are separately identified and disposed of in compliance with the terms and conditions of the relevant agreements.	Operational	Medium	O	Receipt of a comprehensive list of all separately identified assets subject to special donor conditions.	Not Provided.

1. C = closed, O = open

2. Date provided by SCSL in response to recommendations.