



**Fifth Committee -74th Session-First Resumed Part
4 March 2020**

**Report of the Secretary-General on the
Construction of a new facility for the International Residual Mechanism for Criminal
Tribunals,
Arusha branch**

**Statement by
Mr. Olufemi Elias,
Assistant Secretary-General,
Registrar of the International Residual Mechanism for Criminal Tribunals**

Mr. Chair and distinguished members of the Committee,

I am pleased to introduce the Secretary-General's report (A/74/662) on the construction project of the premises for the International Residual Mechanism for Criminal Tribunals in Arusha, Tanzania.

During the reporting period, the Arusha branch of the Mechanism has continued to make full use of its new home on Lakilaki hill, in close proximity to the city of Arusha, Tanzania. The construction project has significantly progressed towards full completion and remains within the overall approved budget of \$8.8 million.

The facility continues to support the mandate of the organisation and serves as a regional showcase for the important work of the United Nations. For example, the courtroom building successfully hosted a review hearing in the *Ngirabatware* case in September 2019, and will see new judicial activity in 2020 in the complex multi-accused *Turinabo et al.* case. The premises have hosted many visitors who have shown particular interest in the judicial archives of the International Criminal Tribunal for Rwanda and the law library on campus.

The report provides a general analysis and comprehensive information on lessons learned and best practices recorded and applied by the project team along the course of the project, for application, as appropriate, to other construction projects.

Mr. Chair and distinguished members of the Committee,



Since the last progress report, the Mechanism has achieved formal closure of the punch-list and made decisive progress towards the settlement of final accounts.

With regard to the punch-list, the Mechanism actively engaged with the contractor and reached a formal agreement on the final valuation of outstanding punch-list items. This amount was deducted from the final payment to the contractor.

Further, the Mechanism has continued to carefully consider its options for the recovery of direct and indirect costs arising from errors and delays, where economically feasible to do so.

Following careful and thorough discussions with the Global Asset Management Policy Service (“GAMPS”) the Procurement Division (“PD”), and the Office of Legal Affairs (“OLA”), the Mechanism informed the contractor that it would seek the recovery of delay damages in the amount of \$230,000. This amount was similarly withheld from the final payment owed to the contractor.

This assessment was deemed to adequately balance, on the one hand, the organization’s rights and interests, where economically feasible to do so, to recover any direct or indirect costs arising from errors and delays, and on the other, the need to achieve completion of the project as expeditiously and as smoothly as possible in collaboration with contractual partners, in line with the General Assembly’s request in its resolution 73/288. The contractor indicated its intention to contest this decision, but as of the present time, no further developments have taken place in that regard.

In addition, the Mechanism, in cooperation with the relevant colleagues from UN Headquarters, continues to explore the viability of each of the possible avenues for additional recovery of costs stemming from design defects or delays that may be attributable to the architect under the contract with the architect. In the meantime, pending further evaluation of available remedies, the Mechanism has retained the payment of the last stage of the project owed to the Architect, amounting to \$77,472.

Mr. Chair and distinguished members of the Committee,

As a result of protracted negotiations with the contractor regarding the punch-list and delay damages, progress on the HVAC remediation works stalled. Unable to make progress with the existing contractor, in consultation with GAMPS and PD, the Mechanism contracted an independent expert consultancy firm, already contracted by the organisation for the ECA, to develop the solicitation documents in order to implement the redesign of the HVAC system.

In October 2019, the consultant provided guidance on a number of immediate remediation works aimed at partially addressing the insufficient HVAC performance. The Mechanism has already implemented in-house most of the preliminary remediation works advised by the consultant, with positive effect. In addition the consultant produced a new design aimed at maximising the use of existing components, with minimal redundancy and cost for the United Nations.

The Mechanism is currently negotiating the terms and amount of the contract with the consultant regarding its further engagement for the development of tender materials. All necessary efforts are



being undertaken to ensure that remedial works are completed within the overall project budget. Detailed information in this respect will be included in the context of the performance report on the budget of the Mechanism for 2020.

Mr. Chair and distinguished members of the Committee,

I would like to once again commend the steadfast support of the United Republic of Tanzania, the technical guidance of GAMPS, OLA and other Secretariat Departments, and the continued commitment of the Mechanism staff in achieving this progress.

I thank you.