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Briefing by
Mr Fayezul Choudhury, Chairperson
Audit Committee

UN Headquarters, Conference Room 4
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Mister Vice-President,

Your Excellencies and Distinguished delegates,

Ladies and gentlemen, I would like to thank you for the opportunity to address you today and to present the main outcomes of our discussions at the seventeenth and eighteenth sessions of the Audit Committee (“AC” or “the Committee”).

May I also take this opportunity to reiterate my appreciation to my colleagues from the Committee for their devotion and hard work, and to the representatives of the Court for their participation and valuable contributions. I would also like to thank our Executive Secretary and his team for their constant hard work and effective support to the Committee throughout the year, upon which we rely.

The seventeenth and eighteenth sessions were held in The Hague from 6 to 8 March 2023 and from 24 to 26 July 2023, respectively. I will now briefly summarize the main discussions of the Committee sessions.

I. UPDATE ON THE WORK OF THE AUDIT COMMITTEE IN 2023

The Committee focused at its two sessions on: (a) oversight of internal and external audit matters; (b) risk management; and (c) ethics.

a. Oversight of internal audit matters

As part of its oversight of internal audit matters, the Committee discussed: (a) the Audit reports of the Office of Internal Audit (“OIA”); (b) the Status of implementation of the 2022 and 2023 Internal Audit Plan; (c) work plan for the 2023 and draft work plan for next year; (d) the annual report of the OIA on the implementation of audit recommendations in 2022; (e) the Charter of the Office of Internal Audit; and, (f) finally, status of selecting an external assessor for the internal audit function.

The Committee made a number of observations to enhance the efficiency of internal audits in the areas of planning, staff deployment and client engagement.

The AC recommended that annual OIA workplans be approved by CoCo on a timely basis so that the OIA can operate based on an institutionally approved plan and noted that approval of the OIA work plan for 2023, this year, had only been approved well into the year. The Committee was informed that the draft work plan for 2024 was expected to be ready in autumn 2023. The Committee suggested that the OIA maintain a multi-year rolling workplan to give a better indication of the scope of risk coverage over time, and to facilitate the audit planning process.

The AC noted that a significant number of audit recommendations were still outstanding. In this context, the Committee reiterated the importance of “Tone of the Top” which is generally recognised as foundational to an effective control environment. Unless there were clear signals that Senior Management was fully supportive of the importance of the internal audit function, collaborative execution of audit work and a clear focus on implementing audit recommendations would not be accorded the required priority. Without this, if there were to be a significant access control breach or security incident, it would be difficult to explain and defend.

The AC reviewed the OIA Charter and suggested some amendments. The AC requested that it be updated at its nineteenth session.

The AC noted that an external assessment of OIA is planned and was briefed and consulted on the process for selection of an external assessor. The AC will monitor the external assessment process, meeting with the external assessor as needed.

b. Oversight of external audit matters

As part of its oversight of external audit matters, the Committee discussed: (a) the Financial Statements of the Court for the year 2022; (b) the Financial Statements of the Trust Fund for Victims (“TFV”) for the year 2022; and (c) the External Auditor’s report on Temporary Personnel, Legal Aid and the status of the performance audit on cybersecurity.

With regard to the Financial Statements of the Court for the year 2022, the Committee was pleased that the External Auditor has issued an unqualified audit opinion. The AC was, however, disappointed that despite repeated requests for the External Auditor to sign the audit opinion only after their final meeting with the AC, they nonetheless signed the audit opinion in advance of that. The AC's view is that best practice requires that the external auditor receive all relevant inputs and perspectives before signing their opinion, including those of the AC. The AC will continue its discussions with the External Auditor with a view to rectifying the situation next year.

The Committee noted that the External Auditor recommended that the Court comprehensively review its Staff Regulations and Rules, Administrative Instructions and Guidelines given that the purpose of ICC Regulation 3.1 is to be in conformity with UN Staff Regulations and Rules in order to strengthen the efficiency of the staff costs budget. The AC noted that the Court did not plan to review the full set of rules, only a subset of the relevant ones.

With regard to the Financial Statements of the TFV, the Committee was pleased that the External Auditor has also issued an unqualified audit opinion. The AC was, however, not convinced by the External Auditor's interpretation of IPSAS 19 concerning the liability and obligations with regard to the provision established to discharge the reparations orders issued by Chambers. The External Auditor considered that the convicted person and the TFV shared the liability created by a reparations order. The TFV management disagreed with this interpretation. The AC supported management's interpretation of the relevant accounting standard that a third party, (in this case the TFV), cannot assume a liability that has already been legally assigned via a court order to another party (in this case the convicted). The AC urged management to continue discussions with the External Auditor on this matter during the next financial statement preparation cycle.

With regard to the Audit report of the External Auditor on legal aid, the Committee noted the important deficiencies highlighted and was pleased to be informed that the Registry has created a specific unit to focus on judicial cooperation, which will also focus on indigence assessment and follow up on outstanding cooperation. The AC noted that the legal aid reform was submitted to the CBF for its consideration before it is approved by the Assembly. With regard to the Audit on cybersecurity, the AC noted that the scope of the audit assignment was being discussed with the Court and stressed the need for robust policies and timely implementation in this important area.

c. Risk management

The AC noted that the Court's overall operational risk consolidation was updated to include 200 risks, in accordance with its tenth update report on risk management. In discussing the status of outstanding OIA recommendations in the context of overall risk management, the AC noted that there was a lack of clarity and consistency in the way that old outstanding items were viewed and presented. In some cases, implementation of these recommendations was still planned but with a low priority; in others, implementation was delayed because of dependency on developments in other areas; and in yet others, the recommendations were in effect rejected, no actions planned, with the implication that the associated risks were accepted and not deemed consequential. In the context of overall risk management, and the seriousness with which OIA recommendations are viewed, the AC believes that there should be clarity and consistency in this area, and a clear linkage to overall risk management and organizational risk appetite.

While implementing a risk management process is a foundational step, the challenge is to develop a risk management culture across the organisation that is consistent with the risk management appetite. The AC will continue to monitor the evolution of risk management within the organisation at its future meetings.

d. Ethics

The AC noted the further delay in issuing the Ethics Charter and acknowledged the Registrar's involvement and the guidance provided on the next procedural steps, which is expected to be presented to the Principals of the Court by the end of 2023 for validation and adoption.

The AC reiterated that while an Ethics Charter is the foundation document on which a robust ethics and internal justice system can be built, work still needs to be done to achieve this ultimate objective, and

should be given a high priority. The AC requested that the Court submit the adopted Court-wide Ethics Charter at its nineteenth session.

e. Audit Committee Charter

The AC continued to review its Charter to ensure that it reflected the current organisational context and was in line with the IIA Standards and best practice.

II. CONCLUSION

Mr. Vice-President,

Allow me to conclude by underlining that since its re-establishment, the Audit Committee has worked assiduously to be a catalyst in triggering important improvements in the areas within its mandate. We seek not only to provide an additional layer of accountability to the Assembly, but the AC has also to constructively engage with all actors in the various areas of its mandate to achieve tangible progress in the reduction of risks; the identification of risk mitigating measures; to maintain financial integrity through robust internal control and financial reporting processes; and to contribute to greater efficiency and effectiveness of the business processes of this organization.

I thank you for your attention.
