



# General Assembly

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## Request for the inclusion of a supplementary item in the agenda of the seventy-fifth session

### Extraordinary Chambers in the Courts of Cambodia – residual functions

#### Letter dated 12 August 2020 from the representatives of Australia, Cambodia, France, Germany, Japan, Norway, the Republic of Korea, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General

On behalf of the Permanent Missions of Australia, Cambodia, France, Germany, Japan, Norway, the Republic of Korea, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America,<sup>1</sup> we have the honour to request, in accordance with rule 14 of the rules of procedure of the General Assembly, the inclusion in the agenda of the seventy-fifth session of the General Assembly of a supplementary item, entitled “Extraordinary Chambers in the Courts of Cambodia – residual functions”.

In accordance with annex IV, paragraph 18, to the rules of procedure of the General Assembly, we request that the item be referred to the plenary Assembly.

In accordance with rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum is attached to the present letter (see annex).

We also have the honour to request that the present letter and its annex be circulated as a document of the General Assembly.

*(Signed)* Mitch **Fifield**

Permanent Representative  
Permanent Mission of Australia to the United Nations

*(Signed)* Sovann **Ke**

Permanent Representative  
Permanent Mission of the Kingdom of Cambodia to the United Nations

<sup>1</sup> The European Union, a member of the Principal Donors Group, also supports the inclusion of the item.



*(Signed)* Anne **Gueguen**  
Deputy Permanent Representative of France to the United Nations

*(Signed)* Guenter **Sautter**  
Chargé d'affaires a.i.  
Permanent Mission of the Federal Republic of Germany  
to the United Nations

*(Signed)* **Ishikane** Kimihiro  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative of Japan to the United Nations

*(Signed)* Mona **Juul**  
Ambassador  
Permanent Representative  
Permanent Mission of Norway to the United Nations

*(Signed)* **Cho** Hyun  
Permanent Representative  
Permanent Mission of the Republic of Korea to the United Nations

*(Signed)* Anna Karin **Eneström**  
Ambassador  
Extraordinary and Plenipotentiary  
Permanent Representative  
Permanent Mission of Sweden to the United Nations

*(Signed)* Jonathan **Allen**  
Chargé d'affaires a.i.  
Permanent Mission of the United Kingdom of Great Britain  
and Northern Ireland to the United Nations

*(Signed)* Kelly **Craft**  
Representative of the United States of America to the United Nations

**Annex to the letter dated 12 August 2020 from the representatives of Australia, Cambodia, France, Germany, Japan, Norway, the Republic of Korea, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General**

**Explanatory memorandum**

1. In its resolutions [57/228 A](#) and [57/228 B](#), the General Assembly approved an agreement regulating the cooperation between the United Nations and the Royal Government of Cambodia to establish Extraordinary Chambers, within the existing court structure of Cambodia and with international assistance.
2. Under that agreement, the Extraordinary Chambers were mandated to bring to trial senior leaders of Democratic Kampuchea and those most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that had been committed during the period from 17 April 1975 to 6 January 1979.
3. The Agreement between the United Nations and the Royal Government of Cambodia entered into force, in accordance with its article 32, on 29 April 2005.
4. The Extraordinary Chambers comprise both national and international components, which are financed separately. The Government of Cambodia is responsible for the salaries and emoluments of the Cambodian judges and local personnel.
5. In paragraph 3 of its resolution [57/228 B](#), the Assembly decided that the expenses of the Extraordinary Chambers to be defrayed by the United Nations should be borne by voluntary contributions from the international community.<sup>2</sup>
6. Substantial progress has been made towards fulfilling the mandate of the Extraordinary Chambers. That has included convictions in cases 001, 002/01 and 002/02, the last-mentioned of which included convictions of former members of the Khmer Rouge regime for genocide, crimes against humanity and grave breaches of the Geneva Conventions.
7. The Extraordinary Chambers estimate that the trial and, where relevant, appeals stages for those cases that have proceeded to trial will be completed in 2022.
8. The United Nations ad hoc and hybrid international courts and tribunals, such as the Special Court for Sierra Leone and the international criminal tribunals for Rwanda and for the former Yugoslavia, have benefited from a framework for the completion of their work, including the early identification of residual functions required to be performed following the completion of their mandates. Such residual functions have included the management of records, archives, legacy-related matters, the revision of judgments, protection of victims and witnesses, and enforcement of sentences.
9. In the light of the progress made towards the completion of the Extraordinary Chambers' mandate, the General Assembly, in paragraph 3 of section IV of its resolution [73/279](#),<sup>3</sup> reaffirmed the high priority that it accorded to the work of the Extraordinary Chambers and, in paragraph 5 of section IV of the same resolution,

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<sup>2</sup> In accordance with the relevant recommendations of document [A/74/7/Add.16](#).

<sup>3</sup> The resolution was considered initially by the Fifth Committee of the Assembly and, in the absence of a dedicated agenda item, in the context of budgetary discussions on the subvention request.

requested the Secretary-General to “undertake consultations with the Extraordinary Chambers and the Government of Cambodia, in order to begin developing a framework for the completion of the work of the Extraordinary Chambers, including with regard to drawdown of activities, and to identify residual functions, if any, which will need to be performed following the completion of the mandate”.

10. Subsequently, in paragraph 7 of section V of its resolution [74/263](#), the General Assembly “notes the steps taken by the Secretary-General to develop a framework for the completion of the work of the Extraordinary Chambers and the identification of possible residual functions, and requests the Secretary-General to expedite the finalization of the framework”.

11. In accordance with that mandate, representatives of the Secretary-General are undertaking consultations with the Government of Cambodia and, as appropriate, with the Extraordinary Chambers, in order to identify possible residual functions.

12. Representatives of the Secretary-General have made visits to Phnom Penh to that end. Discussions have centred on potential residual functions requiring performance, including those referenced in paragraph 8 of the present memorandum.

13. Consideration of the item would allow the General Assembly to consider and decide upon the provision of a further mandate to the Secretary-General to continue consultations with the Government of Cambodia, with a view to finalizing agreement on the residual functions requiring performance, as well as the framework for their performance.

14. It would also allow the Assembly to request the Secretary-General to report on the matter, including in relation to progress in negotiations, in the light of which the Assembly could decide to take further action, potentially also during the seventy-fifth session. In that regard, a dedicated agenda item would have the added benefit of providing the Assembly with flexibility with regard to the scheduling of its ongoing consideration of the item.

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