

**Sixty-eighth session**

Agenda item 134

Proposed programme budget for the biennium 2014-2015**Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia****Report of the Secretary-General***Summary*

In its resolution [57/228 B](#) of 13 May 2003, the General Assembly requested the Secretary-General to report to the Assembly at its fifty-eighth session on the implementation of that resolution. In his subsequent reports on the Khmer Rouge trials ([A/58/617](#), [A/59/432](#) and Add.1, [A/60/565](#), [A/62/304](#) and [A/67/380](#)), the Secretary-General provided updates on the progress achieved towards establishing and operating the Extraordinary Chambers in the Courts of Cambodia, within the Cambodian domestic courts, for the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea.

In his most recent report on the Khmer Rouge trials ([A/67/380](#)), the Secretary-General highlighted the many challenges faced by the Extraordinary Chambers, in particular the acute financial crisis that could jeopardize the future operations of the Court. By its decision [67/539](#) of 20 December 2012, the General Assembly took note of the report.

On 2 August 2013, the Secretary-General wrote to the President of the General Assembly alerting him that the Extraordinary Chambers were on the brink of financial failure, and requesting that the matter be brought to the attention of the General Assembly. On 12 August, the Secretary-General also wrote individually to the permanent representatives of each Member State bringing this same issue to their attention. He emphasized that the voluntary funding mechanism of the Extraordinary Chambers was not sustainable and encouraged the international community to bring the operations of the Chambers onto a secure financial footing. Despite these efforts, the Chambers have insufficient funds to complete their 2013 programme of work, and the 2014-2015 budget remains largely unfunded.



In the present report, the Secretary-General provides details of the progress achieved by the Extraordinary Chambers since his report of 19 September 2012 ([A/67/380](#)), gives an update on the continuing financial crisis which faces both the international and national components of the Chambers, and seeks the Assembly's approval of a subvention of up to \$51.1 million for the period from 1 January 2014 to 31 December 2015.

I. Introduction

1. Since their establishment, and as detailed in the reports of the Secretary-General on the Khmer Rouge trials ([A/58/617](#), [A/59/432](#) and Add.1, [A/60/565](#), [A/62/304](#) and [A/67/380](#)), the Extraordinary Chambers in the Courts of Cambodia have achieved substantial progress towards fulfilling their mandate. The evidence hearings in phase 1 of case 002, initially against four surviving senior leaders of the Khmer Rouge regime, were concluded on 23 July 2013. The closing arguments in that phase are scheduled to be heard from 16 October through 31 October 2013, and the verdict is expected in the first half of 2014.

2. In November 2011 and March 2013, respectively, proceedings against two of the accused in case 002 were halted owing to the ill health of one and the death of the other. The remaining accused are physically frail and of an advanced age, hence reaching a timely verdict in this case, in accordance with international standards of fair trial, remains a priority for the Extraordinary Chambers.

3. The Extraordinary Chambers have faced considerable political and financial challenges. The effective functioning of the court at this crucial stage is jeopardized by significant and persistent financial insecurity, which has resulted in two staff walkouts during the reporting period as well as staff resignations. This difficult situation threatens the judicial operations of the Chambers and prolongs their timeline as their programme is subject to disruption and delays.

4. The co-prosecutors have stated publicly that there will be no cases after cases 003 and 004. These cases are at the judicial investigation stage and it is difficult to project the overall timeline for the court's work. Nevertheless, it is clear that this could run beyond 2018. It is also clear that the present financial insecurity is likely to jeopardize the judicial proceedings.

II. Progress made in the case files

A. Case 001: Kaing Guek Eav, alias "Duch"

5. Case 001 was the first case tried before the Extraordinary Chambers. The single accused, Kaing Guek Eav, alias "Duch", was the deputy head of the S-21 facility from 15 August 1975 to March 1976 and the head of S-21 from March 1976 until the collapse of the Democratic Kampuchea regime in January 1979. S-21 was a security centre in Phnom Penh where perceived opponents of the Communist Party of Kampuchea were sent for interrogation, torture and execution.

6. On 3 February 2012, the Supreme Court Chamber rendered its decision on appeals against the Trial Chamber's decision sentencing Kaing Guek Eav to 35 years' imprisonment, quashing that sentence and increasing it to life imprisonment. It affirmed the conviction for crimes against humanity of persecution and entered additional convictions for crimes against humanity of extermination (encompassing murder), enslavement, imprisonment, torture and other inhumane acts. It also recognized a further 10 civil parties who had been rejected before the Trial Chamber, and affirmed the Trial Chamber's decision to compile and post on the Extraordinary Chamber's official website all statements of apology and acknowledgements of responsibility made by Kaing Guek Eav during the course of

the trial, including the appeal stage. The Supreme Court Chamber ordered the accused to remain in the custody of the Chambers pending the finalization of arrangements for his transfer, in accordance with law, to the prison in which his sentence would continue to be served. On 6 June 2013, Kaing Guek Eav was moved to Kandal provincial prison to serve the remainder of his sentence, with the understanding that the Ministry of the Interior may transport him back to the premises of the Extraordinary Chambers should there be a request from the Chambers that he attend further court proceedings.

7. As noted in the Secretary-General's report of September 2012 (A/67/380), case 001 afforded an historic opportunity for the Cambodian people to witness justice being rendered for crimes committed during the period of Democratic Kampuchea. The high level of attendance by Cambodians at the trials of the Extraordinary Chambers is one of the most notable features of the proceedings: over 36,493 Cambodians attended the trial in case 001 and 141,693 people have attended the proceedings overall. Equally notable was the prominent role played by victims formally admitted to the proceedings as civil parties, a first for an international crimes tribunal assisted by the United Nations. This case also sent a clear signal to the Cambodian people and the international community that there would be no impunity for the crimes committed by the Khmer Rouge regime. The trial and appeal judgments in case 001 were landmark moments for the Extraordinary Chambers and demonstrated their capacity to prosecute complex crimes and bring proceedings to a final conclusion in accordance with international standards. It also paved the way for the Chambers to efficiently approach the considerably greater complexity of case 002.

B. Case 002: Nuon Chea, Ieng Sary, Khieu Samphan and Ieng Thirith

8. On 15 September 2010, the co-investigating judges issued a closing order indicting Nuon Chea, former Chair of the Democratic Kampuchea People's National Assembly and Deputy Secretary of the Communist Party of Kampuchea; Ieng Sary, former Deputy Prime Minister for Foreign Affairs of Democratic Kampuchea; Khieu Samphan, former Head of State of Democratic Kampuchea; and Ieng Thirith, former Minister of Social Affairs of Democratic Kampuchea, for crimes against humanity, grave breaches of the Geneva Conventions of 1949 and genocide against the Cham and Vietnamese ethnic groups within Cambodia, in addition to offences under the 1956 Penal Code of Cambodia. Following the issuing of the closing order, the parties filed several appeals to the Pre-Trial Chamber. On 13 January 2011, the Pre-Trial Chamber issued its decisions with regard to the appeals and sent the case, as amended, for trial. The trial began with an initial hearing held from 27 to 30 June 2011.

9. The substantive trial of Nuon Chea, Ieng Sary and Khieu Samphan began on 21 November 2011 with the co-prosecutors' opening statements addressing the entire indictment. Consistent with the Trial Chamber's decision of 22 September 2011 to sever the trial into a series of separate cases, each with a separate trial and judgment, the first phase of case 002 focused on the forced movement of the population from Phnom Penh and later from the regions, as well as related crimes against humanity. It also considered the structure of Democratic Kampuchea, the history of the Communist Party of Kampuchea, the organizational structure of Democratic Kampuchea and the roles of the accused in relation to the policies of the

Democratic Kampuchea regime relevant to all charges, which will provide a foundation for the subsequent trials. In its severance decision, the Trial Chamber also stated that it might expand the scope of the first trial, which it did on 17 August 2012.

10. In August 2012, the Trial Chamber convened a trial management meeting to expedite the conclusion of trial proceedings and to enable planning for the remaining phases of case 002. Oral argument was also heard on the co-prosecutors' request to expand the scope of the case to include three additional crime sites. On 8 October 2012, the Trial Chamber granted the co-prosecutors' request to expand the scope of the trial to include killings at the location of Tuol Po Chrey. However, it declined to extend the scope of the trial to include the S-21 facility and District 12 on grounds that this risked substantial prolongation of the trial and could not be readily accommodated within the scope and structure of the case. On 7 November 2012, the co-prosecutors appealed the decision of the Trial Chamber. The Supreme Court Chamber on 8 February 2013 granted the appeal, annulling the Trial Chamber's original severance order and all related decisions and ordering the Trial Chamber to reconsider the matter.

11. In its oral decision of 29 March 2013, followed by its written decision of 26 April, the Trial Chamber, upon reconsideration of the matter, again severed the proceedings in case 002 in the same scope as prior to the decision of the Supreme Court Chamber. On 10 May 2013, the co-prosecutors appealed the latest decision of the Trial Chamber, contending, among other reasons, that the S-21 security centre was the single most representative crime site of the case 002 indictment, and the one and only security centre that reported directly to the senior leaders of the Communist Party of Kampuchea. On 27 May 2013, Nuon Chea's defence counsel also filed an appeal against the Trial Chamber's decision, requesting the Supreme Court Chamber to either annul the second severance order or order the Trial Chamber to formulate a reasonably representative trial of the full case 002 closing order, including the genocide charges and those concerning crimes allegedly committed at cooperatives and worksites.

12. On 23 July 2013, the Supreme Court Chamber delivered its decision on the appeals against the Trial Chamber's second decision on severance. Rejecting the appeal and upholding the severance, it found that the Trial Chamber enjoyed broad discretion to sever a case into discrete trials pursuant to the internal rules of the Extraordinary Chambers, and that in the present case its determination that renewed severance of case 002 was required in the interest of justice was not so unreasonable as to warrant appellate intervention. The Supreme Court Chamber considered that to order an expansion of the trial would inevitably result in unnecessary delays, and that therefore a more appropriate course of action was to instruct that charges that should have been included within the scope of the first phase 1 of case 002 form part of the scope of the second phase of that case.

13. The Supreme Court Chamber went on to note that the establishment of a second panel to ensure that the second phase of case 002 commenced as soon as possible was imperative. It therefore instructed the Office of Administration of the Extraordinary Chambers to immediately explore the establishment of a second panel of national and international judges within the Trial Chamber to hear and adjudicate the second phase of case 002.

14. The Trial Chamber held a final trial management meeting on 13 June 2013 to discuss the remaining issues to be resolved at trial before concluding the hearing of evidence in the trial of phase 1 of case 002 of the remaining accused, Nuon Chea and Khieu Samphan.

Ieng Thirith

15. On 17 November 2011, following an assessment by five court-appointed medical experts, the Trial Chamber determined that Ieng Thirith was suffering from a progressive, degenerative cognitive condition that rendered her unfit to stand trial. The Trial Chamber severed the charges against her from the indictment, stayed the proceedings against her and ordered her unconditional release. That decision was immediately appealed by the co-prosecutors. On 13 December 2011, the Supreme Court Chamber set aside the decision and ordered the Trial Chamber to request, in consultation with experts, additional treatment for Ieng Thirith to render her competent to stand trial. It also ordered the Trial Chamber to reassess her medical condition within six months of the start of the additional treatment.

16. During the first half of 2012, recommendations of the court-appointed medical experts regarding a renewed course of treatment were implemented. Immediately thereafter, the Trial Chamber ordered a reassessment of Ieng Thirith's fitness to stand trial and held hearings concerning her fitness on 30 and 31 August 2012. On 13 September 2012, the Trial Chamber reaffirmed its prior finding that Ieng Thirith suffers from a progressive, degenerative illness and that she remained unfit to stand trial. As there was no prospect that she could be tried in the foreseeable future, the Trial Chamber confirmed the severance of the charges against Ieng Thirith in case 002, indefinitely stayed proceedings against her and ordered her unconditional release. The co-prosecutors appealed the Trial Chamber's decision insofar as it released Ieng Thirith unconditionally. On 14 December 2012, the Supreme Court Chamber allowed the appeal in part and imposed a regime of judicial supervision on Ieng Thirith requiring that she remain in the country, report any change of address and either make herself available for police checks to ensure compliance with the terms of her judicial supervision and report any threat to her safety or, alternatively, to verify her compliance and safety through her guardian.

Ieng Sary

17. Between May and September 2012, Ieng Sary's health resulted in the partial or total adjournment of 12 days of scheduled proceedings. He was again hospitalized from 7 September to 7 November 2012. The hearing of evidence was able to continue for part of that period following Ieng Sary's agreement to waive his right to be present in relation to certain witnesses and civil parties. The Trial Chamber recalled a court-appointed geriatric expert to examine Ieng Sary. On 26 November 2012, following the report of the expert, the Trial Chamber reaffirmed its earlier finding that Ieng Sary was fit to stand trial and rejected the request of his defence counsel for further expert assessment. On 5 March 2013, Ieng Sary was once again hospitalized and remained in the hospital until his death on 14 March 2013, aged 87. Following his death all proceedings against him were formally terminated by the Trial Chamber.

C. Second trial panel

18. In its second decision on severance of proceedings, the Supreme Court Chamber expressed the view that the establishment of a second trial panel was imperative in order to ensure that the second phase of case 002 commenced as soon as possible. It therefore instructed the Office of Administration of the Extraordinary Chambers to immediately explore the establishment of a second panel of national and international judges within the Trial Chamber to hear and adjudicate case 002/trial 2.

19. In response, the Office of Administration has brought a number of legal and practical issues with regard to the establishment of a second panel of judges to the attention of the Supreme Court, and requested the judicial authorities of the Extraordinary Chambers to reach a formal decision regarding whether such second panel should be established. The issues included the potential impact on the Agreement between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea, as well as the budgetary implications involved in creating a second panel, including the need for new support staff in the Trial Chambers.

20. Pending further decisions of the Supreme Court on this matter, the proposed budget for 2014-2015 does not include provisions for a second trial panel.

Cases 003 and 004

21. On 7 September 2009, the international co-prosecutor filed two introductory submissions (subsequently supplemented by further submissions) with the co-investigating judges alleging the commission of further crimes falling under the jurisdiction of the Extraordinary Chambers by five additional suspects. One suspect has since died. The crimes under investigation in cases 003 and 004 are genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the 1956 Penal Code of Cambodia. The names of the suspects remain confidential in the proceedings.

22. Since 2009, the Office of the Co-Investigating Judges has taken steps to address cases 003 and 004. The investigations have advanced haltingly as a result of lack of continuity resulting from the resignations of two international co-investigating judges and a reserve international co-investigating judge, coupled with differences of view on the proceedings between the national and international judges. Matters were also complicated for a substantial period by the refusal of the Government of Cambodia to recognize the authority to act of one reserve co-investigating judge. That judge initiated multiple actions to investigate cases 003 and 004 but was faced with ongoing impediments to his work, including ongoing disagreements with the national co-investigating judge, who questioned his authority to act, ultimately leading to the resignation of the international judge on 4 May 2012.

23. On 20 June 2012, the Supreme Council of the Magistracy approved the appointment of a new international co-investigating judge as well as a new reserve international co-investigating judge.

24. The newly appointed international co-investigating judge assumed his duties at the Extraordinary Chambers in October 2012 and resumed work on investigations in cases 003 and 004 that had been in abeyance since his predecessor's departure. Rogatory letters were issued in both cases and investigators were deployed to the field. Investigations in both cases are ongoing. In addition, the international co-investigating judge reached out to potential civil parties by publicly identifying the crime sites under investigation in case 004 and enabling victims to assess their position in light thereof. More than 1,200 victims have applied for civil party status in cases 003 and 004, and while a number of applications have been found admissible, the bulk of them are still to be addressed.

25. In respect of case 003, on 28 February 2013, the co-investigating judges issued a joint statement concerning the status of the case. In that statement, the national co-investigating judge announced that, for his part, he considered the investigation into case 003 to be complete and he forwarded the case file to the co-prosecutors for their final submissions. Conversely, the international co-investigating judge stated his view that case 003 remained open and that investigations were proceeding. The international co-investigating judge, Mark Harmon, further made public key details of the scope of the judicial investigation for the first time and called for witnesses and victims to take an active part in the ongoing investigation. Numerous civil party applications have since been received and are being processed.

III. Historical background on the financing of the Extraordinary Chambers in the Courts of Cambodia

26. In paragraph 74 of his report of 31 March 2003 ([A/57/769](#)), the Secretary-General opined that an operation of the nature of the Extraordinary Chambers, mandated by Member States, would constitute an expense of the Organization under Article 17 of the Charter and should be financed from assessed contributions. The Secretary-General stated that a financial mechanism based on voluntary contributions would not provide an assured and continuous source of funding and that the operations of a court should not be left to the vagaries of voluntary contributions. The General Assembly, by its resolution [57/228 B](#) of 13 May 2003, decided that the expenses of the Extraordinary Chambers to be defrayed by the United Nations in accordance with the relevant provisions of the draft agreement would be borne by voluntary contributions from the international community as indicated in paragraph 9 of resolution [57/228 A](#), and appealed to the international community to provide assistance, including financial and personnel support, to the Extraordinary Chambers.

27. The Extraordinary Chambers comprise both national and international components, which are separately financed. In accordance with articles 15 and 16 of the Agreement between the United Nations and the Royal Government of Cambodia, the Government of Cambodia is fully responsible for the salaries of Cambodian judges and other Cambodian personnel. The United Nations, through voluntary contributions, is fully responsible for the salaries of the international judges and international personnel.

28. The United Nations received sufficient contributions in 2005 from Member States to launch the operations of the Extraordinary Chambers. Further funding was mobilized between 2006 and 2011 to support the operations of the international

component. However, when the previous report (A/67/380) was issued in September 2012, there were insufficient pledges to cover the projected expenditures for 2012, and 93 per cent of the budget for 2013 was unfunded. Since then, the operations of the Extraordinary Chambers have been funded through sporadic pledges and funds received from various States. At the time of the present report, there is a pledging shortfall of \$0.6 million to carry the international component through the end of 2013.

29. While the Government of Cambodia is responsible under the Agreement for all costs related to the national component, including the salaries of the Cambodian judicial officials and all national personnel, it has relied heavily on voluntary contributions to meet its staff salary costs. In the absence of sufficient voluntary contributions in 2012 and 2013 to pay national staff salaries, the Secretary-General and the principal donors urged senior Government officials to comply with the Government's legal obligation under the Agreement to do so. However, owing to a lack of provisions in its annual budget for these costs, the Government defaulted on its obligations. As outlined below, this has resulted in two staff walkouts during 2013, causing significant disruption to judicial processes.

IV. Impact of recurring financial challenges

30. At the time of the Secretary-General's previous report on the Extraordinary Chambers (A/67/380), the international component faced an acute financial crisis which threatened the ongoing judicial proceedings. This crisis has become chronic, continuing throughout 2013, with increasing uncertainties regarding whether sufficient funds would be available to meet salary obligations for international staff. A recruitment freeze which was instituted in June 2012 remains in force today, and the international staff are extended in short-term increments of three months only, despite the fact that their function is required for a multi-year period. These measures, compelled by the financial situation, have negatively affected the operations of the Chambers. Experienced staff with skills difficult to replace in a timely fashion have resigned from the Chambers. This situation has also had a negative impact on staff morale and health, including physical and mental health challenges.

31. While the national component of the Chambers was for the most part funded during 2012, it experienced a serious shortfall in pledges for 2013, creating a crisis of greater severity than that of the international component. During March 2013 the national staff threatened to go on a walkout, as they had continued to work full-time since January without employment contracts and salaries.

32. The Secretariat rapidly sought guidance from the principal donors group and, on the basis of that guidance, sought the agreement of the Governments of Sweden and Norway to redirect their pledges from the international component to the national component, as a reimbursable loan. The sum of \$2.1 million was eventually transferred to the Government of Cambodia on that basis, which allowed the payment of all salary arrears for national staff and ensured future payments until May 2013.

33. While the reimbursable loan averted the immediate crisis, it did not resolve the issue long-term. The Government of Cambodia again stated that it had no new funding to meet its salary obligations after May 2013. As there were no pledges in

prospect at the time, the Government did not extend national staff contracts beyond June 2013. Nevertheless, the staff continued to work and to support the judicial processes, with the expectation that donors would secure new funding. With their salaries discontinued starting in June 2013, national staff again threatened to go on strike as of 1 September 2013. Despite direct appeals from the Secretary-General to the President of the General Assembly, as well as individually to all Member States, the national component continued to remain unfunded, and on 1 September 2013, over 100 national staff went on strike.

34. In an exchange of letters between the Secretary-General's Chef de Cabinet and the Deputy Prime Minister of Cambodia, the United Nations again made an exceptional, reimbursable loan to the Government in the amount of \$1,155,000 to secure the return of the national staff. The Government was advised to settle the salary arrears of all national staff, excluding judicial officials, for the period from June to August 2013. As there are no new funds to pay future national salaries, which total approximately \$1.6 million, the Secretariat continues to encourage donors who have outstanding pledges to the United Nations to redirect their pledges to the national component so that the national staff presence in the Court can be secured. At the time of preparation of the present report, no firm commitment has been received, and the Secretary-General remains concerned about the welfare of the staff and the risk that the Extraordinary Chambers will not be able to complete their work.

35. Against the above background, the Secretary-General's Special Expert to advise on United Nations Assistance to the Khmer Rouge Trials has intensified fundraising efforts in 2012 and 2013. Despite sustained engagement with a considerable number of Member States, the financial response has remained sporadic and limited. These efforts included a special fundraising tour by the Special Expert, accompanied by a senior representative of the Government of Cambodia, to several States members of the Association of Southeast Asian Nations, seeking funding exclusively for the national component. While a number of States indicated that they might make a pledge for 2014, no funding was secured for the remainder of 2013. The Secretary-General will hold a pledging conference on 7 November 2013 in New York to raise awareness of the Court's achievements and to seek funding support for 2014-2015 for both components of the Court, in line with the biennial budget which has been submitted to the group of interested States for approval.

V. Financial requirements for 2014-2015

36. The 2014-2015 financial situation of the Extraordinary Chambers needs to be urgently addressed so that the Court can devote its attention to the judicial process. The national staff have endured long periods without contracts and have continued to work for months without being paid. International staff have also endured short-term contract extensions which negatively affect retention rates, staff morale and welfare, and results in de facto elimination of standard staff entitlements such as home leave and education grants. Despite these hardships, staff across the Extraordinary Chambers have continued to devote their time and energy to the Court's work. However, their capacity to do so might be waning, as evidenced by the two staff strikes, numerous resignations and increasing rates of illness.

37. The Secretariat has taken every measure possible to reach out to Member States, including at the most senior level, to alert them to the possibility of the Court's failure, without satisfactory result. The Secretary-General is exceedingly concerned that the ad hoc and sporadic nature of funding of the Extraordinary Chambers is likely to continue during 2014-2015, jeopardizing and delaying the judicial proceedings when time is of the essence. Given the advanced age and corresponding mental capacities of the accused in case 002, the Organization simply cannot run the risk of a lack of willingness to commit financial resources frustrating the delivery of justice so long overdue. There must be finality and closure according to law, providing the possibility of healing and reconciliation for the citizens of Cambodia and all victims of the Khmer Rouge.

38. While the Chambers' indicative court schedule projects judicial activity until 2018, and possibly beyond, the group of interested States has requested that budget proposals be submitted in two-year increments. While the international component and the national component are funded separately, with the Secretariat responsible for the receipt and management of its voluntary funds and the Government of Cambodia, through the national component of the Extraordinary Chambers, responsible for its own funding, as well as contributions from the international community, the budget is a comprehensive document which defines all of the resources, including staff resources, required to operate the Chambers.

39. For 2014-2015, the total funding requirements are \$30.7 million for 2014 and \$28.1 million for 2015, for a total of \$58.8 million. Of that amount, \$46.4 million is for the international component and \$12.4 million for the national component. On the international side, there is a pledging shortfall of \$0.6 million for 2013 and \$42.3 million for 2014-2015. Based on the pattern of contributions during 2012-2013, it is expected that resources will be pledged incrementally and in varied amounts, with insufficient fund balances available at any given time to ensure reasonable duration of staff contracts. The operational reserve of \$4.2 million which had accumulated since the Court's inception was fully depleted in 2012 to meet staff payroll costs and remains at zero. With continuing pledging shortfalls, the Secretariat has been unable to reinstate the reserve, and thus has no funding mechanism to address operational contingencies.

40. For the national component, there remains a cash shortfall of \$1.6 million for 2013 despite the Secretariat's efforts to have pledges redirected to that component. There is only one bilateral pledge expected for 2014-2015 to support the specific functions of the Chambers' Victims Support Section. Funding from the Government of Cambodia is expected to be approximately \$1.8 million in 2014 and \$1.8 million in 2015. These funds are restricted to operational costs, and the Government remains unwilling to have them redeployed to meet staff costs. Judging from the limited contributions received from the international community for 2012-2013, which resulted in the need for two reimbursable loans from the Secretariat, the national component is expected to face a significant pledging shortfall in 2014-2015, which, if not made up for, would result in further staff walkouts and, as a consequence, disruptions of the judicial proceedings.

41. To address the above situation, the Secretary-General is proposing a subvention of up to \$51.1 million (\$42.3 million for the international component and \$8.8 million for the national component) for the period from 1 January 2014 to 31 December 2015, representing the total proposed budget of \$58.8 million, offset

by existing pledges of \$4.1 million and \$3.6 million for the international component and national components, respectively. In terms of annual requirements, the amounts proposed are \$24.8 million in 2014 and \$26.3 million in 2015. At the same time, the Secretary-General proposes to preserve the extrabudgetary funding basis of the Extraordinary Chambers. As intensive fundraising efforts will continue throughout the budget period, the Secretary-General proposes that the subvention funds, once appropriated, be considered as a reserve in order to issue contracts to international staff of up to one year, or for shorter periods if the defined need is less, thereby providing sufficient stability to staff to enable them to devote the maximum commitment to ensuring the smooth and uninterrupted operation of the Extraordinary Chambers. The Secretary-General further proposes that the subvention be available to be drawn upon on a monthly basis, should there be insufficient extrabudgetary funds on hand to meet the international component's salary and operational costs. Subsequent drawdowns throughout the period would require a detailed reporting of expenditures to the Controller, and demonstrated need for future release of funds.

42. While the Government of Cambodia is responsible under the Agreement with the United Nations, to fully fund the national component, the Government continues to fail to comply with the Agreement. The Secretary-General remains concerned about the negative impact of Cambodia's non-compliance, and its affect on the national staff and their families, who have endured repeated periods of months without receiving any remuneration. The Secretary-General would therefore propose that he be given the discretionary authority to draw on the subvention in order to loan to the national component, on a reimbursable basis, such funds as are needed to ensure the funding of national staff salaries, excluding those of judicial officials. Such action would eliminate the need for loans from voluntary contributions which were intended for the United Nations.

VI. Conclusions

43. The Secretary-General welcomes the progress made by the Extraordinary Chambers in the year since his last report. Significant progress has been made in the first phase of case 002 and in the investigations in cases 003 and 004. The personnel of both components of the Extraordinary Chambers are to be commended for their hard work and dedication in fulfilling the Court's mandate, despite the personal obstacles which they faced as a result of the ongoing funding crisis.

44. The Secretary-General is concerned that the severe financial challenges faced by the funding mechanism of the Extraordinary Chambers have persisted and, in the case of the national component, worsened in the past year. It has become apparent that the current funding mechanism of the Extraordinary Chambers is not sustainable. By its decision [67/539](#) of 20 December 2012, the General Assembly took note of the report of the Secretary-General on the Khmer Rouge trials of 19 September 2012 ([A/67/380](#)).

45. It is critical for the international community to ensure that the Extraordinary Chambers have the required financial means to ensure accountability for the shocking crimes perpetrated during the former Khmer Rouge regime. The financial failure of the Court would be a tragedy for the people of Cambodia, who have

waited a long time for justice, and would constitute a serious setback to the international community's fight against impunity.

VII. Recommendations

46. The Secretary-General seeks the approval of the General Assembly for funding up to \$51.1 million for the period from 1 January 2014 to 31 December 2015 to supplement the financial resources of the Extraordinary Chambers in the Courts of Cambodia to enable them to complete their mandate.

47. The Secretary-General proposes that the General Assembly approve an additional appropriation in the amount of \$24.8 million for 2014 under the proposed programme budget for 2014-2015 and decide to consider the report of the Secretary-General on a subvention of up to \$26.3 million for 2015 at the main part of its sixty-ninth session.

48. The Secretary-General also seeks the approval of the General Assembly for the United Nations to use its discretion to provide reimbursable loans to the Government of Cambodia from the subvention of up to \$4.6 million in 2014 and up to \$4.2 million in 2015, to ensure the welfare of the national Cambodian staff and their families.

Annex

Financial status of the Extraordinary Chambers in the Courts of Cambodia

International component: United Nations Assistance to the Khmer Rouge Trials

Financial status of the international component as at 31 December 2012

(United States dollars)

A. Income	
Contributions received from 2005 to 2012	127 791 463
Interest earned from 2005 to 2012 and other adjustments	4 898 064
Subtotal	132 689 527
B. Expenditure (131 211 326)	
Fund balance	1 478 201

Financial status of the Chambers

(United States dollars)

A. Income	
Cash balance brought forward as at 1 January 2013	1 478 201
Contributions received from 1 January to 30 September 2013	19 263 632
Subtotal	20 741 833
B. Expenditure as of 30 September 2013 ^a (19 256 513)	
Cash balance	1 485 320
C. Outstanding pledges for 2013 ^b 3 701 737	
Total funds available	5 187 057
D. Estimated expenditure from October to December 2013 (5 744 637)	
Projected cash shortfall as at 31 December 2013	(557 580)
E. Estimated requirements for 2014 ^c 24 373 619	
F. Outstanding pledges for 2014 ^d 4 127 152	
Estimated shortfall for 2014	20 246 467

G. Estimated requirements for 2015 ^c	22 047 433
H. Outstanding pledges for 2015	0
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Estimated shortfall for 2015	22 057 433

^a Figures include a grant of \$3,255,000 to the national component to cover salary costs. These costs are also reflected in the national component tables.

^b Denmark (8.0 million Danish kroner revalued as at 30 September 2013), European Union (300,000 euros revalued as at 30 September 2013), Japan (\$386,700) and United States of America (\$1.5 million).

^c 2014-2015 budget figures are subject to change pending review and approval by the group of interested States.

^d Germany (700,000 euros revalued as at 30 September 2013) and United States of America (\$3.2 million).

Indicative resource requirements for the United Nations Assistance to the Khmer Rouge Trials

Requirements by component and funding availability

(United States dollars)

<i>Component</i>	<i>Actual expenditure 1 January- 31 December 2012</i>	<i>Estimated requirements 1 January- 31 December 2013</i>	<i>Estimated requirements 1 January- 31 December 2014</i>	<i>Estimated requirements 1 January- 31 December 2015</i>
1. Judicial Office	6 674 592	7 487 943	7 867 158	5 982 898
2. Defence and victims support	3 140 435	3 011 246	4 683 937	4 739 362
3. Office of Administration	13 525 263	14 501 961	11 822 524	11 335 174
Total	23 340 289	25 001 150	24 373 619	22 057 433
Balance brought forward	8 212 169	1 478 201		
Pledges and contributions	16 576 128	22 965 369	4 127 152	
Interest	30 193	–		
Total	24 818 490	24 443 570	4 127 152	
Surplus/(shortfall)	1 478 201	(557 580)	(20 246 467)	(22 057 433)

Post requirements

<i>Category</i>	<i>January- December 2012</i>	<i>January- December 2013</i>	<i>January- December 2014</i>	<i>January- December 2015</i>
Professional and above				
Judges (D-2)	12	12	12	12
D-1	1	1	1	1
P-5	5	5	6	6
P-4	23	22	18	18
P-3	45	42	38	31
P-2	7	8	5	3
Subtotal	93	90	80	71
General Service				
Principal level	10	10	9	6
Local level	31	26	36	36
Field Service	44	35	25	25
National Professional Officer	8	8	9	8
Subtotal	93	79	79	75
Total	186	169	159	146

Requirements by object of expenditure and funding availability

(United States dollars)

<i>Object of expenditure</i>	<i>Actual expenditure 1 January- 31 December 2012</i>	<i>Estimated requirements 1 January- 31 December 2013</i>	<i>Estimated requirements 1 January- 31 December 2014</i>	<i>Estimated requirements 1 January- 31 December 2015</i>
Posts	15 358 958	15 322 980	14 355 761	12 538 912
Non-staff compensation	2 031 285	2 167 035	2 213 425	2 060 775
Other staff costs	112 459	–	–	–
Consultants and experts	1 027 525	519 834	930 222	634 103
Witness costs	32 935	22 295	70 852	70 852
Travel	87 578	202 905	102 510	7 682
Contractual services ^a	1 108 454	3 651 730	1 404 703	1 467 859
Defence support section	2 266 522	1 974 462	3 803 114	3 844 525
Victims support	345 724	405 603	414 090	414 090
Judicial meetings	33 470	–	–	61 490
Training	11 791	4 064	12 113	8 996
General operating expenses	422 836	498 014	566 095	539 650
Supplies	220 781	215 988	263 182	266 084
Furniture and equipment	279 971	16 240	237 554	142 416
Subtotal	23 340 289	25 001 150	24 373 619	22 057 433
Pledges and contributions	16 606 321	22 965 369	4 127 152	
Balance brought forward	8 212 169	1 478 201		
Total	24 818 490	24 443 570	4 127 152	0
Surplus/(shortfall)	1 478 201	(557 580)	(20 246 467)	(22 057 433)

^a Includes grant to the national component for payment of local salaries.

National component: Cambodia

Financial status of the Chambers as at 31 December 2012

(United States dollars)

A. Income	
Contributions received from 2005 to 2012	41 759 300
Subtotal	41 759 300
B. Expenditure (42 075 855)	
Fund balance	(316 555)

Financial status of the Chambers

(United States dollars)

A. Income	
Cash balance brought forward as at 1 January 2013	(316 555)
Contributions received from 1 January to 30 September 2013	6 118 870
Subtotal	5 802 315
B. Expenditure as of 30 September 2013 ^a (5 180 524)	
Cash balance^b	621 791
C. Outstanding pledges for 2013 ^c 149 150	
Total funds available	770 941
D. Estimated expenditure from October to December 2013 (2 327 235)	
Projected cash shortfall as at 31 December 2013	(1 556 294)
E. Estimated requirements for 2014 ^d 6 380 717	
F. Outstanding pledges for 2014 ^e 1 800 000	
Estimated shortfall for 2014	4 580 717
G. Estimated requirements for 2015 ^d 6 021 192	
H. Outstanding pledges for 2015 ^e 1 800 000	
Estimated shortfall for 2015	4 221 192

^a Excludes salaries from June to September of national judicial officers of \$248,222 and September staff costs of \$323,137.

^b \$296,707 earmarked for operational costs, \$137,757 earmarked for the Victims Support Section and \$187,327 balance from the grant of the United Nations Assistance to the Khmer Rouge Trials and New Zealand's contribution.

^c Germany (\$149,150), earmarked for the Victims Support Section.

^d 2014-2015 budget figures are subject to change pending the review and approval by the group of interested States.

^e Government of Cambodia.

Indicative resource requirements for the national component

Requirements by component and funding availability

(United States dollars)

<i>Component</i>	<i>Actual expenditure 1 January- 31 December 2012</i>	<i>Estimated requirements 1 January- 31 December 2013</i>	<i>Estimated requirements 1 January- 31 December 2014</i>	<i>Estimated requirements 1 January- 31 December 2015</i>
1. Judicial Office	2 087 316	1 446 317	1 540 776	1 310 498
2. Defence and victims support	330 768	292 952	290 313	290 313
3. Office of Administration	6 508 487	5 768 490	4 549 627	4 420 381
Total	8 926 571	7 507 759	6 380 717	6 021 192
Balance brought forward	(258 638)	(316 555)		
Pledges and contributions	8 868 654	6 268 020	1 800 000	1 800 000
Total	8 610 016	5 951 465		
Surplus/(shortfall)	(316 555)	(1 556 294)	(4 580 717)	(4 221 192)

Post requirements

<i>Category</i>	<i>January- December 2012</i>	<i>January- December 2013</i>	<i>January- December 2014</i>	<i>January- December 2015</i>
Professional and above				
D-1 (Judges and Director of Administration)	16	15	14	14
P-5	4	4	1	1
P-4	20	20	20	18
P-3	41	37	19	18
P-2	25	24	14	13
P-1	6	6	2	2
Subtotal	112	106	70	66
General Service				
Principal level	11	10	8	8
Local level	169	167	103	96
Subtotal	180	177	111	104
Total	292	283	181	170

Requirements by object of expenditure and funding availability, national component

(United States dollars)

<i>Object of expenditure</i>	<i>Actual expenditure 1 January- 31 December 2012</i>	<i>Estimated requirements 1 January-31 December 2013</i>	<i>Estimated requirements 1 January- 31 December 2014</i>	<i>Estimated requirements 1 January- 31 December 2015</i>
Posts	4 984 257	4 066 198	3 500 416	3 199 544
Non-staff compensation	967 998	987 670	710 377	727 290
Judicial meeting	–	–	17 077	17 077
Resident judges	125 341	115 499	–	–
Other staff costs	148 511	11 122	159 000	103 500
Premises alteration	73 828	30 322	100 200	99 100
Contractual services	1 582 996	1 246 697	1 044 024	1 030 314
Travel	47 813	57 046	61 588	56 868
Training and meeting costs	246 763	370 791	143 097	142 560
Operating expenses	528 729	432 070	490 099	490 099
Hospitality costs	34 877	28 343	29 440	29 440
Consultants and experts	185 458	162 001	125 400	125 400
Subtotal	8 926 571	(7 507 759)	6 380 717	6 021 192
Pledges and contributions	8 868 654	6 268 020	1 800 000	1 800 000
Balance brought forward	(258 638)	(316 555)		
Total	8 610 016	5 951 465	1 800 000	1 800 000
Surplus/(shortfall)	(316 555)	(1 556 294)	(4 580 717)	(4 221 192)

Financing of the United Nations Assistance to the Khmer Rouge Trials, 2014-2015

(United States dollars)

A. Requirements — international component	
1 January to 31 December 2014	(20 246 467)
1 January to 31 December 2015	(22 057 433)
Total estimated requirements — international component	(42 303 900)
B. Requirements — national component	
1 January to 31 December 2014	(4 580 717)
1 January to 31 December 2015	(4 221 192)
Total estimated requirements — national component	(8 801 909)
C. Subvention	
Maximum subvention for 2014	(24 827 184)
Maximum subvention for 2015	(26 278 625)
Maximum subvention to be effected at end of 2014/2015	(51 105 809)