

**BEFORE THE PRE-TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

Case No: 004/07-09-2009-ECCC/OCIJ (PTC61) **Party Filing:** International Co-Prosecutor

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**INTERNATIONAL CO-PROSECUTOR'S REQUEST TO FILE HER RESPONSE TO
THE NATIONAL CO-PROSECUTOR'S APPEAL AGAINST THE INDICTMENT IN
ENGLISH FIRST**

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Pre-Trial Chamber
Judge PRAK Kimsan, President
Judge Olivier BEAUVALLET
Judge NEY Thol
Judge Kang Jin BAIK
Judge HUOT Vuthy

Co-Lawyers for YIM Tith
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All Civil Parties in Case 004

I. INTRODUCTION

1. The International Co-Prosecutor (“ICP”) respectfully requests the Pre-Trial Chamber (“PTC” or “Chamber”) to allow her to file her Response to the National Co-Prosecutor’s (“NCP”) Appeal¹ against the International Co-Investigating Judge’s (“ICIJ”) Closing Order (“Indictment”)² in English first, with the Khmer translation to follow at the first opportunity. The ICP submits that exceptional circumstances warrant this request.

II. PROCEDURAL HISTORY

2. On 28 June 2019, the Co-Investigating Judges issued two separate and conflicting Closing Orders in Case 004. The National Co-Investigating Judge issued his Dismissal Order in Khmer,³ and the ICIJ issued his Indictment in English.⁴ The Khmer translation of the Indictment was notified to the Parties on 15 August 2019.
3. On 17 September 2019, the Parties were notified of the NCP’s Appeal against the Indictment in Khmer,⁵ with the English translation following on 20 September 2019.

III. APPLICABLE LAW

4. The Practice Direction on the Filing of Documents before the ECCC⁶ provides that responses must be filed within 10 calendar days of the date that the appeal was notified in Khmer and one other language.⁷
5. The Practice Direction also requires documents to be filed in Khmer and one other language, but provides that in “exceptional circumstances”, the PTC may authorise a party to file in French or English first, provided that a Khmer translation will be filed at the first opportunity.⁸

¹ **D382/4/1** National Co-Prosecutor’s Appeal Against the International Co-Investigating Judge’s Closing Order (Indictment) in Case 004, 13 September 2019 (“Appeal”).

² **D382** Closing Order, 28 June 2019 (“Indictment”).

³ **D381** Order Dismissing the Case Against Yim Tith, 28 June 2019.

⁴ **D382** Indictment.

⁵ **D382/4/1** Appeal.

⁶ Practice Direction on Filing of Documents before the ECCC (Rev. 8), amended on 7 March 2012 (“Practice Direction”).

⁷ Practice Direction, arts 8.3, 8.5.

⁸ Practice Direction, arts 7.1, 7.2.

IV. SUBMISSIONS

6. The ICP seeks permission to file her Response to the NCP's Appeal in English first due to several factors that together constitute exceptional circumstances. First, the NCP's Appeal raises legal and factual issues that will clearly be decisive as to the future of this long and complex investigation. It is therefore in the interests of justice for the ICP to be given a meaningful opportunity to consider and respond to this Appeal. Moreover, the ICP will be responding to an appeal that until 20 September 2019 was available only in Khmer, the ECCC language in which she does not primarily work. She therefore needs time to review and analyse the translated Appeal in order to draft her Response.
7. The ICP anticipates that, to respond effectively, her Response is likely to be around 18-20 pages in English, similar to the length of the Appeal itself. The OCP generally produces the Khmer versions of its filings internally to reduce the burden on shared translation resources. However, in light of the Pchum Ben holiday, all of the OCP translators were previously authorised to take leave for the entire week beginning 23 September 2019, with the exception of one translator working on Monday, 23 September 2019. The OCP does not therefore have the capacity to produce a full Khmer translation of the Response by 30 September 2019.
8. In view of the time required to prepare her Response and produce the Khmer translation, the ICP anticipates that only the English version of the Response will be completed by 30 September 2019 and that the Khmer translation will be finalised shortly thereafter.

V. RELIEF REQUESTED

9. For the reasons stated above, the ICP respectfully requests that the PTC allow her to file her response to the NCP's Appeal in English only with the Khmer translation to follow at the first opportunity.

Respectfully submitted,

Date	Name	Place	Signature
25 September 2019	Brenda J. HOLLIS International Co-Prosecutor	Phnom Penh	