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Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

EXCERPTS FROM REMARKS TO THE NINTH MEETING OF THE FRIENDS OF THE ECCC

BY HIS EXCELLENCY SEAN VISOTH
Director of the Office of Administration

Phnom Penh, 30 November 2007

Excellencies, Ladies and Gentlemen, Friends and Colleagues,

I am pleased to be able to report to the Friends of the ECCC that since our last meeting on 7 September the ECCC has moved into a qualitatively new phase. Not only have we carried out the successful detention and charging of the five suspects named in the first Introductory Submission of 18 July, but we have held a successful two-day Public Hearing by the Pre-Trial Chamber with unprecedented public and media attention and access.

I can report in more detail on the significant progress made in the judicial area.

Office of the Co-Prosecutors

The number of complaints filed by victims to the Office of Co-Prosecutors has increased to more than three hundred, which are currently being reviewed by the Co-Prosecutors and their team. The Co-Prosecutors are also actively involved with the judicial investigation, in particular by participating in the many interviews of the charged persons.

From 7 to 9 of November 2007 the ECCC hosted the Fourth Joint Prosecutors' Colloquium. This three-day event, which was opened by the Deputy Prime Minister Sok An, brought together the Prosecutors from all international and hybrid courts as well as participants from the UN Office of Legal Affairs, and a few selected NGOs and academics. A half-day public round table discussion attracted wide public and media attention. And, furthermore, it gave us the chance for meaningful exchanges on topics crucial to the emerging International Criminal Justice System.

Office of the Co-Investigating Judges

To date, five persons (Kaing Guek Eav alias Duch, Nuon Chea, Ieng Sary, Ieng Thirith and Khieu Samphan) whose names appeared in the first Introductory Submission have been arrested and formally charged by the Co-Investigating Judges for crimes falling under the jurisdiction of the ECCC. All of these arrests were carried out with professionalism and efficiency by all levels of the Cambodian government authorities from national, provincial and local levels. All Charged Persons are represented by national and international co-lawyers. Two



of the five persons who are currently at the ECCC Detention Facilities have filed notice of appeal against the Provisional Detention Orders issued by the Co-Investigating Judges.

Judicial investigations regarding the five charged persons are being conducted by the Office of Co-Investigating Judges, and this includes interviewing the charged persons themselves and witnesses, as well as conducting field investigations. Additional investigative staff were recruited in order to provide adequate support to the Office of Co-Investigating Judges.

On 18 September 2007, the Co-Investigating Judges issued a Case Separation Order separating the case of crimes committed at S-21 (Tuol Sleng) from other crimes which were identified in the first Introductory Submission. This decision will help to speed up the process and it is expected that the judicial investigation of the case of crimes committed at S-21 will be completed during the first quarter of 2008.

Pre-Trial Chamber

The Pre-Trial Chamber held its first public hearing on the 20 and 21 of November on the appeal by Kaing Guek Eav alias Duch against the Order for Provisional Detention, preceded by a direction hearing on November 15, held in camera.

Due to the fact that the main court is under renovation, the public hearing itself took place in the small court room designed for non-public hearings and interviews. The judges instructed that a small number of general public and media be seated in the chamber. In addition, the proceedings were transmitted live to the main court, where more than five hundred persons were seated including press, general public, Cambodian legal officials and the diplomatic corps, and also transmitted as a live feed for radio and television broadcast. The Pre-Trial Chamber will announce its decision on 3 December.

In the meantime, the Pre-Trial Chamber has already started preparing for the appeal lodged by Nuon Chea against his provisional detention. On 28 November the Pre-Trial Chamber invited individuals and organisations to file written *amicus curiae* briefs relevant to the case, and published the text of Nuon Chea's Appeal Brief.

Rules and Procedure Committee

The Rules and Procedure Committee held a full session from 29 October to 9 November in preparation for the next Plenary Session. During this two week meeting, the Committee reviewed and/or adopted a number of documents, including a Draft Common Code of Judicial Ethics to be applied to all national and international ECCC judges; Amendments to the Internal Rules, in particular pertaining to the trial phase; Practice Direction on Protective Measures; and Amendment to the Practice Directions on Filing of Documents and on Victim Participation, taking into account feedback received from various NGOs to the previously adopted texts.

Judicial Administration Committee

The latest meeting of the Judicial Administration Committee was held from 1-3 August, during which the Office the Administration had the opportunity to brief judges on various important issues namely Court Management, Finances, Public Affairs policy and Human Resources Management, including the measures taken following the various recommendation made by experts assigned by the UNDP and the Project Board.



Financial matters

As of 31 October 2007 the ECCC has received total funds of **US\$ 6.5 million, or 75%** of the committed funds of **US\$ 8.6 million**. Cumulative expenditure to date amounts to **US\$ 4.67 million, or 55%** of the total committed funds of **US\$ 8.6 million**.

Our national Chief of Budget and Finance is circulating a number of important documents for you today:

the **2006 financial audit** was conducted by the independent auditor, Morison and & Kak Associés from 13-17 August 2007, and it accorded to International Standards on Auditing (ISA) and UNDP accounting requirements. The audit covered five areas of the ECCC, namely financial management, procurement, assets management, ICT and personnel management. The auditor declared a clean audit opinion, certifying that the ECCC financial statement gives a true and fair view of the expenditures and of the cash balance of the ECCC.

the **3rd spot check** on ECCC financial transactions from January to April 2007 was also conducted by the above auditor. As in the 1st and 2nd spot checks, no major issues or irregularities were noted, i.e. the auditor has duly certified the ECCC financial transactions from January 1 to April 30, 2007. The 4th spot check covering ECCC transactions from May to August 2007 will be conducted in early December 2007.

finally, the **3rd Quarterly Financial and Activity Progress Report** for 2007 that summarises all financial and activity progress made by the ECCC up to 30 September 2007 is being shared with you along with the above-mentioned two reports, namely the financial audit 2006 and the 3rd spot check report.

Outreach and media

We had truly outstanding coverage of the recent arrests, charges and detention of the last three suspects and of the public hearing of the first appeal. Over 256 media registered with us, and the proceedings were broadcast live both domestically and abroad. The response from media, NGOs and public has been overwhelmingly positive, as seen on the sheet handed out and exemplified by Chea Vannath: “It’s beyond a dream... I used to live under the Khmer Rouge regime, and I could never dream that those leaders would ever be brought to trial.”

In conclusion, we have a court in full operation and one that shows a very strong record when compared with any of the other international or hybrid courts on a variety of measures:

Internal Rules – despite the fact that the ECCC is the first hybrid tribunal to be established in a civil law system, and the first to be mandated to follow national procedure, the ECCC completed the work of drafting and adopting its Internal Rules in record speed. Other international and hybrid tribunals took years to do this task.



No fugitives, and fast arrest and charging of suspects –the first suspect was arrested in less than two weeks from the date of the Introductory Submission, or six weeks from the adoption of the Internal Rules. All five suspects named therein have been brought to the ECCC, charged and placed in Provisional Detention in just four months from the date of the first Introductory Submission. No other tribunal has anything like such a record. The International Criminal Court has only two detainees after five years in operation, and has six outstanding arrest warrants; the International Criminal Tribunal for the former Yugoslavia was fully operational in 1994 and took about 9 months until the first persons were arrested, and 4 main suspects are still at large; while the Special Court of Sierra Leone took about 4 months.

Financial aspects—the ECCC is the smallest tribunal, with the lowest budget. We have a staff of around 300 (200 national and 100 international), compared to over 1,000 at the ICTY and ICTR. Our current total budget of around \$20 million per year is relatively small, as we can see by comparing it to that of the ICTY (now \$157.5m per annum) and ICTR (now \$138.5 per annum).

Thank you for your attention.



