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Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**OFFICE OF THE CO-INVESTIGATING JUDGES
BUREAU DES CO-JUGES D'INSTRUCTION**

**TO: H.E. KONG SRIM
A: PRESIDENT, RULES AND PROCEDURE
COMMITTEE ("RPC")**

**Date:
28 March 2012**

**FROM: Laurent Kasper-Ansermet
DE: International Reserve Co-Investigating Judge (OCIJ)**

**SUBJECT: RESPONSE TO THE INTERNATIONAL RESERVE CO-INVESTIGATING
OBJET: JUDGE'S NOTE OF 21 MARCH 2012**

In Response to the letter issued by President H.E. KONG Srim, President of the Rules and Procedure Committee, the International Co-Investigating Judge wishes to draw attention to the following issues:

1. The fact that the Rules and Procedure Committee has adopted a certain practice in the relevant area does not mean that such practice is consistent with the law, particularly given that the letter states that the General Assembly has never been asked to rule on the matter.
2. Notwithstanding the confidentiality of the Committee meetings, the response of the President of the Rules and Procedure Committee does not specify the reasons for which the proposed amendment, which had been duly reasoned, was not accepted, nor the next step to be taken (for example whether the refusal was final, whether the proposal could be resubmitted, etc.). We recall that the proposed amendment to the Rules sought to correct a defect in Rule 56 (Public Information by the Co-Investigating Judges) that has, as it stands today, the potential to stall due process as it does not allow for any disagreement between the Co-Investigating Judges on their communication policy. In the event of such a disagreement, not subject to the Settlement Procedure of Rule 72, there can be no decision other than silence and lack of information towards those who have a right to be informed of the process. Such a situation goes against the spirit of the



Rules and of the ECCC as a whole, impeding due process of law and the hope of achieving justice for Cambodian society; it is therefore of importance that the merits of the proposed amendment be comprehensively examined and decided upon by the Plenary Session, or that, at the least, the Rules and Procedure Committee present its reasons for dismissing the submission.

The grounds for concern stated by the International Reserve Co-Investigating Judge in his note of 21 March 2012 remain valid.

