

Recent Developments
at the Extraordinary Chambers
in the Courts of Cambodia:

December 7, 2007 Update

Recent Developments at the Extraordinary Chambers in the Courts of Cambodia (ECCC) is a monthly report by the Open Society Justice Initiative examining progress, priorities, and challenges at the ECCC. Other Justice Initiative reports and publications on the ECCC can be found at www.JusticeInitiative.org.

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General Overview

Khieu Samphan, the former head of state under Cambodia's Democratic Kampuchea regime of the 1970s, was arrested on November 19, 2007. With this arrest, Khieu Samphan became the fifth former Khmer Rouge leader to be jailed at the ECCC detention facility. Khieu Samphan was arrested after being discharged from a Cambodian hospital where he was recovering from a stroke. He joins four others in ECCC detention: Kaing Guek Eav (otherwise known as Duch, the former leader of the infamous Toul Sleng torture center); Nuon Chea (known as Brother Number Two, second only to former Khmer Rouge leader Pol Pot); and Ieng Sary and Ieng Thirith (a husband and wife team who were both top leaders of the Khmer Rouge). With Khieu Samphan's arrest, the court now has custody of all five suspects named by the ECCC's co-prosecutors in their introductory submission filed with the court's co-investigating judges in July 2007.

All five defendants are charged with crimes against humanity; Khieu Samphan, Ieng Sary and Nuon Chea are also charged with war crimes. No one has yet been charged with genocide.¹ Further names are expected to be put forward for investigation by the co-prosecutors, although the timing for this is unclear.²

The day after Khieu Samphan's arrest, the ECCC's Pre-Trial Chamber held the court's first public hearing. On November 20-21, 2007, the Chamber convened to decide the legality of Duch's pretrial detention. Outside the ECCC's courtroom entrance on the first morning of the hearing, people waited in long lines in the hot Cambodian sun for a chance to observe the hearing in person. Inside, Duch, the youngest in custody at age 66, appeared alert and interested throughout the hearing. He kept his hands pressed together, as though in a slight bow, as the courtroom events unfolded. The chamber's decision, handed down on December 3, 2007, upheld his pretrial detention, as discussed at greater length below.

Duch's trial will be the first held by the ECCC and it is expected to start by mid-2008.³ According to an ECCC order, issued September 19, 2007 (but only published November 1, 2007), the investigation and trial of Duch will proceed separately from that of the others now in ECCC custody. The other four accused "may be investigated and tried together."⁴ This is consistent with the announcement by the co-prosecutors that the initial

¹ The co-investigating judges have not charged anyone with genocide, despite genocide charges appearing in the initial submission handed over by the co-prosecutors.

² See Thierry Cruvellier, "Racing Against Time," *International Justice Tribune*, No. 78, November 19, 2007.

³ Statement of Co-Prosecutor Robert Petit at public hearing held on November 21, 2007 in response to questions about the expected start date for Duch's trial.

⁴ Update by Co-Investigating Judges, November 1, 2007. ECCC website at http://www.eccc.gov.kh/english/cabinet/press/46/OCIJ_Media_Update_EN_01_11_2007.pdf

submission referred to crimes “committed as part of a common criminal plan constituting a systematic and unlawful denial of basic rights of the Cambodian population and the targeted persecution of specific groups.”⁵

Duch’s hearing followed two other significant events. The Joint Prosecutors’ Colloquium, which periodically brings together the prosecutors of the five major international criminal tribunals to learn lessons from each other, held public and private sessions in Phnom Penh in early November. The international and Cambodian judges who are charged with revising the ECCC’s procedural rules held meetings in late October.

Amid this progress and attendant media attention, the ECCC continues to prepare for a fundraising drive, expected in 2008. The court reportedly will ask states for close to \$100 million in additional funds to keep it operational into 2011. The court continues to struggle with a host of administrative and operational challenges, including weak administrative leadership, corruption allegations that have not yet been adequately addressed, failure to ensure that courtrooms are ready for public hearings, inadequate translation capacity and transparency measures, and limited outreach efforts. In November, the Justice Initiative issued a report urging states to condition future funding for the court on its achievement of specific benchmarks aimed at ensuring that the ECCC is capable of meeting minimum fair trial standards.⁶

Update on Specific Cases

1. Ieng Sary and Ieng Thirith – Arrest, Charges and Detention

Ieng Sary and Ieng Thirith, the first husband and wife team to be charged by an international court, were arrested at their Phnom Penh home on November 12, 2007 and taken into ECCC custody. Ieng Sary was deputy prime minister and foreign minister of Democratic Kampuchea during the period of Khmer Rouge rule between 1975 and 1979. He is charged with crimes against humanity and war crimes. His wife, Ieng Thirith, was minister of social action and is charged with crimes against humanity.

Ieng Sary is represented by Cambodian lawyer Ang Udom,⁷ and he will choose an international lawyer for his defense team soon. Ieng Thirith is represented by Cambodian lawyer Phat Pouy Seang and by Diane Ellis, an experienced British barrister.⁸

⁵ Statement of Co-Prosecutors, July 18, 2007. ECCC website at http://www.eccc.gov.kh/english/cabinet/press/33/Statement_of_Co-Prosecutors_18-July-2007_.pdf

⁶ The URL for full OSJI report to donors and interested States is: http://www.justiceinitiative.org/db/resource2?res_id=103943

⁷ From 1994 to 1997, Mr. Ang worked as a criminal defence lawyer at the Cambodian Defenders Project and Legal Aid of Cambodia. He has managed his own law firm since 1999 and, as of 2006, has been Head of the Legal Unit at the Center for Social Development in Phnom Penh. See Press Release of Defense Support Section, November 12, ECCC website at http://www.eccc.gov.kh/english/cabinet/press/48/Ieng_sary_and_Ieng_Thirith_select_lawyers.pdf

⁸ Since 1986, Mr. Phat has been a professor at the University of Law and Economics. Mr Phat has worked as a lawyer since 1997 dealing with numerous criminal cases and, from 2004, has also been a legal consultant to the National Assembly’s Legislative and Judiciary Committee. Diane Ellis QC was called to

In a written order, the co-investigating judges ordered Ieng Thirith placed in provisional detention for a period not exceeding one year, finding “that provisional detention is necessary to prevent any pressure on witnesses and victims; that it is also necessary to ensure the presence of the Charged Person during the proceedings; and finally, that it is necessary to preserve public order and protect the safety of the Charged Person.”⁹ She was charged with crimes against humanity for having allegedly, in her exercise of authority and effective control over the Ministry of Social Action, instigated, ordered, failed to prevent and punish, or otherwise aided and abetted in the commission of crimes. This allegedly was done by directing, encouraging, enforcing or otherwise rendering support to the Communist Party of Kampuchea policy and practice, which was characterized by murder, extermination, imprisonment, persecution on political grounds, and other inhumane acts such as forcible transfers of the population, enslavement, and forced labor, as part of a widespread or systematic attack targeting a civilian population. Ieng Thirith, who is 75, disputed the charges, stating that “the claims of the co-prosecutors are 100 percent false” and that she has never had any relations with Nuon Chea, whom “(she) detests, as (she) knows that he is a bad person.”¹⁰

Ieng Sary, who is 82, is charged with the same acts as his wife in relation to the allegations of crimes against humanity. Additionally, he is charged with grave breaches of the 1949 Geneva Conventions for the following acts: willful killing, willfully causing great suffering or serious injury to body or health, willful deprivation of rights to a fair trial of prisoners of war or civilians, unlawful deportation or transfer or unlawful confinement of a civilian. Ieng Sary, like Ieng Thirith, disputed the charges against him and stated that “there are certain accusations that I cannot accept . . . I would like to know the truth about a dark period in our history. I do not know where the truth lies. I am very happy that this court has been established because it will be an opportunity for me to discover the truth and also to share what I know.”¹¹

The co-investigating judges found that provisional detention was necessary “to prevent any pressure on witnesses and victims . . . to ensure the presence of the Charged Person during the proceedings; and . . . to preserve the public order and protect the safety of the Charged Person.”¹²

In addition, citing their obligation to look for both inculpatory and exculpatory evidence, the co-investigating judges considered whether the pardon and amnesty granted to Ieng

the Bar of England and Wales in 1978 and was appointed as Queen’s Counsel in 2001. She has broad experience in handling serious criminal trials. Ellis was defense counsel for Ferdinand Nahimana at the International Criminal Tribunal for Rwanda, which was the first trial to take place before an international tribunal on charges relating to the role of the media in the commission of genocide. See Press Release of Defense Support Section, November 12,

http://www.eccc.gov.kh/english/cabinet/press/48/Ieng_sary_and_Ieng_Thirith_select_lawyers.pdf

⁹ Provisional Detention Order, ECCC website at

http://www.eccc.gov.kh/english/cabinet/indictment/10/Provisional_detention_order_IENG_Thirith_ENG.pdf.

¹⁰ Ibid.

¹¹ Ieng Sary Detention Order, ECCC website at

http://www.eccc.gov.kh/english/cabinet/indictment/11/Provisional_detention_order_IENG_Sary_ENG.pdf.

¹² Ibid.

Sary by a Royal Decree dated September 14, 1996¹³ was a bar to proceedings against him by the ECCC. The decree purports to: (1) pardon Ieng Sary from the sentences of execution and confiscation of property handed down in an August 19, 1979 judgment from a Peoples Revolutionary Tribunal trial held *in absentia*; and (2) grant an amnesty with respect to the July 1994 Law Outlawing the “Democratic Kampuchea” Group.¹⁴ The order affirmed the jurisdiction of the judges to decide issues related to the scope of the Ieng Sary pardon and amnesty but acknowledged that their determination was provisional and not binding on the Trial or Supreme Court Chambers. They found that the pardon operated only as an annulment of the sentence of the 1979 judgment of the Peoples Revolutionary Tribunal and that the amnesty did not cover the international crimes with which Ieng Sary stands charged by the ECCC. As noted earlier, Ieng Sary has not yet been charged by the ECCC with genocide, the nominal charge by the 1979 tribunal.

2. *Khieu Samphan – Arrest, Charges, and Detention*

Amid reports that his arrest was imminent, Khieu Samphan suffered a stroke at his home in Pailin on November 14, 2007, two days after the arrests of Ieng Sary and Ieng Thirith. He was flown by a helicopter, which was personally authorized by the prime minister, to Phnom Penh and taken to Calmette Hospital where he was placed in a VIP room guarded by 40 members of an elite antiterrorism unit of the Cambodian Police. He remained in the hospital until November 19, 2007; upon discharge, he was arrested in the execution of an ECCC arrest warrant and was escorted by a police convoy to the ECCC, where he was informed of the charges against him.

Khieu Samphan’s counsel, Dr. Say Bory, former head of the Bar Association of Cambodia, and Jacques Vergès, a well known French attorney, were present during the provisional detention proceedings on November 19.¹⁵ Like each of the other accused persons, Khieu Samphan has requested that the Defense Support Section pay the costs of his defense because he has insufficient personal funds to cover these expenses.

¹³ Various English translations of the original Khmer document are in existence and it is not clear on which translation the judges relied.

¹⁴ The People’s Revolutionary Tribunal was established by the Vietnamese-backed government that replaced the Khmer Rouge when it was routed from power in 1979 by the Vietnamese. The trial is widely regarded as a show trial that did not conform to international fair trial standards. The 1994 Law Outlawing the “Democratic Kampuchea Group” makes membership in the political or military organization of “Democratic Kampuchea” illegal and provides for criminal penalties for criminal acts of such persons. The law grants a stay of six months to permit members of the political organization or military forces of the “Democratic Kampuchea” to leave the organization “without facing punishment for crimes which they have committed.” The amnesty is expressly NOT applicable to “leaders of the ‘Democratic Kampuchea’ group.”

¹⁵ Dr. Say is the most senior member of the Bar Association of the Kingdom of Cambodia and was the first president of the bar on its creation in 1995. He was a member of the Constitutional Council from 1998 until 2004, when he returned to private practice. He also acts as legal advisor to H.M. King Sihanouk the King Father. Mr. Jacques Vergès has been a member of the Paris Bar since 1955. In the 1960s he defended a number of cases before French military tribunals arising out of the conflict in Algeria. In 1987 he represented Klaus Barbie before the Lyon cour d’assises on charges of crimes against humanity from the Second World War. He has represented a number of other high profile clients before domestic and international tribunals. See Press Release of ECCC Defense Support Section, November 19, 2007.

It is not clear from information provided by the court or press stories whether Khieu Samphan gave his consent to being transported to the hospital in Phnom Penh or whether he remained there until his arrest with his full consent. The heavily armed police presence indicates that this was not the case. There is no known basis for nonconsensual custody of Khieu Samphan prior to his actual arrest. At this point, further consideration of this question is hampered by the ECCC's failure to make additional information available.

The provisional detention order for Khieu Samphan, similar to each of the previous orders of the co-investigating judges, identifies as grounds for his detention the risk of flight, the risk of provoking public unrest, the personal security of the charged person and the need to prevent him from interfering with witnesses.¹⁶

Khieu Samphan, now 76, was head of state during the Khmer Rouge period covered by the ECCC's temporal jurisdiction. He has published two books about the Khmer Rouge, the most recent of which was published only days before his arrest. In that book, *Reflections on Cambodian History up to the Era of Democratic Kampuchea*, (currently available only in Khmer) Khieu Samphan denies that the Khmer Rouge was responsible for the deaths of 1.7 million Cambodians or that it had a policy of starving people or ordering mass killings. The book and other statements by Khieu Samphan indicate that he will deny knowledge of or involvement in atrocities committed by the Khmer Rouge during his trial.

3. Nuon Chea – Appeal of Provisional Detention Order

On November 11, Nuon Chea filed a brief on his appeal of the co-investigating judges' September 19, 2007 order, which required him to remain in provisional detention at the ECCC. His appeal raises issues relating to the adequacy and effectiveness of the purported waiver of his right to counsel at the adversarial detention hearing on the date of the order and the sufficiency of the evidence and factual findings to justify detention under the requirements of the Internal Rules of the ECCC.¹⁷

No hearing date for the appeal has been set and it has not been announced whether the hearing will be public. The Pre-Trial Chamber has issued an invitation for amicus briefs on the issues raised in the appeal, and the appeal brief filed on behalf of Nuon Chea has been published.¹⁸

The co-investigating judges issued a press release on November 11, 2007, stating that Nuon Chea had been examined by three medical experts who concluded that he is in "a stable condition and that there is no medical reason which would run counter to his detention conditions or participation in the judicial investigation. According to the

¹⁷ Provisional Detention Order, Case No. 002/14-08-2006, Nuon Chea. ECCC website at http://www.eccc.gov.kh/english/cabinet/indictment/2/Provisional_Detention_Order_Nuon_Chea_19092007_ENG.pdf.

¹⁸ See ECCC website at http://www.eccc.gov.kh/english/cabinet/courtDoc/15/appeal_against_provisional_detention_nuon_chea.pdf.

medical reports, Nuon Chea retains perfectly satisfactory intellectual autonomy for his age. Medical follow-up will be ensured, including further expert medical examinations two or three times a year.”¹⁹ There has been no response by Nuon Chea’s lawyers or family.

4. Kaing Guek Eav, aka Duch – Pre-Trial Hearing of Appeal of Provisional Detention Order

The November 20-21 hearing before the Pre-Trial Chamber of Duch’s appeal of the provisional detention order of the Co-Investigating Judges marked the court’s first public hearing. Prior to the hearing, Pre-Trial Chamber President Ney Thol recused himself from the case and was replaced on the Chamber panel by Reserve Judge Pen Pichsaly for the remainder of the appeal. No reason for the recusal was provided in the notice of November 6, 2007,²⁰ but the explanation presumably lies in Ney Thol’s status as a judge of the Cambodia Military Court that held Duch in pretrial custody for over eight years prior to his arrest and transfer to the ECCC.

Two key issues were presented in Duch’s appeal. First, did the co-investigating judges err in refusing to decide whether Duch’s eight years of prior detention by the Military Court of Cambodia constituted a violation of basic rights such that he was entitled to some relief from the ECCC? Such relief could have included release pending trial, compensation, or reduction of sentence. Duch did not claim that the violation was sufficiently grave to mandate dismissal of the charges. Second, assuming that the prior “problematic” detention by the Military Court presents no bar to Duch’s detention by the ECCC, were sufficient facts found by the co-investigating judges to justify detention under the requirements of the ECCC’s Internal Rules and international standards for ordering pretrial detention?²¹ The court handled all matters professionally and the historic initial hearing went off with no major hitches. Cambodian lawyer Kar Savuth and French attorney Françoise Roux argued on behalf of Duch that the length of the prior detention was egregious under international standards and justified immediate relief in the form of release pending trial, compensation, or a ruling of reduction of any ultimate sentence if convicted. Co-Prosecutors Chea Leang and Robert Petit argued in favor of continued detention.

The hearing took place in a small hearing room in the court building because needed renovations of the room that is to become the principal courtroom have not begun. The proceeding was videotaped and projected onto two large screens in what will become the main courtroom. This arrangement allowed over 500 people to observe the first day of hearings. Unfortunately, the quality of the translation was spotty and the video feed was often out of focus and not always directed at the center of courtroom action. The hearing dramatically demonstrated the critical need for the court to:

- a) Begin and complete renovations of the main courtroom so that public hearings can be held live for the benefit of both the public and accused persons.

¹⁹ See ECCC website at http://www.eccc.gov.kh/english/cabinet/press/49/cij_info_bulletin_leng_sary_thirith_eng.pdf.

²⁰ See ECCC website http://www.eccc.gov.kh/english/cabinet/files/ptc/recusal_notification_061107.pdf.

²¹ Internal Rules, Rule 63(1).

- b) Improve the quality of translation in all three of the official languages of the court.
- c) Acquire the capacity to professionally film judicial proceedings for the benefit of the viewing public and for historic archival purposes.
- d) Establish simplified and less intimidating security procedures for public entering the court.

Duch was present throughout the proceeding. As noted earlier, he was respectful of the court and addressed the judges with his hands together in a slight bow.

Challenges Facing the Court

1. Transparency Issues

The co-investigating judges have now held provisional detention hearings for all five charged persons. A hearing by the co-investigating judges on whether a charged person will be held in provisional detention is an “adversarial hearing”²² at which the parties have a right to be heard on the issues presented. An appeal hearing on detention issues before the Pre-Trial Chamber has been held on one case (Duch’s), and it is likely that some of the other four provisional detention orders will be appealed. Ideally, the remaining four appeal hearings will be held in public, but that decision is at the discretion of the Pre-Trial Chamber. The court has released some but not all of the briefs relating to these appeals. While six amicus briefs and the brief filed on behalf of Duch were released publicly and placed on the ECCC website,²³ the brief the co-prosecutors filed arguing in favor of detention was not posted. The appeal brief filed on behalf of Nuon Chea has been made public but no filings related to other appeals have been made public.

As with all proceedings before the co-investigating judges, hearings on provisional detention are confidential absent a special order of the judges. This presumption is problematic, as issues of great interest to the public and of critical impact to the outcome of the cases are decided at these adversarial hearings. In addition, key markers of international standards occur during these hearings, the most critical being the meaningful exercise of the right to counsel and the right to remain silent.

Similar concerns relate to appeals: A charged person has the right to appeal orders of the co-investigating judges to the Pre-Trial Chamber, but the internal rules of the court provide that such appeal hearings are presumptively secret and will be public only if the Pre-Trial Chamber makes an affirmative choice to override this result.

The difficulty with these presumptions of secrecy is apparent from the written provisional detention order of the co-investigating judges in the Ieng Sary case, deciding that an

²² Internal Rules of ECCC, Rule 63 (1).

²³ See http://www.eccc.gov.kh/english/cabinet/indictment/3/Duch_Appeal_Brief_2007-09-05-EN.pdf, for brief filed on behalf of Duch, and link provided at http://www.eccc.gov.kh/english/cabinet/indictment/3/Duch_Appeal_Brief_2007-09-05-EN.pdf for links to amicus briefs.

earlier genocide conviction and a subsequent pardon and amnesty did not bar the proceedings of the ECCC. This issue was raised by the co-investigating judges on their own motion and it is not clear what opportunity Ieng Sary or his lawyers had to prepare for or address these issues. The fact that these issues, which are of potentially decisive legal importance and about which there is significant public discussion and interest among people following the court, were argued and decided in a closed hearing highlights a fundamental flaw in the rules and practices governing adversarial hearings. They are important indicators of the ECCC's transparency.²⁴

The interests of justice and the ability of the Cambodian public to understand the ECCC's proceedings would be better served if the court's internal rules were amended to provide that adversarial hearings before the co-investigating judges and appeals by parties to the Pre-Trial Chamber are presumptively public, absent exceptional circumstances, such as the need to protect the identity of witnesses or the integrity of an investigation. The court will have an opportunity to make these changes to its rules at the plenary session of judges planned for January 2008.

2. Fundraising Needs

The court's plans to issue a significant fundraising request or hold a funding conference have been postponed until an unspecified date in 2008. No official figure for the additional funding request has been released, but indications range from U.S. \$50 million to \$110 million.

The Justice Initiative issued a memorandum to the Group of Interested States entitled *Critical Issues Surrounding the Fundraising Drive of the Extraordinary Chambers in the Courts of Cambodia*, dated November 16, 2007. The Justice Initiative recommends that donors provide additional funding for the ECCC but only on condition that certain changes are made, including that:

- The court effectively address administrative divisions and corruption allegations, minimize translation backlogs, institute best practices in human resource management, and prepare the courtroom and other physical structures for trial.
- The court increase transparency through the more complete and frequent release of documents and information about its operations.
- Donors develop an active management oversight group to ensure that all donor funds are administered effectively and efficiently.
- The court and donors work with a UN-appointed special advisor to the court to assist with administrative and management reforms and to monitor their effectiveness, as well as the ECCC's compliance with the ECCC Law and Agreement.²⁵

24 Rule 56(1) of the Internal Rules of the ECCC provides that all proceedings during the investigation phase are presumptively confidential.

25 The URL for full OSJI report to donors and interested states is:
http://www.justiceinitiative.org/db/resource2?res_id=103943

3. Victims Participation Unit

Several victims have applied to the ECCC to participate in the proceedings as civil parties. The internal rules allow victims who have suffered a direct injury as a result of crimes under investigation to join as civil parties, with the right to request certain investigative actions and to participate in the trial.²⁶ The court has released practice directives to assist victims filing complaints or petitions to participate in cases before the court as civil parties. The practice directives provide for a mandatory form to be submitted with complaints or applications to become a civil party.²⁷

No provision was made in the original budget for the unit, as it was first created by the Internal Rules in July of 2007. The court is seeking a Cambodian national to head the unit and has hired an international deputy. Gabriella Gonzalez, former deputy of the Victims Unit at the International Criminal Court, began work in mid-November 2007 in the deputy position.

4. Outreach

The Swiss government has seconded Andrea Gros to work at the ECCC as a full-time Outreach Officer. Ms. Gros comes to the court with many years of outreach experience in Africa. It is a welcome development that the court now has a full-time outreach officer and will be able to expand its proactive outreach efforts.

Other News

1. International Prosecutors' Colloquium

Prosecutors of all the international and hybrid criminal tribunals met at the ECCC in Phnom Penh for a two-day colloquium, held November 7-8, 2007. The colloquium highlighted challenges facing prosecutions of atrocity crimes. ECCC Co-Prosecutors Chea Leang and Robert Petit hosted the colloquium. Participants included Larry D. Johnson, Assistant Secretary-General of the United Nations for Legal Affairs; Carla del Ponte, Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia; Hassan Jallow, Chief Prosecutor of the International Criminal Tribunal for Rwanda; Stephen Rapp, Chief Prosecutor of the Special Court for Sierra Leone; and Fatou Bensouda, Deputy Prosecutor of the International Criminal Court in the Hague.

Following the previous prosecutors' colloquia held in Arusha, Tanzania in 2004, Freetown, Sierra Leone in 2005, and The Hague, The Netherlands in 2006, the colloquium in Phnom Penh addressed current issues and concerns facing international criminal tribunals globally. The prosecutors exchanged best practices on a range of cross-institutional issues. The colloquium provided a setting for international prosecutors and their senior colleagues to exchange ideas and lessons, as well as an opportunity to generate discussion on topics crucial to the development of international criminal law and the successful prosecution of those who violate it.

²⁶ Internal Rules, Rule 12.

²⁷ ECCC Website at http://www.eccc.gov.kh/english/victims_unit.aspx

The five institutions represented at the colloquium are charged with prosecuting perpetrators of the gravest offenses, such as genocide, war crimes and crimes against humanity. All joint prosecutors' colloquia have been funded by the Open Society Institute.

2. ECCC Judicial Meetings

The Review Committee of the judges of the ECCC, the committee charged with evaluating the internal rules of the court and recommending revisions to the full plenary of judges, met in Phnom Penh from October 29 to November 9, 2007, to prepare recommendations for the plenary session currently scheduled to begin in late January.

The Committee reviewed and/or adopted recommendations on 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. At the January 2008 plenary, the judges will consider these proposals.

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The Open Society Justice Initiative, an operational program of the Open Society Institute (OSI), pursues law reform activities grounded in the protection of human rights, and contributes to the development of legal capacity for open societies worldwide. The Justice Initiative combines litigation, legal advocacy, technical assistance, and the dissemination of knowledge to secure advances in the following priority areas: national criminal justice, international justice, freedom of information and expression, and equality and citizenship. Its offices are in Abuja, Budapest, London, New York and Washington DC.

The Justice Initiative is governed by a Board composed of the following members: Aryeh Neier (Chair), Chaloka Beyani, Maja Daruwala, Anthony Lester QC, Jenny S. Martinez, Juan E. Méndez, Diane Orentlicher (on leave from August 2007-August 2008), Wiktor Osiatyński, Herman Schwartz, Christopher E. Stone, Abdul Tejan-Cole and Hon. Patricia M. Wald.

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