



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

099/3/12

អង្គបុរេជំនុំជម្រះ

PRE-TRIAL CHAMBER
CHAMBRE PRELIMINAIRE

Criminal Case File N° 001/18-07-2007-ECCC/OCIJ (PTC 02)

Before: Judge PRAK Kimsan, President
Judge Rowan DOWNING
Judge NEY Thol
Judge Katinka LAHUIS
Judge HUOT Vuthy

Date: 23 September 2008

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PUBLIC

INVITATION TO AMICUS CURIAE

Co-Prosecutors

CHEA Leang
Robert PETIT
YET Chakriya
William SMITH
PICH Sambath
Alex BATES

Charged Person

KAING Guek Eav alias "DUCH"

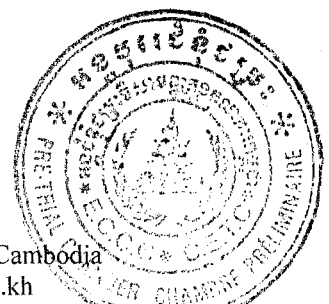
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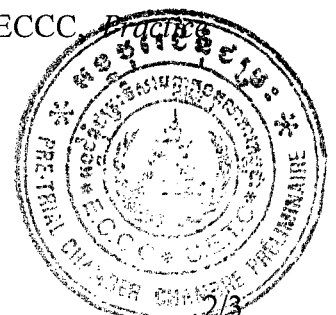
KAR Savuth
François ROUX

ឯកសារច្បាប់ចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
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1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes that on 21 August 2008, the Co-Prosecutors filed a Notice of Appeal against the Closing Order of the Co-Investigating Judges in Case File 001/18-07-2007-ECCC/OCIJ (“Appeal”).
2. In the Co-Prosecutors’ Appeal Brief, filed on 5 September 2008 and subsequently published on the website of the ECCC, it is requested that the Pre-Trial Chamber amend the Closing Order and indict the Charged Person for committing the alleged crimes via participation in a joint criminal enterprise.
3. Rule 33 of the ECCC Internal Rules provides:
 1. At any stage of the proceedings, the Co-Investigating Judges or the Chambers may, if they consider it desirable for the proper adjudication of the case, invite or grant leave to an organization or person to submit a written *amicus curiae* brief concerning any issue. The Co-Investigating Judges and the Chambers concerned shall determine what time limits, if any, shall apply to the filing of such briefs.
 2. Briefs under this Rule shall be filed with the Greffier of the Co-Investigating Judges or the Chamber concerned, who shall provide copies to the Co-Prosecutors and the lawyers for the other parties, who shall be afforded the opportunity to respond.
4. The Pre-Trial Chamber considers it to be desirable for the proper adjudication of the Appeal to invite Professor Antonio Cassese, in his capacity as editor-in-chief of the *Journal of International Criminal Justice*, together with other members of the Board of Editors and the Editorial Committee of the *Journal*, to submit a written *amicus curiae* brief on the following issues:
 - (1) the development of the theory of joint criminal enterprise and the evolution of the definition of this mode of liability, with particular reference to the time period 1975-9;
 - (2) whether joint criminal enterprise as a mode of liability can be applied before the ECCC, taking into account the fact that the crimes were committed in the period 1975-9.
5. The Pre-Trial Chamber notes that guidance on the format of the written brief may be found in the Practice Direction on Filing of Documents before the ECCC, *Practice Direction ECCC/01/2007/Rev.2*, available on the ECCC website.

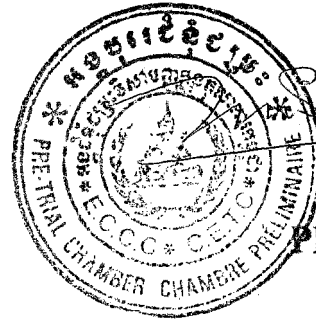


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THEREFORE, THE PRE-TRIAL CHAMBER HEREBY:

INVITES Professor Antonio Cassese, in his capacity as editor-in-chief of the *Journal of International Criminal Justice*, together with other members of the Board of Editors and the Editorial Committee of the *Journal*, to submit a written *amicus curiae* brief not exceeding thirty (30) pages in English and/or French on the issue of joint criminal enterprise as described in this invitation by 27 October 2008. on

Phnom Penh, 23 September 2008

President of the Pre-Trial Chamber**PRAK KIMSAN**