

ឯកសារដើម
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ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

សាធារណៈ / Public

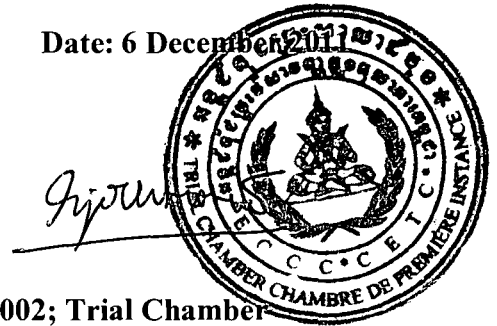
TRIAL CHAMBER

Date: 6 December 2011

TO: IENG Sary Defence;

FROM: Judge NIL Nonn, Trial Chamber President

CC: All Trial Chamber Judges; All parties, Case 002; Trial Chamber Senior Legal Officer;



SUBJECT: Response to IENG Sary Defence letter of 1 December 2011

Reference is made to the letter of 1 December 2011 from the IENG Sary Defence to the Trial Chamber Senior Legal Officer, requesting that the President of the Trial Chamber issue a formal memorandum on behalf of the Chamber, clarifying its procedure for deciding applications and motions, particularly where filings are first communicated as advance courtesy copies in English and later notified in Khmer. This letter makes particular reference to the apparent time-line of a recent disqualification motion before the Chamber, resolution of which was necessary for the Chamber to ascertain the composition of the bench in advance of the hearing of evidence in Case 002, scheduled to commence on Monday 5 December 2011.

The IENG Sary Defence correctly observes that where matters are urgent or capable of delaying proceedings, the Chamber decides expeditiously. The Chamber may also, in its discretion, determine that replies to responses by the parties are unlikely to materially advance the Chamber's understanding of particular issues, particularly where applications raise no significant questions of fact or law, are speculative, fail to meet required evidentiary thresholds or are otherwise unmeritorious. In these circumstances, replies may not be authorized by the Chamber, in the interests of shortening decision run-times, minimising burdens on translation and safeguarding the expeditious conduct of the trial.

The IENG Sary Defence infers, erroneously, that the Chamber's Cambodian judges and staff are entirely incapacitated until all documents relevant to an application are available in Khmer. Some Cambodian Trial Chamber judges, and all Cambodian Trial Chamber staff, have the capacity to work in both English and Khmer, and many judges and staff

(Cambodian and international) are additionally able to work in French. Communication and deliberations between the Chamber's national and international counterparts (facilitated by interpretation, if required) is frequent and continuous. It follows that preparation of decisions on motions can commence, where necessary, soon after they are filed.

Whilst choosing to respond to this particular request, the Chamber further observes that 'clarifications' regarding judicial working methods and time-frames are not a proper subject of inquiry to the Chamber, and would not be entertained before other internationalized or domestic courts. Future requests of this type shall not be entertained (including inquiries from the IENG Sary Defence alleging, conversely, undue delay in relation to other pending motions).