



ឯកសារដើម
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អង្គីមន្ត្រីបន្តករឈ្មោះ/Case File Officer/L'agent charge
du dossier: **Uch Arun**

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

TRIAL CHAMBER

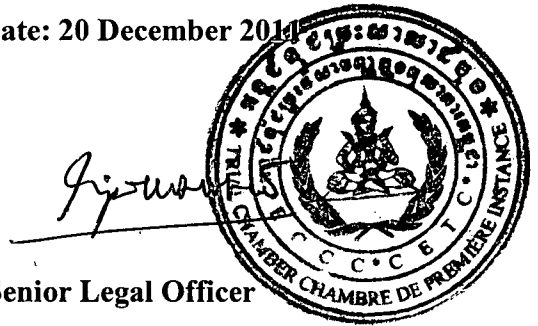
Date: 20 December 2011

TO: All parties, Case 002

FROM: NIL Nonn, President, Trial Chamber

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer

SUBJECT: IENG Sary Request that the Trial Chamber direct the Senior Legal Officer to maintain open and transparent communication with all parties concerning trial management issues (E154)



Reference is made to the above motion, which requests the Trial Chamber to direct its Senior Legal Officer to copy all parties in all communications concerning trial management issues. This motion followed an email sent by the Trial Chamber Senior Legal Officer to two Defence teams who had requested that prospective witnesses be heard, in order to ascertain whether they would be willing to lead the questioning of these witnesses in the event the Chamber decided to call them. The motion objects to the limited circulation of this mail on grounds that “[o]ther parties may wish to voice their opinions on which parties are scheduled to lead certain witnesses or on other such matters” (paragraph 12).

The Trial Chamber has an established practice which is to direct the Senior Legal Officer to draft a memorandum for its consideration or will approve a draft prepared by her. In accordance with this practice, the Trial Chamber had authorised the email from the Senior Legal Officer in question at the time it was sent.

The Chamber will generally allocate responsibility for questioning, where considered appropriate, to those parties who have sought to call a particular witness or Civil Party. The Chamber, however, considers that all decisions on whether or not to allocate questioning to the parties pursuant to Internal Rule 90, and to whom, are discretionary, and not for adversarial argument. In consequence, the communication in question was appropriately directed to the relevant addressees.

The Chamber notes that motions of this type will not in future receive a response from the Chamber and may be considered to constitute a deliberate attempt to delay proceedings. The parties are therefore directed not to file responses to motion E154 and the Interpretation and Translation Unit to suspend any pending translations in relation to it.

The parties are also reminded that they are not to directly communicate with the judges. The proper mechanism for this is instead the filing of motions through the Court Management Section. Nor did this filing, which was non-urgent, warrant sending as an 'advance courtesy copy'. In any case, advance courtesy copies, where justified by genuine urgency, are to be notified to the Trial Chamber Senior Legal Officer, who will ensure that the judges are provided with copies.

It is further noted that on occasion, advance courtesy copies of motions filed in one language (due to translation constraints) have often differed substantially from the version later filed. This has not resulted in enhanced efficiency for the other parties or Chamber. Parties who continue to abuse this practice shall be denied the opportunity to file advance courtesy copies of motions to the Chamber, and will instead bear the burden of making timely filings in Khmer and one other official ECCC language through the Court Management Section.