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 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

MEMORANDUM – TRIAL CHAMBER

Date: 6 February 2012



TO: All parties, Case 002

FROM: Judge NIL Nonn, President, Trial Chamber

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer; Chief, Witness and Expert Support Unit (WESU)

SUBJECT: Hearing of TCE-38 and TCE-44

On 25 October 2011, the Trial Chamber informed the parties of its intention to hear TCE-38 and TCE-44 during Case 002/1 (E131/1, Confidential Annex B). On 19 December 2011, the Chamber advised the parties that efforts were ongoing to confirm the availability of TCE-38 and TCE-44 during the present trial session and that further information concerning the scheduling of the hearing of these individuals would be provided as soon as possible (E155).

Despite extensive efforts by WESU, the Chamber has to date been unable to confirm the availability of TCE-38 and TCE-44. In consequence, the Trial Chamber Senior Legal Officer recently advised all parties that these individuals would not be heard by the Trial Chamber during the current trial session.

Pursuant to Internal Rule 90, the Chamber delegates responsibility for the questioning of these individuals to the Office of the Co-Prosecutors. It further requests the Co-Prosecutors to report back to the Chamber and the other parties within 3 weeks of the present date with recommendations for the timing and modalities of the hearing of these two individuals. The Co-Prosecutors are consequently authorized by the Chamber to contact these two individuals for the limited purpose of determining their availability and assist the Chamber in planning and scheduling the hearing of their evidence. In support of this delegation, the Chamber will shortly issue summons for these individuals. To promote transparency and efficient organization, the Co-Prosecutors are further requested to copy all email communications with TCE-38 and TCE-44 to WESU.

The Chamber is aware that some parties have objected to the hearing of TCE-38 and TCE-44 as experts. At this stage, the Chamber confirms only its intention to hear these individuals at trial and will reach a final determination on their qualification in due course.