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du dossier: SANN RARA

E163/5/4

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

TO: All Parties, Case 002 Date: 26/11/2012

FROM: Nil Nonn, President, Trial Chamber

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

SUBJECT: Further Notification of Modalities for Closing Briefs



On 8 October 2012, the Trial Chamber ordered the parties to file the applicable law section of their Closing Briefs by Friday, 21 December 2012 and noted that further modalities for the Closing Brief would be determined in due course (E163/5, para. 4). The Chamber now provides further directions regarding the language, page limits and deadline for the filing of the Closing Briefs.

During the Trial Management Meeting on 27 August 2012, the Co-Prosecutors suggested that Closing Briefs be initially submitted in French or English, with Khmer translation to follow as soon as possible afterwards. No party objected and the Trial Chamber now adopts this modality. In the interval between submission of English or French versions and Khmer versions of the Closing Brief, the Chamber will rely on its internal multilingual capacity. The parties are nonetheless requested to liaise with ITU closely and to ensure that the Khmer version of the Closing Briefs is filed as soon as practicable after the English or French versions.

The Chamber has previously indicated that submissions on the applicable law due by 21 December 2012 shall be limited to 20 pages in English or French and 40 pages in Khmer. In addition, the Chamber specifies the following page limits (exclusive and in addition to those already granted for the applicable law portions):

1. The Co-Prosecutors' Closing Brief: 200 pages in English or French and the equivalent in Khmer;
2. The Lead Co-Lawyers' Closing Brief (excluding submissions on reparations): 80 pages in English or French and the equivalent in Khmer; and
3. The Defence Closing Briefs: 100 pages in English or French and the equivalent in Khmer for each Accused.

In light of the latitude given the parties in relation to both page limits and filing language, the Chamber determines that all Closing Briefs shall be due in English or French 30 days after the last day of the substantive hearing in Case 002/01. No response briefs will be accepted. Closing Statements pursuant to Internal Rule 94 shall be scheduled for 30 days after the due date for Closing Briefs. The deadline for the Lead Co-Lawyers' submissions on reparations shall be announced in due course. These submissions on reparations shall be limited to 60 pages in English or French and the equivalent in Khmer.

Finally, the Chamber notes the KHIEU Samphan Defence motion of 13 November 2012 requesting the Chamber to reconsider the deadline for the applicable law sections of the Closing Brief (E163/5/2) and the Co-Prosecutors' response in partial support (E163/5/3). The Defence submits that early submissions on the applicable law are inappropriate as the Chamber does not envisage issuing an immediate decision on this issue and it would prevent the defence from filing future submissions on the legal qualification of the facts (E163/5/2, paras 9-14). The Trial Chamber clarifies that the submissions due on 21 December 2012 should address the legal elements of all crimes and forms of responsibility applicable to Case 002/01. These legal matters have been litigated on multiple occasions including during the pre-trial phase and, in any event, are independent of the presentation of evidence on the facts. The Chamber clarifies that the parties are not barred from addressing in their Closing Briefs the legal qualification of facts, nor are they barred from addressing any development in the applicable law following 21 December 2012, should they choose. The Chamber also rejects the KHIEU Samphan Defence submission that setting of page limits for the Closing Briefs is premature (E163/5/2, para. 21). The Defence assertion that a minimum of 300 pages is required for its Closing Brief is entirely inconsistent with its prior submission that a minimum of 150-180 pages is necessary (T., 27 August 2012, p. 3).