BEFORE THE SUPREME COURT CHAMBER

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

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IENG SARY'S RESPONSE TO THE CO-PROSECUTORS' REQUEST FOR A PUBLIC ORAL HEARING OF THE IMMEDIATE APPEAL OF THE DECISION CONCERNING THE SCOPE OF TRIAL IN CASE 002/01 OR IN THE ALTERNATIVE REQUEST TO FILE A JOINT REPLY TO THE THREE DEFENCE RESPONSES

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Judge Florence Ndepele Mwachande MUMBA

Co-Prosecutors:
CHEA Leang
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All Defence Teams

Civil Party Lead Co-Lawyers

Mr. IENG Sary, through his Co-Lawyers ("the Defence"), hereby responds to the Co-Prosecutors' Request for a Public Oral Hearing of the Immediate Appeal of the Decision Concerning the Scope of Trial in Case 002/01 or in the Alternative Request to File a Joint Reply to the Three Defence Responses ("Request").[1] This Response is made necessary because the Request is inadmissible before the Supreme Court Chamber.

1. The Supreme Court Chamber does not have jurisdiction to hear freestanding requests made by the OCP at this stage of the proceedings.[2]
2. The OCP should have made this request as part of its Appeal.
3. The OCP apparently has submitted this Request as a separate filing either to get around the page limit of the Appeal without requesting an extension of pages,[3] or because it did not occur to the OCP to make the request in its Appeal.
4. Even if the Supreme Court Chamber finds the Request admissible, in view of the manifestly inadmissible character of the Appeal itself, and basic considerations of expeditiousness and judicial economy, the Defence can see no justification for the Chamber to grant a public, oral hearing as requested by the OCP.[4]
5. The Supreme Court Chamber has all the necessary and available information before it.
6. There is nothing more the OCP could possibly advance that would explain its lack of due diligence in failing to timely appeal, or that would convincingly show that it is entitled to interlocutory appellate relief.
7. Should the Supreme Court Chamber be inclined to grant the OCP's request for a public oral hearing, the Defence must, of course, be granted equal opportunity to respond to this nakedly aggressive public relations ploy by the OCP, which is being advanced to affect a politically driven result.

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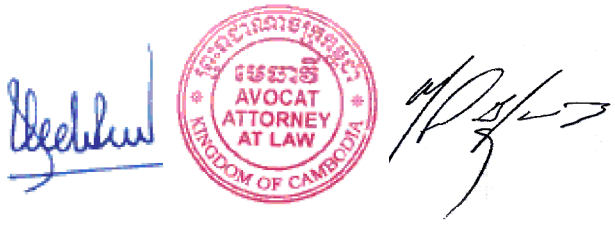
[1] Co-Prosecutors' Request for a Public Oral Hearing of the Immediate Appeal of the Decision Concerning the Scope of Trial in Case 002/01 or in the Alternative Request to File a Joint Reply to the Three Defence Responses, 21 November 2012, E163/5/1/6.
[2] At the trial stage, the Supreme Court Chamber only has jurisdiction to hear appeals brought under Rule 104.
[3] Practice Direction 5.2 of the Practice Direction on the Filing of Documents Before the ECCC states that documents filed to the Supreme Court Chamber shall not exceed 30 pages in English or French or 60 pages in Khmer.
[4] The OCP has itself expressed this same view in regard to a public, oral hearing requested by the Defence. *See* Co-Prosecutors' Response to IENG Sary's Appeal against the Trial Chamber's Decision Requiring the Accused to be Physically Present to Hear Charges and Opening Statements, 12 January 2012, E130/4/2, para. 10.

WHEREFORE, for all the reasons stated herein, the Defence respectfully requests the Supreme Court Chamber to REJECT the Request.

Respectfully submitted,



ANG Udom Michael G. KARNAVAS

Co-Lawyers for Mr. IENG Sary

Signed in Phnom Penh, Kingdom of Cambodia on this **23rd** day of **November, 2012**