

**ក្រុមបេធាវីការពារក្តី អៀង សារី**  
**IENG SARY DEFENCE TEAM**  
**EQUIPE DE DEFENSE DE IENG SARY**

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**ANG Udom and Michael G. KARNAVAS**

Co-Lawyers for IENG Sary

26 September 2012

To: **Susan LAMB**  
 Trial Chamber Senior Legal Officer

Cc: **Co-Prosecutors**  
**Civil Party Lead Co-Lawyers**  
**All Defence Teams**

Re: Mr. IENG Sary's revocation of waiver of right to be present for the testimony of TCW-428

Dear Ms. Lamb,

Mr. IENG Sary revokes the 18 September 2012 waiver of his right to be present during the testimony of Witness TCW-428. As this waiver indicated, Mr. IENG Sary reserved his right to withdraw the waiver should any of the witnesses go into areas not anticipated or obvious from their statements.

This revocation of Mr. IENG Sary's waiver in respect of this witness is made because of a new document the OCP now seeks to place before the Trial Chamber and use in the questioning of the witness. This was not known to us when the waiver was obtained.

The document in question is TCW-428's DC-Cam interview, where it appears that TCW-428 discusses issues that are not apparent in his OCIJ statements. In particular, TCW-428 discusses matters which go to Mr. IENG Sary's acts and conduct (see especially Khmer ERN 00733335-37 of the DC-Cam interview). None of these matters appear in any of his three OCIJ statements.

We were only made aware of the DC-Cam interview yesterday evening when notified of the OCP's Request (E233/1) to add this new document to the Case File.

Should the Trial Chamber wish a formal retraction from Mr. IENG Sary, please let us know; we are due to meet with him again this Friday, 28 September 2012.

Respectfully,

  
ANG Udom

  
Michael G. KARNAVAS

Co-Lawyers for Mr. IENG Sary