

① 97/14/3

BEFORE THE PRE-TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

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**IENG SARY'S EXPEDITED REQUEST FOR EXTENSION OF PAGE LIMIT FOR IENG SARY'S APPEAL AGAINST THE OCIJ'S ORDER ON THE APPLICATION AT THE ECCC OF THE FORM OF LIABILITY KNOWN AS JOINT CRIMINAL ENTERPRISE**

Filed by:

The Co-Lawyers:

ANG Udom  
Michael G. KARNAVAS

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Judge HUOT Vuthy  
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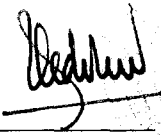
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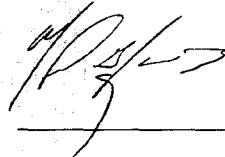
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Mr. IENG Sary, through his Co-Lawyers (“the Defence”), hereby seeks an extension of the applicable 30 page limit for an Appeal against the OCIJ’s Order on the Application at the ECCC of the Form of Liability Known as Joint Criminal Enterprise.<sup>1</sup> According to Practice Direction Article 5.4 on the length of documents, the Pre-Trial Chamber may extend the page limit in exceptional circumstances. There are exceptional circumstances which require an extension of the applicable page limit with regard to this Appeal. The issues raised in the Appeal are quite complex and it is vital that they be addressed fully, as the application of JCE liability has a major effect on the future course of the proceedings. It is worth noting that when responding to the issue of the applicability of JCE in Case 001, the *amicus curiae* brief submitted by Professor Cassese and members of the Journal of International Criminal Justice<sup>2</sup> was 40 pages in length, despite the fact that the Pre-Trial Chamber explicitly requested that the brief not exceed 30 pages.<sup>3</sup> It is clear that there is a need for detailed legal arguments to address these complex issues. The Defence is unable to fully respond to the issues raised in 30 pages. On 14 January 2010, the Defence contacted Senior Assistant Prosecutor Anees Ahmed and the Civil Party lawyers concerning the extension of page limit sought herein. Mr. Ahmed confirmed that the OCP does not oppose this extension. The Civil Party lawyers Silke Studzinsky and Chandy Ny have responded that they do not oppose the Defence Request either. The Defence has not received a response from the other Civil Party lawyers<sup>4</sup>.

**WHEREFORE**, for all of the reasons stated herein, the Defence respectfully requests the Pre-Trial Chamber to extend the page limit for this Appeal to 40 pages.

Respectfully submitted,

  
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 ANG Udom

  
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 Michael G. KARNAVAS

Co-Lawyers for Mr. IENG Sary

Signed in Phnom Penh, Kingdom of Cambodia on this 15<sup>th</sup> day of **January, 2010**

<sup>1</sup> *Case of IENG Sary*, 002/19-09-2007-ECCC/OCIJ, Order on the Application at the ECCC of the Form of Liability Known as Joint Criminal Enterprise, 8 December 2009, D97/13, ERN: 00411047-00411056.

<sup>2</sup> *Case of Kaing Guek Eav alias “Duch”*, 001/18-07-2007-ECCC-OCIJ (PTC02), *Amicus Curiae* Brief of Professor Antonio Cassese and Members of the *Journal of International Criminal Justice* on Joint Criminal Enterprise Doctrine, D99/3/24, ERN: 00234709-00234748.

<sup>3</sup> *Case of Kaing Guek Eav alias “Duch”*, 001/18-07-2007-ECCC-OCIJ (PTC02), Invitation to *Amicus Curiae*, 23 September 2008, D99/3/12, ERN: 00225010-00225012, p. 3.

<sup>4</sup> See Annex.