

**ក្រុមបេធាវីការពារក្តីឱ្យជនសង្ស័យម្នាក់នៅ អ.វ.ត.ក**  
**DEFENCE TEAM FOR A SUSPECT AT THE ECCC**

BIT Seanglim and John R.W.D JONES QC  
Phnom Penh/London  
1 August 2014

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
ថ្ងៃ ខែ ឆ្នាំ (Date): 01-Aug-2014, 15:10  
CMS/CFO: Sann Rada

**To:**  
Honorable Judge Mark HARMON  
Honorable Judge YOU Bunleng

**Subject:**  
Response to our summons to attend Ms. IM Chaem’s proposed initial appearance on 8 August 2014

Dear Judges HARMON and YOU,

We refer to our recent summons to attend our client’s, Ms. IM Chaem, prospective initial appearance on 8 August 2014 by Judge HARMON.<sup>1</sup>

With reference to our Motion requesting Clarification of the Co-Investigating Judges’ disagreements<sup>2</sup> which remains unanswered,<sup>3</sup> we reiterate that we do not regard a summons signed by only one of the Co-Investigating Judges as a valid summons.

We would add that, so long as our Motion is not ruled upon, providing the requisite clarification of a straightforward factual issue, our ability to provide full and informed advice to our client in a timely manner is severely impaired, in particular in light of the proposed schedule for the initial appearance.

It remains our view, therefore, that a summons signed by only one of the Co-Investigating Judges does not fulfill the requirement that proceedings before the ECCC are based on the cooperation between the international and Cambodian counterparts and, therefore, does not fulfill the requirement that our client is being investigated by a tribunal established by law.<sup>4</sup>

<sup>1</sup> A151, *Summons of Lawyers*, 31 July 2014.  
<sup>2</sup> D204, *IM Chaem’s Motion requesting Clarification regarding Disagreements between the Co-Investigating Judges*, 25 July 2014 (“Motion”).  
<sup>3</sup> The only response we received is that our Motion “has been placed on the case file, and it will be answered in due course.” See, D204/1, *OCIJ’s Greffier Response To Im Chaem’s Motion Requesting Clarification Regarding Disagreements between the Co-Investigating Judges*, 28 July 2014.  
<sup>4</sup> See, Motion, para. 8, referring to ECCC Articles and Rules relating to the necessary cooperation of the Co-Investigating Judges. See, Art. 1 of the Agreement which reads: “The purpose of the present Agreement is to regulate cooperation between the United Nations and the Royal Government of Cambodia ... The Agreement

Accordingly, unless and until the Co-Investigating Judges respond to our Motion and clarify their ongoing and unresolved disagreements, we do not consider any summons issued by only one Co-Investigating Judge as being valid. In consequence, we respectfully decline the invitation to attend our client's proposed initial appearance scheduled on 8 August 2014 by Judge HARMON alone.

Yours sincerely,



BIT Seanglim



John R.W.D. JONES QC

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provides, inter alia, the legal basis and the principles and modalities for such cooperation" (emphasis added); Art. 5(1) of the Agreement which provides: "There shall be one Cambodian and one international investigating judge serving as co-investigating judges" (emphasis added); Art. 5(4) of the Agreement reads: "The co-investigating judges shall cooperate with a view to arriving at a common approach to the investigation" (emphasis added); Art. 23 new of the Establishment Law which states: "All investigations shall be the joint responsibility of the two co-investigating judges, one Cambodian and another foreign" (emphasis added); Rule 14(4) which reads: "[e]xcept for actions that must be taken jointly under the ECCC Law and ... [the Internal Rules], the Co-Investigating Judges may delegate power to one of them, by a joint written decision, to accomplish such action individually" (emphasis added); Rule 72(3), which provides that throughout "the dispute settlement period, the Co-Investigating Judges shall continue to seek consensus" (emphasis added).