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ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Kingdom of Cambodia
Nation Religion King
Extraordinary Chambers in the Courts of Cambodia
Royaume du Cambodge
Nation Religion Roi
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

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TRIAL CHAMBER

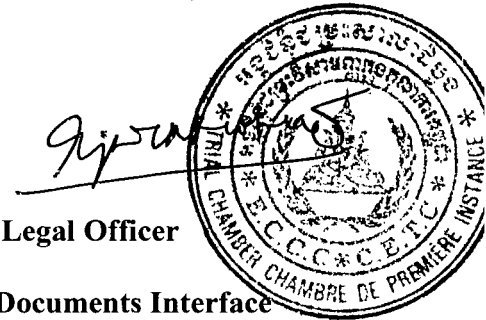
Date: 26 February 2015

TO: All Parties, Case 002

FROM: NIL Nonn, President of the Trial Chamber

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

SUBJECT: Directions to the Parties on the Use of Daily Trial Documents Interface



1. The Chamber is seised of several requests to clarify the rules applicable to use of the Daily Trial Documents Interface (“the Interface”). See T. 18 February 2015, pp. 54-58. Based on the practice from Case 002/01, the Chamber reiterates the following guidelines to ensure that the Interface remains a useful tool to ensure fair and expeditious proceedings in Case 002/02 and in particular to ensure that debates are fully adversarial.
2. Prior to the beginning of the trial in Case 002/01, the Trial Chamber requested the Records and Archives Unit to create the Interface to permit advance notice of documents a party intends to use during the examination of a particular witness, Civil Party or expert. It also proved to be a convenient way to notify lengthy document and ERN numbers to the Chamber, parties, and interpreters, and therefore served to facilitate a smooth functioning of the trial proceedings. See T. 4 April 2012, pp. 101-102. Due to the extent of the Case File, it would otherwise delay proceedings, create confusion and compromise the requirements for an adversarial debate, if parties regularly sought to present documents which were not noticed through the Interface. Further underlining the importance of establishing these guidelines, the Chamber has observed with concern several parties quoting from documents selectively in ways that may be misleading to those testifying.
3. Use of the Interface is a requirement and all parties must upload documents they intend to use in connection with a witness, Civil Party, or expert before noon on the work day preceding the scheduled testimony. See E218, para. 23; T. 22 August 2012, pp. 24-26. Nonetheless, the Chamber understands that it may not be possible to envisage every

possible scenario prior to the questioning of an individual and therefore some flexibility is necessary in the imposition of this requirement. *See* T. 27 August 2012, pp. 38-40; T. 3 September 2012, pp. 9-10.

4. The Chamber clarifies that if any party exceptionally wishes to use material which has not been timely noticed on the Interface, it may only do so with leave of the Chamber. If this situation arises, parties should inform the Chamber that it wishes to use a document that does not appear on the Interface and explain why unforeseen circumstances necessitate the use of the document. The other parties will be given an opportunity to respond to the request prior to the Chamber pronouncing on the use of the document. Remedies might include according time to the other parties to familiarize themselves with documents which have not been placed on the Interface and deducting this time from that allocated to the requesting party. This procedure will permit the Chamber to balance the requirement of notice with the need to adapt to the exigencies of trial.

5. The Chamber further recalls that the purpose of the Interface is entirely frustrated where the parties upload onto the Interface large quantities of material far in excess of what could feasibly be put to an individual on any given court day. *See* T. 27 August 2012, p. 34. The documents placed on the interface should be reasonably limited to those documents a party expects to use during the examination of a witness, Civil Party, or expert. The number of documents that are reasonable will depend upon the length of an individual's testimony, the number of an individual's interviews or writings and other factors. Should the parties fail to exercise good faith in adhering to this practice, the Chamber may contemplate extending the required period of notice in proportion to the number of documents.

6. Finally, the Chamber reminds the parties that the Interface is not a mechanism to provide notice of new documents, which may only be put before the Chamber following a successful [written] application pursuant to Internal Rule 87(4). *See* E218, para. 23. It further reminds the parties that Internal Rule 87(3) remains in effect for all documents sought to be put before the Chamber.