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ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា  
Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia  
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Nation Religion Roi

**MEMORANDUM – TRIAL CHAMBER**

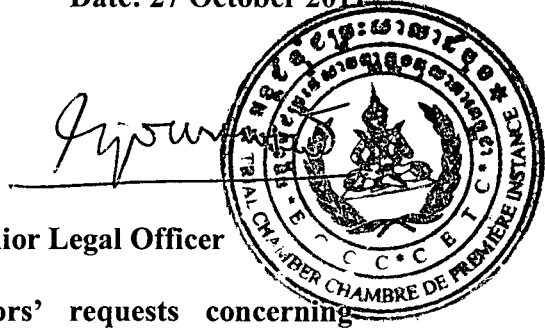
Date: 27 October 2011

**TO:** All parties, Case 002

**FROM:** Judge NIL Nonn, President, Trial Chamber

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

**SUBJECT:** Trial Chamber Response to Co-Prosecutors' requests concerning testimony of the Accused (E101 and E101/1)



The Co-Prosecutors have requested that the Accused be ordered to indicate their intentions with respect to testifying at trial (E101 and E101/1). They submit that while the Accused have a fundamental right to remain silent, should the Accused choose to testify during the course of proceedings, the Co-Prosecutors require advance notice of this in the interests of effective trial preparation.

In Confidential Annex B of Document E131/1.2, the Trial Chamber indicated that, pursuant to Internal Rule 89bis (2), it would commence the first trial of Case 002 with the questioning of the Accused. The Co-Prosecutors are accordingly on notice that the Accused may choose to respond to questions following the opening of the substantive trial on 28 November 2011 or during the days which follow. The Chamber has noted the indication provided by the IENG Sary Defence on 24 October 2011 that the Accused IENG Sary does not intend to testify or answer questions at trial (E101/4).

The Chamber notes that the ECCC legal framework envisages statements by the Accused only where they elect to respond to questions from the bench, or where statements by the Accused are foreseen within the Internal Rules (e.g. Internal Rule 94(1)(d)). The Chamber will provide further guidelines regarding the conduct of proceedings in Case 002 should this be necessary in the interests of effective trial management.

This constitutes the Trial Chamber's official response to Motions E101 and E101/1.