

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC **Party Filing:** Co-Prosecutors

Filed to: Trial Chamber **Original Language:** English

Date of document: 12 September 2011

CLASSIFICATION

**Classification of the document
suggested by the filing party:** PUBLIC

Classification by Trial Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:



**CO-PROSECUTORS' RESPONSE TO IENG SARY'S MOTION TO THE TRIAL
CHAMBER TO CONDUCT SITE VISITS**

Filed by:

Co-Prosecutors
CHEA Leang
Andrew CAYLEY

Distributed to:

Trial Chamber
Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge THOU Mony

Civil Party Lead Co-Lawyers
PICH Ang
Elisabeth SIMONNEAU FORT

Copied to:

Accused
NUON Chea
IENG Sary
IENG Thirith
KHIEU Samphan

Lawyers for the Defence
SON Arun
Michiel PESTMAN
Victor KOPPE
ANG Udom
Michael G. KARNAVAS
PHAT Pouy Seang
Diana ELLIS
SA Sovan
Jacques VERGES

I. INTRODUCTION

1. On 31 August 2011 the Ieng Sary defence (“Defence”) filed *Ieng Sary’s Motion to the Trial Chamber to conduct site visits* (“Motion”).¹ The Motion requests the Trial Chamber to conduct site visits, together with representatives from each party, to “each of the relevant sites described in the Closing Order.” The Motion variously asserts that the proposed site visits are “reasonable and necessary”, that they are “critical for the Trial Chamber’s understanding of the events”, and that they will be “of considerable assistance to the Trial Chamber”.² In apparent support for the proposed site visits, the Motion points to the practice at the *ad hoc* international criminal tribunals claiming that trial chambers at the ICTY and ICTR “regularly conduct site visits”.³
2. The Co-Prosecutors hereby file their response to the Motion. As a general proposition the Co-Prosecutors agree that site visits may in certain circumstances provide valuable assistance to a trial chamber in international criminal cases in understanding and assessing the allegations and available evidence. Further they do not exclude the possibility that a visit to one or more sites may be appropriate at some point in the current proceedings. However, the Co-Prosecutors submit that the present request for site visits should be rejected by the Trial Chamber on the grounds that (1) contrary to the position set out in the Motion, the practice of the *ad hoc* international criminal tribunals does not support the request in its current form and at this stage of proceedings; (2) the Defence has not adequately demonstrated that the proposed site visits are necessary or desirable at this stage of the proceedings; (3) the proposed site visits would be logistically complex and extraordinarily time-consuming and costly; and (4) the appropriate time for requesting site visits is during the trial.

II. APPLICABLE LAW

3. Neither the ECCC’s constitutive legal documents (comprising the Agreement⁴ and ECCC Law⁵) nor the Internal Rules (“Rules”)⁶ make specific provision for site visits by the Trial Chamber. Despite this, the Co-Prosecutors agree with the Defence that the Trial Chamber has the authority

¹ E113 Motion, 31 August 2011, ERN 00728401-4.

² *Ibid.*, at introductory para. and paras 1-2.

³ *Ibid.*, at para.4.

⁴ Agreement between the United Nations and the Royal Government of Cambodia concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea of 6 June 2003 (“Agreement”).

⁵ Law on the Establishment of the Extraordinary Chambers, as amended 24 October 2004 (“ECCC Law”).

⁶ Rules (Rev. 8), as revised on 3 August 2011.

to conduct site visits either under the guise of conducting an “additional investigation” pursuant to Rule 93 or as a more general exercise of its inherent powers.

4. Such an interpretation of the Trial Chamber’s authority is in accordance with Cambodian criminal procedure, which allows for site visits. Specifically, Article 338 of the *Cambodian Criminal Procedure Code 2007* (“CCPC”) states “the court may conduct a field visit anywhere within the national territory in the interest of ascertaining the truth” and Article 339 provides the Court with the power to conduct “additional investigations” in terms similar to Rule 93.
5. As there is no available guidance as to the application of these provisions, under Article 12 of the Agreement and Article 33new of the ECCC the Trial Chamber may look to procedural rules and practice developed at the international level to determine the circumstances in which it would be appropriate to conduct site visits. As illustrated in section III (A) below, the consistent practice at the *ad hoc* international criminal tribunals for the Former Yugoslavia (ICTY) and for Rwanda (ICTR) has been to assess the need for site visits on a case by case basis and to only conduct such visits where there is a demonstrable need to do so.

III. ARGUMENT

A. The practice at the ICTY and ICTR does not support the request for site visits in its current form and at this stage of the proceedings

6. The Motion suggests that the practice at the ICTY and ICTR provides support for the proposed site visits. Specifically, the Motion states that trial chambers at the ICTY and ICTR “regularly conduct site visits”⁷ and references a quotation by an ICTY spokesperson that a site visit “is standard procedure” at the ICTY. The Motion also emphasises that a 2010 Practice Direction of the ICTR requires trial chambers to invite submissions from the parties as to whether site visits should be conducted. By these assertions, the Defence presents an inaccurate picture of the frequency of site visits at the *ad hoc* tribunals and of how requests for site visits are assessed by trial chambers.
7. A review of the publicly available records for completed and ongoing cases at the ICTY and ICTR indicates that site visits are not at all the standard practice and have been conducted in less

⁷ E113 Motion, *supra* note 1 at para. 4 and note 1.

than 20% of cases.⁸ On the basis of these records, the Co-Prosecutors have identified 12 cases, out of a total of 70, at the ICTY⁹ and 14 cases, out of a total of 68, at the ICTR in which site visits were conducted.¹⁰ Moreover, there are at least 3 cases at the ICTY¹¹ and at least 7 cases at the ICTR¹² in which a request for site visits was specifically rejected by the relevant trial chamber. From these cases, the following general principles may be discerned:

i. The decision to conduct a site visit is a matter of discretion for the trial chamber and must be assessed on a case by case basis.

8. In the *Galić* case,¹³ the ICTY Appeals Chamber rejected a challenge to the Trial Chamber's decision not to conduct a site visit stating that "managerial decisions, such as whether to make a site visit, are left to the discretion of the Trial Chamber." In the *Naletilić and Martinović* case, the ICTY Trial Chamber found that an on-site visit was not required in order to guarantee a fair hearing.¹⁴
9. At the ICTR, although the 2010 Practice Direction may require trial chambers to invite submissions from the parties as to site visits, there is certainly no obligation on the chambers to accept requests for site visits. Trial Chambers have consistently stressed that the need for a site

⁸ For the purposes of compiling these figures, joint cases against multiple defendants have been counted as single cases.

⁹ *Prosecutor v Radoslav Brđanin*, Case No. IT-99-36; *Prosecutor v Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60; *Prosecutor v Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47; *Prosecutor v Pavle Strugar*, Case No. IT-01-42; *Prosecution v. Naser Orić*, Case No. IT-03-68; *Prosecutor v. Milan Martić* (IT-95-11); *Prosecutor v Jadranko Prlić et al.*, Case No. IT-04-74; *Prosecutor v Vujadin Popović et al.*, Case No. IT-05-88; *Prosecution v. Dragomir Milošević*, Case No. IT-98-29-1; *Prosecutor v Rasim Delić* Case No. IT-04-83; *Prosecutor v Momčilo Perišić*, Case No. IT-04-81; *Prosecutor v Radovan Karadžić*, Case No. IT-95-5/18-T. It is noted that in addition to these 12 cases, in *Prosecutor v Zoran Kupreškić et al.*, Case No. IT-95-16, a site visit was authorised but subsequently cancelled due to security concerns.

¹⁰ *Prosecutor v Ignace Bagilishema*, Case No. ICTR-95-1A; *Prosecutor v André Rwamakuba*, Case No. ICTR-94-4C; *Prosecutor v Jean Mpambara*, Case No. ICTR-01-65; *Prosecutor v Athanase Seromba*, Case No. ICTR-2001-66; *Prosecutor v François Karera*, Case No. ICTR-01-74-T; *Prosecutor v Protais Zigiranyirazo*, Case No. ICTR-01-73-T; *Prosecutor v Simon Bikindi*, Case No. ICTR-01-72; *Prosecutor v Casimir Bizimungu et al* (Government II Trial), Case No. ICTR-99-50-T; *Prosecutor v Anatole Nsengimana*, Case No. ICTR-2001-69-I; *Prosecutor v Joseph Kanyarukiga*, Case No. ICTR-2002-78; *Prosecutor v Idelphonse Hategekimana*, Case No. ICTR-00-55B; *Prosecutor v Jean-Baptiste Gatete*, Case No. ICTR-00-61; *Prosecutor v. Dominique Ntawukulilyayo*, Case No. ICTR-05-82; and *Prosecutor v Callixte Nzabonimana*, Case No. ICTR-98-44D.

¹¹ *Prosecutor v Mladen Naletilić aka "Tuta" and Vinko Martinović*, Case No. IT-98-34; *Prosecutor v Stanislav Galić*, Case No. IT-98-29; *Prosecutor v Ramush Haradinaj*, Case No. IT-04-84.

¹² *Prosecutor v Jean Paul Akayesu*, Case No. ICTR-96-4; *Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42; *Prosecutor v Théoneste Bagosora et al.* Case No. ICTR-98-41; *Prosecutor v. Aloys Simba*, Case No. ICTR-01-76; *Prosecutor v. Augustin Ndindiliyimana et al.*, Case No. ICTR-00-56; *Prosecutor v Yussuf Munyakazi*, Case No. ICTR-97-36A; *Prosecutor v Augustin Ngirabatware*, Case No. ICTR-99-54.

¹³ *Prosecutor v Stanislav Galić*, Case No. IT-98-29, Judgement (ICTY Appeals Chamber), 30 November 2006 at para. 50.

¹⁴ *Prosecutor v Mladen Naletilić aka "Tuta" and Vinko Martinović*, Case No. IT-98-34, Decision on motion for on-site visit (ICTY Trial Chamber), 5 October 2001 at p.2.

visit “must be considered in light of the particular circumstances of each case”, an approach which has been endorsed by the Appeals Chamber.¹⁵

ii. It is appropriate to consider whether the proposed site visit would add to the evidence that has already been, or is expected, to be adduced

10. In the *Galić* case, the ICTY Trial Chamber identified the core question to be answered as “what would an On-site Visit add to the evidence that has been already adduced at trial and can still be expected to be presented”?¹⁶ In the ongoing *Haradinaj* case, the ICTY Trial Chamber rejected a prosecution motion for a site visit on the grounds that, *inter alia*, the geography of the area in question and relevant surrounding locations could be “sufficiently comprehended from the evidence already available to the Chamber, including numerous maps, (aerial) photographs and video recordings”.¹⁷
11. Similarly the ICTR Trial Chambers has rejected requests for site visits on a number of occasions on the grounds that there was sufficient evidence on which to assess the allegations and credibility of witness testimony and make findings of fact.¹⁸ Indeed, in one case the ICTR Trial Chamber subsequently cancelled a site visit it had previously authorised on the explaining that in preparation for delivery of its judgment, it had conducted a careful review and analysis of the evidence and was “in a position to assess the evidence before it without the benefit of a site visit.”¹⁹

¹⁵ *Prosecutor v. Théoneste Bagosora et al.* Case No. ICTR-98-41, Decision on Prosecutor’s Motion for Site Visits in the Republic of Rwanda (ICTR Trial Chamber), 29 September 2004 at para. 4; *Prosecutor v. Aloys Simba*, Case No. ICTR-01-76, Decision on the Defence Request for Site Visits in Rwanda (ICTR Trial Chamber), 31 January 2005 at para. 2 and Decision on Defence renewed request for site visit in Rwanda (ICTR Trial Chamber), 4 May 2005 at para. 2 and Judgment (ICTR Appeals Chamber), 27 November 2007 at para. 16; *Prosecutor v. Augustin Ndindiliyimana et al.*, Case No. ICTR-00-56, Decision on Nzuwonemeye’s Motion for On Site Visit (ICTR Trial Chamber), 27 May 2008 at para.4.

¹⁶ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29, Confidential Decision on Prosecution’s Motion for the Trial Chamber to Travel to Sarajevo (ICTY Trial Chamber), 4 February 2003 at para. 16.

¹⁷ *Prosecutor v. Ramush Haradinaj*, Case No. IT-04-84, Decision on Prosecution’s motion for site visit (ICTY Trial Chamber), 2 October 2007 at para.4.

¹⁸ *Prosecutor v. Pauline Nyiramasuhuko, et al.*, Case No. ICTR-98-42-T, Decision on Prosecutor’s Motion for Site Visits in the Republic of Rwanda under Rules 4 and 73 of the Rules of Procedure and Evidence (ICTR Trial Chamber), 26 February 2009 at para.21; *Bagosora et al.*, *supra* note 15 at para. 4 and Decision on Bagosora Motion for Site Visit (ICTR Trial Chamber), 11 December 2006 at para.3; *Simba*, Decision on Defence renewed request for site visit in Rwanda, *supra* note 15 at para.2

¹⁹ *Prosecutor v. Yussuf Munyakazi*, Case No. ICTR-97-36A, Reconsideration of “Decision on Yussuf Munyakazi’s Motion for Judicial View of the locus in quo (ICTR Trial Chamber), 7 May 2010 at para.6.

iii. The most appropriate time for a site visit is during or after presentation of evidence at trial

12. The practice at the ICTY and ICTR has been to conduct site visits during or after the presentation of evidence by the parties. In this regard it is significant that the ICTR Practice Direction referenced in the Motion directs trial chambers to invite submissions “no later than 30 days before the closure of the evidence phase”. The ICTR Trial Chamber has on some occasions denied requests for site visits prior to the completion of evidence by both parties. In *Ndindiliyimana* et al. the Trial Chamber denied a defence request for a site visit during the prosecution’s case ruling that it may receive other evidence relating to the proposed sites during the remainder of the prosecution case or during the defence cases “thereby eliminating the need to visit those sites”.²⁰ Later, during the presentation of the defence case, the Trial Chamber refused another request for a site visit holding that “[t]he fact that the Chamber is now half-way through the presentation of the Defence evidence does not provide grounds for the Chamber to depart from its previous holding.”²¹
13. None of the general principles set out in the above mentioned cases provide support for the Defence request given the general way in which it is framed and the fact that the proceedings have not yet commenced.

B. The Defence has not adequately demonstrated that the proposed site visits are necessary or desirable at this stage of the proceedings

14. As a preliminary point, it is noted that the Motion does not identify precisely which sites the Defence proposes to visit and for what purpose. The Motion requests visits to “each of the relevant sites described in the Closing Order”. Without further precision, it is impossible to know which sites exactly the Defence is proposing to visit. Many of the allegations in the Closing Order, for instance relating to the forced movement of people, the purges of the old and new North Zones and of the East Zone, and the genocide of the Cham and Vietnamese involve broad geographical areas in different parts of the country. It is entirely unclear from the Motion whether these locations were intended to be included in the proposed site visits or whether such visits would include only the worksites, cooperatives, security centres and execution sites

²⁰ *Prosecutor v. Augustin Ndindiliyimana* et al., Case No. ICTR-00-56-T, Decision on Sagahutu’s Motion for a Site Visit (ICTR Trial Chamber), 6 October 2006 at para. 8.

²¹ *Ndindiliyimana* et al., Decision on Nzuwonemeye’s Motion for On Site Visit, *supra* note 15 at para. 5.

specifically identified in the Closing Order. For the purposes of responding to the Motion, the Co-Prosecutors will assume that the Defence intended to limit the proposed site visits to the worksites, cooperatives, security centres and execution sites specifically identified in the Closing Order.

iv. The Motion does not clarify how the geographical, topographical, or other physical attributes of the sites are relevant to the issues in dispute

15. The Motion states that the site visits are “reasonable and necessary to enable the Trial Chamber to observe the geography, topography and physical relationships between locations”.²² However, the motion does not clarify how the “geography, topography and physical relationships between locations” are relevant to the specific issues in dispute. The only example put forward by way of justification for this assertion is the following:

*[V]iewing locations Mr. IENG Sary is alleged to have visited will allow the Trial Chamber to have a better understanding as to whether a visit to the site concerned would necessarily have put Mr. IENG Sary on notice that atrocities were taking place there.*²³

16. The Motion does not point to any specific allegations in the Closing Order which turn on the Accused’s first hand observation of sites. Indeed, the Accused is alleged to have personally visited only 3 of the worksites and cooperatives included in the Closing Order, namely the Trapeang Thma dam worksite, 1st January dam worksite and Kampong Chhnang airport construction site.²⁴ There are no allegations in the Closing Order that the Accused ever visited any security centres or execution sites.²⁵ Accordingly, the Defence example does not provide any justification for the Trial Chamber visiting the vast majority of the proposed sites.
17. The Motion also states that the visits will be of “considerable assistance” to the Trial Chamber during the first phase of the trial “more particularly when considering the roles of the Accused both before and during 1975-1979 and alleged policies of Democratic Kampuchea”. The Motion makes no attempt to justify this general assertion and demonstrate how a first-hand observation of the proposed sites would be of benefit to the Trial Chamber in understanding the roles of the Accused and alleged policies of Democratic Kampuchea. Nor does the Motion point to any

²² E113 Motion, *supra* note 1 at introductory para.

²³ *Ibid.* at para. 1.

²⁴ See D427 Closing Order, 15 September 2010 at paras. 333, 357, 388 and 1045.

²⁵ *Ibid.*, at para. 1061 stating that “there is no evidence that Ieng Sary personally visited any security centres or execution sites.”

specific gap in the available evidence at this stage that would prevent the Trial Chamber from sufficiently understanding and assessing the roles of the Accused and alleged policies of Democratic Kampuchea.

18. The Motion does assert that it is “virtually inconceivable to conceptualise the sites referred to in the Closing Order and their relationships to each other from maps or photographs alone”. Although a first-hand observation of any location will generally facilitate a better conceptualisation than can be obtained from a map or photograph this does not, of itself, justify a site visit. The relevant question is whether, on the balance of probabilities, the Trial Chamber considers that there is *sufficient* evidence to understand and assess the specific allegations in the case without need for a site visit. As illustrated in section III(A) above, trial chambers at the ICTY and ICTR have rejected requests for site visits where it has not been adequately demonstrated by the requesting party that the proposed visit would significantly add anything to the available evidence.²⁶
19. The Co-Prosecutors do not exclude the possibility that the relevance of the geography, topography, physical relationships between sites, or any other physical attributes of sites may become apparent at some point in the future with respect to certain allegations and issues in dispute. However, at this stage the Defence has simply failed to demonstrate that this is the case.
 - v. *Visiting certain of the proposed sites may not provide an accurate picture given the changes that have occurred at many of the sites*
20. Many of the sites are in a different state today than they were during the relevant period. With respect to these sites, contemporaneous photographs and videos, where available, and witness testimony are likely to provide a far better insight in this regard than would the proposed site visits.
21. In particular, the locations of certain worksites and cooperatives are now mere empty fields. The Trial Chamber would be no better assisted in understanding and assessing the allegations relating to the conditions of people who lived and worked at those sites during the relevant period by visiting these sites in their current state. Similarly, a number of sites have undergone physical changes to layout and structures which would limit their usefulness to the Trial Chamber in assessing allegations that concern physical attributes. For example, the site of the Sang Security Centre located in Trapeang Sva, Kandal Stung District, Kandal Province is now a

²⁶ See *supra* notes 16 - 19 and accompanying text.

bare car park and motor pool facility. There is no remaining evidence at the site of its previous layout, condition or usage a prison and mass grave site. However, there are photographs on the Case File dating from 1980, 1982, 1995, 1998, 2003 and 2009²⁷ which document the evolution of the Sang Security Centre site over time.

22. The site of the Prey Damrei Srot Security Centre is now covered in a deep forest with no remains of the previous building structure visible.²⁸ The Site Identification Report and witness statements will provide more meaningful evidence concerning the construction, usage and layout of the compound than a site visit.²⁹ The 1st January dam structure has also undergone significant changes since its initial construction during the Democratic Kampuchea period. However, there is witness testimony documenting the construction of the original structure and describing the differences with the new dam structure that was built starting in 1990.³⁰
23. The ICTR has previously cited changes to the state of locations in rejecting a request for site visits. In the *Nyiramasuhuko* case, the Trial Chamber rejected a prosecution request, on the grounds that, *inter alia*, the sites would not be in the same state as they were at the relevant time such that visiting them “may not help much in the discovery of the truth or in the fair determination of the matters before the Chamber.”³¹

C. The proposed site visits would be logistically complex and extraordinarily time-consuming and costly

24. The Motion asserts that the time involved to conduct the site visits “should not adversely affect the overall length of the proceedings” as it would result in time savings later during the questioning of witnesses and putting material before the Chamber at trial.³²
25. This assertion is not convincing. As noted earlier, the Motion requests visits to “each of the relevant sites described in the Closing Order”. Even assuming that the “relevant sites” is meant to refer to the worksites, cooperatives, security centres and execution sites that are specifically identified in the Closing Order, this would still involve visits to 20 different sites in different

²⁷ See **D313/1.2.99**; **D313/1.2.100**; **D313/1.2.101**; **D313/1.2.110**; **D313/1.2.122**; and **D125/219**.

²⁸ See **D427** Closing Order, 15 September 2010 at para. 535.

²⁹ *Ibid.*, at notes 2307-2309.

³⁰ **D166/82** Written record of interview of Ut Seng, 14 January 2009, ERN 00282350-8. The record attaches maps and schematic drawings of the new irrigation structure at this site. See documents **D166/82.1** and **D166/82.2**

³¹ *Nyiramasuhuko*, et al., *supra* note 18 at para.21.

³² **E113** Motion, *supra* note 1 at para. 2.

parts of the country. Such an undertaking would be logistically complex and extraordinarily time-consuming. As such, it would undoubtedly result in significant delay in commencing proceedings. These delays would only be compensated by time-savings later in the proceedings if the site visits generated valuable evidence or provided the Trial Chamber and the parties with insight that would not otherwise have been available. At this stage of the proceedings and on the basis of the information contained in the Motion, there is no reason to believe that this would be the case.

26. Needless to say conducting the proposed site visits would also be a hugely costly exercise. Given the unclear need for and purpose of the proposed visits at this stage in the proceedings, the time and costs associated with the proposed visits would be disproportionate to the benefit they could provide to the Trial Chamber.
27. The jurisprudence at the ICTY and ICTR suggest that it is proper for the Trial Chamber to take logistical factors, expense and likely delay into account when determining whether to conduct a site visit. For example, in *Haradinaj* the ICTY Trial Chamber rejected a prosecution motion for a site visit on the grounds that, inter alia, it would “require considerable expenditure and significantly prolong the proceedings.”³³ In the *Nyiramasuhuko* case before the ICTR, the Trial Chamber rejected a request for site visits noting that the proposed sites were “too numerous and may have extraordinary logistical and cost implications for the Tribunal and may not be completed in a short period of time.”³⁴

D. The appropriate time to request site visits is during the trial

28. The Motion submits that the site visits should take place “as soon as possible and before the substantive proceedings commence.”³⁵ There are no reasons given as to why it would be desirable to conduct the proposed site visits in advance of the commencement of the trial.
29. As set out in section III(A) above, the practice at the ICTY and ICTR is to conduct site visits during or following the presentation of evidence by the parties. This allows the Trial Chamber to determine if there are gaps or other concerns with the evidence which could be usefully addressed by a site visit. The Co-Prosecutors submit that in the absence of any compelling

³³ *Haradinaj*, *supra* note 17 at para. 4.

³⁴ *Nyiramasuhuko*, et al., *supra* note 18 at para.21. See also *Simba*, Decision on the Defence Request for Site Visits in Rwanda, *supra* note 15 at para. 3.

³⁵ **E113** Motion, *supra* note 1 at para. 1.

reasons to the contrary, it is appropriate to follow this approach in the present case and that requests for site visits should not be considered until a later stage in the proceedings. This is particularly appropriate in the present case given that the first phase of the trial will not encompass the crime base as such but rather the structure of the regime and roles of the accused.

IV. CONCLUSION

30. As the requesting party, the Defence bears the burden of demonstrating that the proposed site visits are needed and would be of assistance to the Trial Chamber. For the reasons set out above, the Co-Prosecutors submit that the Defence has failed to meet this burden in the Motion and accordingly the request for site visits should be rejected at this stage of the proceedings.

Respectfully submitted,

DaDate	Name	Place	Signature
12 September 2011	YET Chakriya Deputy Co-Prosecutor	Phnom Penh	
	William SMITH Deputy Co-Prosecutor		