

E106
E62/3/10

សាធារណៈ / Public



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

MEMORANDUM – TRIAL CHAMBER

TO: Co-Counsel for all Defence teams; Date: 6 July 2011
Co-Prosecutors;
Civil Party Lead Co-Lawyers

FROM: NIL Nonn, President, Trial Chamber

CC: All judges, Trial Chamber; Trial Chamber Senior Legal Officer



SUBJECT: Memorandum to Counsel for the Parties

On 27 June 2011 during the Initial Hearing, the parties were informed that the expert's reports concerning three Accused who seek to challenge their fitness to stand trial had been received and were classified as strictly confidential. A further indication was given that each report would be re-classified as confidential once the Defence teams had had an opportunity to consider the Professor Campbell's report in relation to each individual Accused.

On 29 June 2011, the IENG Thirith Defence filed an objection to the Trial Chamber's announcement that the medical report by Professor Campbell would be placed on the confidential portion of the case file (E62/3/7). The Chamber was today informed of the NUON Chea Defence's intention to join this objection. This will be filed shortly. In order to ensure the expeditiousness of proceedings, the Chamber considers that this classification issue is a matter which needs to be determined without delay.

Acknowledging that the Office of Co-Prosecutors must have full access to the expert report in order to decide whether to challenge or support the assessment, the IENG Thirith and NUON Chea Defence teams have since authorized the disclosure of the reports to the Co-Prosecutors, who have been given a time limit for responding.

The Trial Chamber notes that in order to balance the rights of the Accused to privacy concerning medical information, against the public's right to know the basis on which an application on fitness to stand trial will be determined, it is essential that all parties have an opportunity to support or oppose the expert medical findings. It has therefore decided that it will not re-classify the expert reports on IENG Thirith and NUON Chea as confidential but will instead limit their distribution to counsel for the parties, giving them the opportunity to

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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):	06 / 07 / 2011
ម៉ោង (Time/Heure):	14:00
មន្ត្រីទទួលបន្ទុកឯកសារ (Case File Officer/L'agent chargé du dossier):	Ratanak

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review the full reports and to indicate whether they oppose or support the applications of IENG Thirith and NUON Chea.

The Trial Chamber therefore directs that the expert reports on IENG Thirith and NUON Chea will remain classified as strictly confidential pending further order of the Chamber. It further orders that in addition to the Co-Prosecutors, the Defence counsel for each Accused, and the Civil Party Lead Co-lawyers are to receive a full copy of the expert reports on IENG Thirith and NUON Chea. It also directs that these reports are not to be distributed to individual Accused or Civil Parties.

The Civil Party Lead Co-Lawyers may provide a copy of these reports to an individual Civil Party lawyer only if agreement has been reached pursuant to Internal Rule 12ter (5) (b) and (6) that a Civil Party lawyer is to make oral or written submissions on the application on behalf of the consolidated group. In this event, the individual Civil Party lawyer is also directed that these reports remain classified as strictly confidential and may not be distributed to any other person.

