



Re: meeting today 
Susan Lamb to: Tanya Rene PETTAY
Cc: mgkarnavas, Mosseny So, Neville SORAB, Udom Ang

02/24/2011 08:59 AM

Dear Tanya,

Many thanks for your mail.

I will get back to you on points 1 and 2 as soon as possible.

Thank you for the information contained in points 3-6, which I confirm reflects our discussion yesterday.

Many thanks again and have a good day.

Best regards,
Susan

meeting today

meeting today

Tanya Rene PETTAY to: Susan Lamb

23/02/2011 09:00 PM

Cc: mgkarnavas, Udom Ang, Neville SORAB, Mosseny So

Dear Ms. Lamb,

I would just like to confirm what was discussed at our brief meeting earlier today and add some clarifications we received after speaking to Mr. Karnavas:

1. Our team is not opposed to receiving decisions from the Trial Chamber in English and by email to save time, provided that these are official Decisions by the Chamber and that they are eventually placed on the Case File and translated into Khmer. We must insist, however, that these Decisions are referred to as decisions and are signed by the Trial Chamber judges.
2. We wish to have each of our full preliminary objections placed on the Case File. This could be done as an Annex to our brief summary of all our objections which we will submit Monday in English. We wish the summary and the Annex to be placed on the Case File as official filings so that there is a record that we have made these arguments. You informed us that you will get back to us on this matter after speaking to the Judges tomorrow.
3. We will not officially file the 15 page Notice of Noncompliance and Summary of our Preliminary Objections, which we circulated earlier in the week, as long as we are authorized in a signed decision by the Trial Chamber Judges to place our full preliminary objections on the Case File.
4. Our joinder to Ieng Thirith and Nuon Chea's motions will be accepted as officially filed and placed on the Case File in English, with the Khmer translation to follow as soon as possible.
5. We will send you a list of our pending motions which ITU has stated that it will not have translated by the deadline, so that we can arrange to have these filed and placed on the Case File in English, pending

translation.

6. Once we receive the Pre-Trial Chamber's reasoned Decision on our Appeal against the Closing Order, we are to notify the Chamber to inform it as to whether we will be filing supplementary arguments. Supplementary arguments will in principle be accepted, but the Chamber will instruct us further as to page and time limits after we have received the PTC's reasoning.

It was nice meeting with you today. We look forward to hearing from you tomorrow!

Tanya Pettay
Legal Consultant
Ieng Sary Defence team

**Order to IENG Sary Defence**

Susan Lamb to: michael karnavas
<mgkarnavas@yahoo.com>

02/25/2011 04:34 PM

aianuzzi, Udom Ang, Ang PICH, Sheherazade BOUARFA, Marie
Cc: CAPOTORTO, Andrew CAYLEY, Chakriya Yet, diablenoir,
dianaellis100, Elisabeth SIMONNEAU-FORT, Diana Ellis,

1 attachment

25022011 Order to IENG Sary_ENG.doc

Dear Mr. Karnavas,

I have consulted with the Trial Chamber judges regarding the issues you have raised below, and others related to your initial preliminary objections filing, due on Monday. They have authorized me to respond as follows:

1. The memorandum issued on behalf of the Chamber on 22 February constituted an official decision of the Chamber. The memorandum will be translated and placed on the case file in due course, ensuring full transparency and publicity. It was, however, provided to you informally at first opportunity to give you maximum advance information as to its contents.
2. In view of your preference for an Order of the Chamber, an advance courtesy copy of this is attached. It will be filed on the Case File on Monday. It follows that the Chamber has rejected your earlier request that it be permitted to annex to your preliminary objection filing on Monday your eight earlier preliminary objections filings, which had been provided to the Chamber as advance courtesy copies. It is unable to accede to this request. Firstly, this would create equality of arms concerns vis-a-vis other parties, who have generally been granted lesser page limits for their preliminary objections than the IENG Sary team. Secondly, it would follow from placement on the case file that these advance courtesy copies would also need to be translated into khmer in due course, essentially negating any benefit of having ordered shortened filings.
3. The Chamber does not exclude the possibility that more extensive filings on selected issues raised by the parties in their preliminary objections might be requested by the Chamber in due course. The Chamber has previously referred to your earlier filings as providing a useful early indication to the Chamber of possible future filings. The Chamber expects to provide further directions to the parties as to whether it considers that more extensive briefing is required in relation to any particular area soon.

I hope this assists in clarifying matters.

Best regards,
Susan Lamb

Re: Further communication from the Trial Chamber regarding page and time limits for preliminary objections

Susan Lamb, aianuzzi, Andrew CAYLEY, Andrew Ianuzzi, Ang PICH, Arun Son,
 Chakriya Yet, diabloir, Diana Ellis, dianaellis100, Elisabeth SIMONNEAU-FORT,
 Frederic HIVON, Jasper PAUW, jasperpauw, Karlijn Van der voort, Leang Chea, Marie
 CAPOTORTO, Michael Karnavas, Michiel Pestman, Mosseny So, MPestman, Neville
 SORAB, pgreci, Phalla Prum, Pouv Seang Phat, Sereyvuthy Khan, Sheherazade
 BOUARFA, Socheata Seng, Son_arun, Sovan Sa, Tanya Rene PETTAY, Udom Ang,
 udomlaw, Vera MANUELLO, Victor Koppe, vkoppe, William Smith, Chakriya Yet,
 William Smith

22/02/
 2011
 05:05
 PM

Dear Ms. Lamb,

We must have a written Order from the Trial Chamber directing us to follow the page limitations being forced upon the Defence Teams. As we previously noted, informal memos are not judicial decisions from which we can appeal.

We are concerned that the page limitations are inadequate and while they may be useful as a summary, without a guarantee from the Trial chamber that we will be allowed to make supplemental filings, we risk infringing our client rights for the sake of appeasing the Trial Chamber. This amounts to ineffective assistance of counsel and malpractice.

We will endeavor to comply with the page limitations imposed upon us, but we insist on having an order - even if it is not grounded in legal reasoning showing the bases for adopting this strategy in dealing with the Accused and their Defence Teams. An order allows us to consider further review of this matter should it be deemed necessary. I fail to see why the Trial Chamber could not issue an order - as it is required. We do need to have a transparent process by which the public can also see what is going on behind the scenes.

Regards,

Michael G. Karnavas
 Co-Lawyer for IENG Sary

From: Susan Lamb <lamb@un.org>
To: aianuzzi@hotmail.com; Andrew CAYLEY <cayley@un.org>; Andrew Ianuzzi <ianuzzi@un.org>; Ang PICH <Ang_PICH%ECCC@un.org>; Arun Son <son2@un.org>; Chakriya Yet <Chakriya_Yet%ECCC@un.org>; diabloir@wanadoo.fr; Diana Ellis <ellisd@un.org>; dianaellis100@yahoo.com; Elisabeth SIMONNEAU-FORT <Elisabeth_SIMONNEAU-FORT%ECCC@un.org>; Frederic HIVON <hivon@un.org>; Jasper PAUW <pauw@un.org>; jasperpauw@gmail.com; Karlijn Van der voort <vandervoort@un.org>; Leang Chea <Leang_Chea%ECCC@un.org>; Marie CAPOTORTO <capotorto@un.org>; mgkarnavas@yahoo.com; Michael Karnavas <karnavas@un.org>; Michiel Pestman <pestmanm@un.org>; Mosseny So

Susan Lamb, aianuzzi, Andrew CAYLEY, Andrew Ianuzzi, Ang PICH, Arun Son, Chakriya Yet, diabloir, Diana Ellis, dianaellis100, Elisabeth SIMONNEAU-FORT, Frederic HIVON, Jasper PAUW, jasperpauw, Karlijn Van der voort, Leang Chea, Marie CAPOTORTO, Michael Karnavas, Michiel Pestman, Mosseny So, MPestman, Neville SORAB, pgregi, Phalla Prum, Pouy Seang Phat, Sereyvuthy Khan, Sheherazade BOUARFA, Socheata Seng, Son_arun, Sovan Sa, Tanya Rene PETTAY, Udom Ang, udomlaw, Vera MANUELLO, Victor Koppe, vkoppe, William Smith, Chakriya Yet, William Smith

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Regards,

Michael G. Karnavas
Co-Lawyer for IENG Sary

From: Susan Lamb <lamb@un.org>
To: aianuzzi@hotmail.com; Andrew CAYLEY <cayley@un.org>; Andrew Ianuzzi <ianuzzi@un.org>; Ang PICH <Ang_PICH%ECCC@un.org>; Arun Son <son2@un.org>; Chakriya Yet <Chakriya_Yet%ECCC@un.org>; diabloir@wanadoo.fr; Diana Ellis <ellisd@un.org>; dianaellis100@yahoo.com; Elisabeth SIMONNEAU-FORT <Elisabeth_SIMONNEAU-FORT%ECCC@un.org>; Frederic HIVON <hivon@un.org>; Jasper PAUW <pauw@un.org>; jasperpauw@gmail.com; Karlijn Van der voort <vandervoort@un.org>; Leang Chea <Leang_Chea%ECCC@un.org>; Marie CAPOTORTO <capotorto@un.org>; mgkarnavas@yahoo.com; Michael Karnavas <karnavas@un.org>; Michiel Pestman <pestmanm@un.org>; Mosseny So

Preliminary Objections

Tanya Rene PETTAY

to:

Susan Lamb

02/25/2011 10:13 PM

Cc:

mgkarnavas, Udom Ang, Mosseny So, Neville SORAB

Bcc:

joshakern

Hide Details

From: Tanya Rene PETTAY/UNAKRT

To: Susan Lamb/UNAKRT@UNAKRT

Cc: mgkarnavas@yahoo.com, Udom Ang/UNAKRT@UNAKRT, Mosseny So/UNAKRT@UNAKRT, Neville SORAB/UNAKRT@UNAKRT

Dear Ms. Lamb,

We have received the Trial Chamber's *Order to Ieng Sary Defence on Filing of Preliminary Objections*. We first wish to bring to your attention that this Order is not grounded in any legal reasoning; nothing is cited as far as legal authority. We have noted in the past that we wish to appeal such decisions being made by the Trial Chamber which are informally being communicated by the SLO. We realize the inconvenience and we certainly do not wish to be recalcitrant. We must however insist that the Trial Chamber issue a decision on our **request to file our preliminary objections in 45 pages each (E15)** which we filed 17 January 2011. We will need to appeal this decision, lest we waive any legal issues arising from what appears to be an irregular practice of the Trial Chamber. We will also require the legal basis for the Trial Chamber's requirement of an outline summary of all our preliminary objections, and the legal basis for the Trial Chamber to state that it may permit further filings in the future on these objections. Our main concern is that the Trial Chamber has effectively determined that it does not wish to hear any objections, which is why it is resorting to summaries which cannot provide it any assistance. If the Rules envisaged summary objections, they would have provided for summaries. Perhaps we are misguided in our interpretation of the Rules, and so to that extent, a decision grounded in legal authority specific to the ECCC - the Rules in particular - would be most appreciated.

As Mr. Karnavas has indicated on a number of occasions, we are simply trying to be due diligent in our representation of Mr. IENG Sary. The fact that the ECCC may not have adequate resources to provide the required procedural guarantees should not be a reason to deny Mr. IENG Sary all of the rights and procedural guarantees he is entitled. Also, to expect his Defence Counsel to violate their obligation towards their client is not only disquieting but it sets a dangerous precedent.

Sincerely,

Tanya Pettay
Legal Consultant
Ieng Sary Defence Team