

**BEFORE THE TRIAL CHAMBER****EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/TC**Party Filing:** Co-Lawyers for IENG Sary and MEAS Muth**Filed to:** The Trial Chamber**Original language:** ENGLISH**Date of document:** 22 June 2016**CLASSIFICATION****Classification of the document suggested by the filing party:** CONFIDENTIAL**Classification by OCIJ or Chamber:** សាធារណៈ/Public**Classification Status:****Review of Interim Classification:****Records Officer Name:****Signature:**


---

**URGENT REQUEST FROM CO-LAWYERS FOR MR. IENG SARY AND MR. MEAS MUTH FOR LEAVE TO FILE SUBMISSIONS ON THE TESTIMONY OF EXPERT WITNESS MICHAEL VICKERY**

---

Filed by:

**Co-Lawyers for Mr.  
IENG Sary and Mr.  
MEAS Muth:**  
ANG Udom  
Michael G. KARNAVAS

Distributed to:

**Trial Chamber Judges:**  
Judge NIL Nonn  
Judge Jean-Marc LAVERGNE  
Judge YA Sokhan  
Judge Claudia FENZ  
Judge YOU Ottara

**Co-Prosecutors:**

CHEA Leang  
Nicholas KOUMJIAN

**All Case 002 Defence Teams****Lead Co-Lawyers for Civil Parties**

**URGENT REQUEST FROM CO-LAWYERS FOR MR. IENG SARY AND MR.  
MEAS MUTH FOR LEAVE TO FILE SUBMISSIONS ON THE TESTIMONY OF  
EXPERT WITNESS MICHAEL VICKERY**

Mr. Ang Udom and Mr. Michael G. Karnavas, Co-Lawyers for Mr. IENG Sary in Case 002 and Mr. MEAS Muth in Case 003, hereby request leave to file submissions concerning the testimony of expert witness Michael Vickery (“Request for Leave”). This Request for Leave is made necessary to ensure the continued confidentiality of communications and protection of the attorney-client privilege that exists between Mr. Vickery, the Co-Lawyers, and Mr. IENG Sary in Case 002, and Mr. Vickery, the Co-Lawyers, and Mr. MEAS Muth in Case 003. Mr. Vickery worked for the IENG Sary Defence from January 2008 to March 2013, for approximately 1,520 hours, and for the MEAS Muth Defence in December 2015 for a total of 120 hours. Given Mr. Vickery’s close involvement with the Defence teams, the Co-Lawyers request leave to file submissions arguing: **a.** Mr. Vickery’s testimony be strictly limited to information stated in his books and other publications; **b.** he not be permitted to testify as to any information he learned in the course of working with the IENG Sary Defence and the MEAS Muth Defence; and **c.** the Co-Lawyers be present in the courtroom during Mr. Vickery’s testimony and be permitted to intervene or object if his testimony broaches any confidential matters relating to Mr. IENG Sary’s or Mr. MEAS Muth’s cases.

**I. BACKGROUND**

***Case 002***

1. On 12 November 2007, Mr. Ang Udom was appointed as Mr. IENG Sary’s National Co-Lawyer.<sup>1</sup> In December 2007, Mr. Karnavas was appointed as Mr. IENG Sary’s International Co-Lawyer.<sup>2</sup>
2. On 17 January 2008, Mr. Vickery was retained as an expert consultant for the IENG Sary Defence. He was given the Introductory Submission to review. He analyzed the document and spent many hours with Mr. IENG Sary and the IENG Sary Defence discussing the Introductory Submission. Once the Closing Order was issued, he, Mr.

<sup>1</sup> See ECCC Press Release, 12 November 2007, available at [http://www.eccc.gov.kh/sites/default/files/media/leng\\_sary\\_and\\_leng\\_thirith\\_select\\_lawyers.pdf](http://www.eccc.gov.kh/sites/default/files/media/leng_sary_and_leng_thirith_select_lawyers.pdf).

<sup>2</sup> See ECCC Press Release, 17 December 2007, available at [http://www.eccc.gov.kh/sites/default/files/media/IS-14-DSS-Press\\_Release\\_Karnavas\\_Assignment\\_ENG.pdf](http://www.eccc.gov.kh/sites/default/files/media/IS-14-DSS-Press_Release_Karnavas_Assignment_ENG.pdf).

IENG Sary, and the IENG Sary Defence met frequently to discuss, *inter alia*, the allegations against Mr. IENG Sary, historical facts related to the case, potential Defence witnesses, and potential theories of the case and attendant strategies, including areas for examination of witnesses. As his employment with the IENG Sary Defence pre-dated the severance of Case 002,<sup>3</sup> these discussions encompassed the sections of the Closing Order related to alleged purges.

3. On 27 June 2011, trial proceedings against Mr. NUON Chea, Mr. IENG Sary, Mrs. IENG Thirith, and Mr. KHIEU Samphan commenced in Case 002.<sup>4</sup> Mr. Vickery continued working for the IENG Sary Defence as an expert consultant, consulting regularly with Mr. IENG Sary and the IENG Sary Defence regarding all sections of the Closing Order, trial strategy and defences, and witnesses.
4. On 14 March 2013, the proceedings against Mr. IENG Sary were terminated due to his death.<sup>5</sup>
5. On 19 May 2016, in a response to a request under ECCC Internal Rule (“Rule”) 87(4) by the NUON Chea Defence, the Office of the Co-Prosecutors noted that Mr. Vickery is scheduled to testify in Case 002/02 on the topic of purges.<sup>6</sup>

### ***Case 003***

6. On 7 September 2009, the Case 003 judicial investigation was initiated based on the International Co-Prosecutor’s 20 November 2008 Second Introductory Submission Regarding the Revolutionary Army of Kampuchea.<sup>7</sup>
7. On 14 December 2012, the Defence Support Section (“DSS”) appointed Mr. Ang Udom and Mr. Karnavas as Mr. MEAS Muth’s Co-Lawyers.<sup>8</sup>

<sup>3</sup> Case 002 was severed on 22 September 2011. *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Severance Order Pursuant to Internal Rule 89ter, 22 September 2011, E124.

<sup>4</sup> *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Initial Hearing, 27 June 2011, E1/4.1.

<sup>5</sup> *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/TC, Termination of the Proceedings Against the Accused IENG Sary, 14 March 2013, E270/1.

<sup>6</sup> Co-Prosecutors’ Response to NUON Chea’s Request for Investigative Action in Relation to Alexander Hinton (2-TCE-88), 19 May 2016, E405/1.

<sup>7</sup> Co-Prosecutors’ Second Introductory Submission Regarding the Revolutionary Army of Kampuchea, 20 November 2008, D1.

<sup>8</sup> Determination of Your Claim of Indigence and Decision on Your Request for Remuneration of Counsel under the ECCC’s Legal Assistance Scheme, 30 April 2013, D56/11, para. 4. Mr. Ang Udom and Mr.

8. On 29 December 2015, Mr. Vickery was retained as an expert consultant for the MEAS Muth Defence to review, analyze, and comment upon the Case 003 Introductory Submission and its supporting documents. His contract was for 120 hours. His continued engagement in Case 003 is expected in 2016, particularly upon completion of the judicial investigation, if a Closing Order is issued and the Case File is forwarded to the Trial Chamber.

## II. ADMISSIBILITY OF REQUEST FOR LEAVE

9. The Co-Lawyers seek leave to file submissions regarding Mr. Vickery's testimony as an expert witness in Case 002/02. This Request for Leave is akin to a request to intervene in Case 002/02. The Supreme Court Chamber has held that intervention by one Party in another Party's case may be permitted "on a case-by-case basis where the interests of justice so dictate,"<sup>9</sup> when intervention is in the "legitimate interests" of the requesting party and denial thereof could cause him prejudice.<sup>10</sup> Mr. Vickery was an expert consultant for both the IENG Sary Defence and the MEAS Muth Defence. As such, in Case 002, he met repeatedly with Mr. IENG Sary, the Co-Lawyers, and Defence team members to discuss facts, witnesses, and strategies related to the charges and case. In Case 003, he provided the Co-Lawyers and Defence team members with analyses of factual allegations presented in the case.
10. It is in the interests of justice to permit Mr. Ang Udom and Mr. Karnavas, as the Co-Lawyers for Mr. IENG Sary and Mr. MEAS Muth, to make submissions on the parameters of Mr. Vickery's testimony. Given Mr. Vickery's prior work for Mr. IENG Sary (including consulting with Mr. IENG Sary and Defence team members regarding the allegations of purges in the Closing Order) and in Case 003, there is a real risk that his testimony may violate the confidentiality of Mr. IENG Sary's and Mr. MEAS Muth's cases. The Co-Lawyers request that Mr. Vickery not be permitted to testify regarding any information he learned through his consultations with the IENG Sary Defence and the MEAS Muth Defence, or through any independent research tasks assigned to him by these teams. The Co-Lawyers seek to protect Mr.

---

Karnavas were initially appointed on a *pro bono* basis, with the understanding the Co-Lawyers would be retroactively remunerated under the ECCC's Legal Assistance Scheme should Mr. MEAS Muth be determined to be indigent.

<sup>9</sup> *Case of NUON Chea et al.*, 002/19-09-2007-ECCC/SC, Decisions on Requests to Intervene or Submit *Amici Curiae* Briefs in Case 002/01 Appeal Proceedings, 8 April 2015, F20/1, para. 12.

<sup>10</sup> *Id.*, para. 11.

IENG Sary's and Mr. MEAS Muth's interests and ensure that the confidentiality of Mr. IENG Sary's and Mr. MEAS Muth's cases is not violated during Mr. Vickery's testimony.

11. The Trial Chamber must permit the Co-Lawyers to intervene by filing written submissions in Case 002/02 and being present in the courtroom during Mr. Vickery's testimony. The Co-Lawyers must be present to object if Mr. Vickery's testimony approaches confidential matters. As set out in more detail *infra*, the interests of Mr. IENG Sary and Mr. MEAS Muth would be prejudiced if this Request for Leave is rejected. No Cambodian or ECCC law or procedural rule prohibits such intervention.

### III. ARGUMENTS IN SUPPORT OF INTERVENTION IN CASE 002/02

12. Rule 22<sup>11</sup> and Article 7 of the Code of Ethics for Lawyers Licensed with the Bar Association of the Kingdom of Cambodia<sup>12</sup> require the Co-Lawyers to act with due diligence and fidelity, and to maintain confidentiality, in Mr. IENG Sary's and Mr. MEAS Muth's cases.<sup>13</sup> The DSS Administrative Regulations clarify that the duty of

<sup>11</sup> Rule 22(3)-(4): "All communications between lawyers and their clients shall be confidential and shall not be listened to, recorded or copied by others.... In the performance of their duties, lawyers shall be subject to the relevant provisions of the Agreement, the ECCC Law, these IRs, ECCC Practice Directions and administrative regulations, as well as the Cambodian Law on the Statutes of the Bar and recognised standards and ethics of the legal profession. They have an obligation to promote justice and the fair and effective conduct of proceedings." See also Rule 21(1).

<sup>12</sup> Code of Ethics for Lawyers Licensed with the Bar Association of the Kingdom of Cambodia, Art. 7: "The lawyer is absolutely bound by professional confidentiality. Confidentiality may not be waived by anyone, not even the client." Violation of this article is a criminal offense under Article 78 of the Law on the Bar (1995) and Article 314 of the Penal Code (2000). These provisions are similar to the French rules of lawyer-client confidentiality. Article 2.1 of the *Règlement Interieur national (RIN) de la Profession d'Avocat* provides: "L'avocat est le confident nécessaire du client.

Le secret professionnel de l'avocat est d'ordre public. Il est général, absolu et illimité dans le temps. Sous réserve des strictes exigences de sa propre défense devant toute juridiction et des cas de déclaration ou de révélation prévues ou autorisées par la loi, l'avocat ne commet, en toute matière, aucune divulgation contrevenant au secret professionnel." Unofficial translation: "The lawyer is the necessary confident of this client. The attorney/client privilege is of public order. It is general, absolute and unlimited in time. Subject of the strict requirements of its own defense before any court and case reporting or revealing authorized by law, the lawyer mustn't disclose anything which could offend the attorney/client privilege." A violation of this article is punishable under article 226-13 of the French Criminal Code.

<sup>13</sup> See also Rule 1.6(a) of the Alaska Rules of Professional Conduct (2015-2016 ed.), by which Mr. Karnavas is bound: "A lawyer shall not reveal a client's confidence or secret unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation and disclosures permitted by paragraph (b) below or Rule 3.3. For purposes of this rule, 'confidence' means information protected by the attorney-client privilege under applicable law, and 'secret' means other information gained in the professional relationship if the client has requested it be held confidential or if it is reasonably foreseeable that disclosure of the information would be embarrassing or detrimental to the client. In determining whether information relating to representation of a client is protected from disclosure under this rule, the lawyer shall resolve any uncertainty about whether such information can be revealed against revealing the information."

confidentiality extends to all members of a Defence team.<sup>14</sup> This extended duty mirrors rules at the International Criminal Court<sup>15</sup> and the International Criminal Tribunal for the Former Yugoslavia<sup>16</sup> that require all members of a defence team to abide by the duty of confidentiality. As former International Co-Investigating Judge Harmon<sup>17</sup> and the International Co-Prosecutor<sup>18</sup> recognized, the Co-Lawyers' duties toward their clients continue even after the attorney-client relationship has terminated.<sup>19</sup> The Co-Lawyers are obligated to raise to the Trial Chamber their concerns about Mr. Vickery's testimony. Mr. Vickery is a former member of the IENG Sary Defence and the MEAS Muth Defence, and a likely future member of the MEAS Muth Defence. He has a duty to keep confidential *all* information he learned and obtained in the course of his work with these teams.

<sup>14</sup> DSS Administrative Regulations, Regulation 10.5: "Co-Lawyers are under an obligation to ensure that members of their Defence Teams adhere to the standards and duties imposed upon Co-Lawyers"; *Id.*, Regulation 17.1: "Co-Lawyers and other members of defence teams shall at all times maintain the integrity of all documents whether in written oral or any other form, including evidence which is submitted to the Court"; *Id.*, Regulation 18.9: "Any reference to a duty or obligation upon co-lawyers applies to other members of defence teams." *See also Prosecutor v. Krajišnik*, IT-00-39-A, Decision on Krajišnik Request and on Prosecution Motion, 11 September 2007, paras. 33-34, regarding who may be subject to privilege.

<sup>15</sup> Code of Professional Conduct for Counsel (2011), Art. 8(1): "Counsel shall respect and actively exercise all care to ensure respect for professional secrecy and the confidentiality of information in accordance with the Statute, the Rules of Procedure and Evidence and the Regulations of the Court." Article 32(2) requires that Counsel instruct their assistants and staff on the standards set out in the Code. Article 7(4) requires that Counsel "supervise the work of his or her assistants and other staff, including investigators, clerks and researchers, to ensure that they comply with this Code."

<sup>16</sup> Code of Professional Conduct Appearing Before the International Tribunal (IT/125 Rev.3) ("ICTY Code"), Art. 13(A): "Whether or not counsel continues to represent a client, counsel shall preserve the confidentiality of the client's affairs and shall not reveal to any other person, other than to members of his team who need such information for the performance of their duties, information which has been entrusted to him in confidence or use such information to the client's detriment or to his own or another client's advantage"; *Id.*, Art. 34(A): "Counsel having direct supervisory authority over other members of his team shall make reasonable efforts to ensure that such members' conduct is compatible with the professional obligations of counsel." *See also* International Criminal Tribunal for Rwanda's Code of Professional Conduct for Defense Counsel (14 March 2008) ("ICTR Code"), Art. 8(1), (3).

<sup>17</sup> International Co-Investigating Judge Harmon noted: "[e]ven after Ieng Sary's death, the Co-Lawyers-Designate still have a duty of loyalty toward him, which includes safeguarding his dignity and reputation." *Case of MEAS Muth*, 003/07-09-2009-ECCC-OCIJ, Decision on the International Co-Prosecutor's Request to Reject the Appointment of the Co-Lawyers for MEAS Muth on the Basis of Irreconcilable Conflicts of Interest, 10 January 2014, D56/18, para. 142. Although International Co-Investigating Judge Harmon refused to appoint the Co-Lawyers to represent Mr. MEAS Muth, this decision was reversed by the Pre-Trial Chamber. *Case of MEAS Muth*, 003/07-09-2009-ECCC-OCIJ (PTC11), Public (Redacted Version), Decision on MEAS Muth's Appeal Against the International Co-Investigating Judge's Decision Rejecting the Appointment of ANG Udom and Michael KARNAVAS as his Co-Lawyers, 17 July 2014, D56/19/38.

<sup>18</sup> In his supplemental submissions arguing a conflict of interest in the Co-Lawyers' appointment to represent Mr. MEAS Muth, the International Co-Prosecutor argued that defence counsel at the ECCC bear "fiduciary obligations of the highest order" to their clients and that the obligations of confidentiality and loyalty extend beyond a client's death. *Case of MEAS Muth*, 003/07-09-2009-ECCC-OCIJ, International Co-Prosecutor's Supplementary Submissions on Conflict of Interest, 3 April 2013, D56/7, paras. 7-18.

<sup>19</sup> *See, e.g.*, ICTY Code, Art. 13(A); ICTR Code, Art. 8(1). *See also* Commentary to Rule 1.6 of the Alaska Rules of Professional Conduct (2015-2015 ed.): "The duty of confidentiality continues after the client-lawyer relationship has terminated"; Alaska Rules of Professional Conduct (2015-2016 ed.), Rule 1.9(c).

**A. Confidentiality must be respected in Mr. IENG Sary's and Mr. MEAS Muth's cases**

13. Although Mr. IENG Sary is no longer an Accused in Case 002, the Co-Lawyers and former Defence team members, including expert consultants, are obligated to protect the confidentiality of Mr. IENG Sary's case. The Co-Lawyers and all Defence team members also are obligated to ensure that confidentiality is respected in Case 003. As a Charged Person in Case 003, which is still under judicial investigation<sup>20</sup> and for which no Closing Order has been issued, Mr. MEAS Muth has a legitimate interest in his case and the work of his Defence team remaining confidential.
14. Mr. Vickery has spent approximately 1,640 hours as an expert consultant in Case 002 for the IENG Sary Defence and in Case 003 for the MEAS Muth Defence. In Case 002, he met with Mr. IENG Sary, Mr. IENG Sary's family members, and the Co-Lawyers many times to discuss the factual allegations and the charges levied against Mr. IENG Sary. The discussions encompassed the entirety of Case 002, not only the severed portions of Case 002/01. Mr. Vickery was privy to discussions relating to, for example, the Closing Order sections regarding alleged purges within the Communist Party of Kampuchea ("CPK"), the internal operations of the CPK, and the roles of the Accused; the examination of certain witnesses; responses to the allegations against Mr. IENG Sary; and defence strategy. In Case 003, Mr. Vickery reviewed the Introductory Submission and the facts alleged therein. He provided the Co-Lawyers with analyses of the factual situations set out in the Introductory Submission and the allegations that refer to Mr. MEAS Muth. The Co-Lawyers intend to retain his services again should a Closing Order be issued and the Case 003 Case File be forwarded to the Trial Chamber.
15. Mr. Vickery's contributions to and participation in the IENG Sary Defence and the MEAS Muth Defence fall within the rules pertaining to the confidentiality of communications between lawyers and their clients. He was a member of both Defence teams and has communicated and consulted with Defence team members and, in Case 002, directly with Mr. IENG Sary. He is bound by the duty of

---

<sup>20</sup> Rule 56(1): "In order to preserve the rights and interests of the parties, judicial investigations shall not be conducted in public. All persons participating in the judicial investigation shall maintain confidentiality."

confidentiality set forth in the Rules and the DSS Administrative Regulations.<sup>21</sup> The Trial Chamber must ensure that his testimony does not breach the confidentiality of Mr. IENG Sary's or Mr. MEAS Muth's cases.

**B. Mr. Vickery must not be permitted to testify about any information he has learned in the course of his work with the IENG Sary Defence or the MEAS Muth Defence**

16. The Co-Lawyers are neither objecting to nor interfering with Mr. Vickery testifying as an expert witness in Case 002/02. They are not objecting to the Trial Chamber and other Parties questioning Mr. Vickery about his books and other publications, and the sources of the assertions in these materials.
17. Mr. Vickery must not be permitted to testify about information he learned through his work with either the IENG Sary Defence or the MEAS Muth Defence. He must not testify – nor must the Trial Chamber or other Parties be permitted to ask – about: **a.** any information he learned during consultations with Mr. IENG Sary or the IENG Sary Defence or from any independent research tasks he performed in relation to any Case 002 matters; **b.** any information he learned during consultations with the MEAS Muth Defence or from any independent research tasks he performed in relation to any Case 003 matters; or **c.** any other work he was requested to perform or performed for the IENG Sary Defence or the MEAS Muth Defence.
18. Simply, Mr. Vickery must not be permitted to testify about any information he learned in the course of his work with the IENG Sary Defence or the MEAS Muth Defence. To allow such testimony would result in the violation of Mr. Vickery's duty of confidentiality to Mr. IENG Sary and Mr. MEAS Muth.

**C. The Co-Lawyers must be permitted to be present in the courtroom during Mr. Vickery's testimony**

19. In addition to requesting leave to file written submissions regarding Mr. Vickery's testimony, the Co-Lawyers also request permission to be present in the courtroom during Mr. Vickery's testimony, as well as a right of audience. The Co-Lawyers do not intend to obstruct or interfere with the trial proceedings. They seek a right of

---

<sup>21</sup> See *supra* paragraph 12.



audience only to be able to intervene by way of objection if Mr. Vickery is asked a question or begins to provide information that relates to anything he learned about Cases 002 or 003 while working with the IENG Sary Defence or the MEAS Muth Defence.

20. Mr. Vickery is 85 years old. To the best of the Co-Lawyers' knowledge, he has never testified in a judicial proceeding. He cannot be expected to appreciate the procedures and protections in place for persons appearing before the ECCC. Nor can he be expected to always be cognizant of when a particular question or answer may raise concerns of confidentiality. Moreover, while the Trial Chamber may have an overarching duty under the Agreement,<sup>22</sup> the Establishment Law,<sup>23</sup> and Rule 21 to ensure fair proceedings for the Accused appearing before them, it does not have the same fiduciary duties toward Mr. IENG Sary or Mr. MEAS Muth as do the Co-Lawyers. The Co-Prosecutors and other Case 002/02 Parties also bear no similar fiduciary duties toward Mr. IENG Sary or Mr. MEAS Muth. Accordingly, the Co-Lawyers *must* be present during Mr. Vickery's testimony to ensure that he does not breach (albeit unintentionally) his duty of confidentiality.

21. Hearing Mr. Vickery's testimony in closed session or striking portions of his testimony from the trial record are insufficient means of resolving the Co-Lawyers' concerns. Neither the Trial Chamber, nor the Co-Prosecutors, nor other Case 002 Parties are entitled to hear information obtained by Mr. Vickery in the course of his employment with the IENG Sary Defence or the MEAS Muth Defence. Any such information is confidential and protected under Rules 22 and 56.<sup>24</sup> It must not be presented in Case 002/02.

**D. Intervention by the Co-Lawyers will not prejudice any Parties or cause any delay in Case 002/02**

22. Intervention by the Co-Lawyers for Mr. IENG Sary and Mr. MEAS Muth – whether through written submissions or through oral intervention in the courtroom – will not

<sup>22</sup> 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, Arts. 12-13.

<sup>23</sup> Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, Arts. 33 new, 35 new.

<sup>24</sup> This information also is protected under Cambodian and American ethical codes of conduct for lawyers, as well as the DSS Administrative Regulations. *See supra* footnotes 12-14.

prejudice any Parties in Case 002. The submissions are not intended to support or supplement any arguments made by any Case 002 Parties or the Trial Chamber. The sole purpose for any intervention is to protect Mr. IENG Sary's and Mr. MEAS Muth's interests in maintaining confidentiality and the attorney-client privilege in their respective cases.

23. Intervention by the Co-Lawyers for Mr. IENG Sary and Mr. MEAS Muth would not cause any delays in Case 002/02. To the best of the Co-Lawyers' knowledge, Mr. Vickery is scheduled to testify during the latter part of June 2016.<sup>25</sup> Receiving the Co-Lawyers' written submissions prior to Mr. Vickery's testimony would not require any postponement of his testimony to allow the Trial Chamber time to deliberate upon the Request for Leave. Similarly, the presence of the Co-Lawyers in the courtroom would not cause any delays as their presence would be strictly limited in duration (to the length of Mr. Vickery's testimony) and in scope (to any part of Mr. Vickery's testimony that touches upon Mr. IENG Sary's or Mr. MEAS Muth's cases).

24. If the Trial Chamber has any concerns about potential delays to Case 002/02 as a result of this Request for Leave or any Parties' desire to be heard on this matter, the Trial Chamber may simply rule upon the requests set out in this submission.<sup>26</sup>

**WHEREFORE**, for all of the reasons stated herein, the Co-Lawyers respectfully request the Trial Chamber to:

A. GRANT the Co-Lawyers leave to file submissions on the testimony of expert witness Michael Vickery, including a request to be present and have a right of audience during his testimony; OR, in the alternative;

B. GRANT the requests set out herein and ORDER:

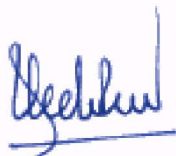
---


<sup>25</sup> It is the Co-Lawyers' understanding that Mr. Vickery would testify after KAING Guek Eav has completed his testimony. The ECCC's website indicates the following regarding the timing of KAING Guek Eav's testimony: "The Chamber postpones court hearings until June 2<sup>nd</sup> 2016. The Chamber will then hear the testimony of witness 2-TCW-816 for 3 days. KAING Guek Eav alias Duch will be questioned by all parties on the second week of June." See <http://eccc.gov.kh/en/articles/announcement-ruling-chamber-postpone-court-hearings-until-june-2nd>. It seems likely that Mr. Vickery's testimony may not begin until the third week of June.

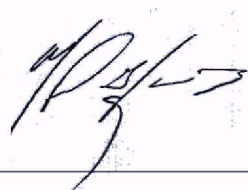
<sup>26</sup> See *supra*, introductory paragraph.

1. That Mr. Vickery's testimony shall be strictly limited to information stated in his books and other publications;
2. That Mr. Vickery shall not be permitted to testify as to any information he learned in the course of working with the IENG Sary Defence and the MEAS Muth Defence; and
3. That the Co-Lawyers shall be permitted to be present in the courtroom during Mr. Vickery's testimony and may intervene or object if Mr. Vickery's testimony broaches any confidential matters relating to Mr. IENG Sary's or Mr. MEAS Muth's cases.

Respectfully submitted,

  
\_\_\_\_\_  
ANG Udom

  
AVOCAT  
ATTORNEY  
AT LAW  
KINGDOM OF CAMBODIA

  
\_\_\_\_\_  
Michael G. KARNAVAS

Co-Lawyers for Mr. IENG Sary  
Co-Lawyers for Mr. MEAS Muth

Signed in Phnom Penh, Kingdom of Cambodia on this 22<sup>nd</sup> day of **June, 2016**