

**BEFORE THE TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**FILING DETAIL**

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**DOCUMENT OBJECTIONS & FURTHER  
SUBMISSIONS PURSUANT TO RULE 92**

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## OBJECTIONS & SUBMISSIONS

1. Counsel for the Accused Nuon Chea (the ‘Defence’) hereby submits these objections and further submissions regarding documents to be put before the Trial Chamber in Case 002. As a preliminary matter, the Defence takes the position that the instant submission should be classified as a public one. In any event, the Defence will treat it as such.

### A. The Defence Objects to the Admission of Various Documents

2. The Defence hereby reiterates by reference all of its previously filed general objections with respect to the admission of documentary evidence at trial.<sup>1</sup> Furthermore, given the deadline imposed by the Trial Chamber,<sup>2</sup> the Defence hereby supports the specific objections filed by the Ieng Sary Defence Team to: (i) documents proffered by the Office of the Co-Prosecutors (the ‘OCP’)<sup>3</sup> and (ii) documents contained in the footnotes of the Closing Order,<sup>4</sup> which—by virtue of their corresponding paragraphs having been read out in court—are now considered to have been put before the Trial Chamber.<sup>5</sup>

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<sup>1</sup> See Document No **E-9/26**, ‘Notice of Joinder in Ieng Sary’s Initial Submissions Regarding Documents to Be Relied Upon at Trial & Additional Submissions Regarding New Documents’, 19 April 2011, ERN 00665543–00665546; Document No **E-109/3**, ‘Observations Regarding Documents Considered Relevant to the Early Segments of the Trial’, 22 July 2011, ERN 00717666–00717670; Document No **E-109/5/1**, ‘Response to Co-Prosecutors’ Request Regarding Nuon Chea’s Second Failure to Comply with the Trial Chamber’s Orders to Provide Their List of Documents and Exhibits Which They Intend to Put Before the Trial Chamber’, 15 August 2011, ERN 00725817–00725829; and Document No **E-131/1/9**, ‘Objections, Observations, and Notifications Regarding Various Documents to Be Put Before the Trial Chamber’, 14 November 2011, ERN 00752669–00752684. *N.B.* The Defence additionally supports the categorical objections submitted by the other defence teams. See Document No **E-114**, ‘Ieng Sary’s Objections to the Admissibility of Certain Categories of Documents’, 6 September 2011, ERN 00728906–00728920; Document No **E-131/1/7**, ‘Ieng Thirith Defence’s Objections to Co-Prosecutors’ and Civil Parties’ Lists of Documents to Be Used at First Phase of Trial’, 14 November 2011, ERN 00752656–00752665; and Document No **E-131/6**, ‘Objections to the Admissibility of Other Parties’ Document Lists for the First Session of the First Trial’, 14 November 2011, ERN 00755162–00755173.

<sup>2</sup> See Document No **E-131/1**, Trial Chamber Memorandum re ‘Witness lists for early trial segments, deadline for filing of admissibility challenges to documents and exhibits, and response to Motion E-109/5’, 25 October 2011, ERN 00747683–00747686.

<sup>3</sup> See Document No **E-131/21**, ‘Ieng Sary’s Objections to the Admission of Certain OCP Documents for the First Trial Segment’, 16 December 2011, ERN 00758895–00758896 and Document No **E-131/21.2**, ‘Annex’ (to same), 16 December 2011, ERN 00760334–00760939.

<sup>4</sup> See Document No **E-156**, ‘Ieng Sary’s Objections to the Admission of Certain OCP Documents Contained in the Footnotes of the Closing Order Paragraphs Read out in Court’, 16 December 2011, ERN 00758892–00758894 and Document No **E-156.2**, ‘Annex’ (to same), 16 December 2011, ERN 00761982–00762093.

<sup>5</sup> See Document No **E-141**, SLO Memorandum re ‘Response to issued raised by parties in advance of trial and scheduling of informal meeting with Senior Legal Officer on 18 November 2011’, 17 November 2011, ERN 00754053–00754053, pp 2–3 and Document No **E-1/16.1**, Transcript, Trial Day 4, 5 December 2011, ERN 00758703–00758789, pp 58–59.

### **B. Documents Relied Upon by the Chamber Must Be Authentic**

3. As submitted previously and repeatedly, the Defence takes the position that the Trial Chamber should accept for consideration only those documents whose authenticity has been sufficiently established by the party seeking their admission.<sup>6</sup> The original documents should be tendered in court. Nuon Chea hereby reserves his right to challenge the authenticity of any document put before him by the Trial Chamber, the OCP, or any other party at any time during the course of the proceedings. In this regard, given that much of the documentary material contained in the Closing Order and submitted by the OCP was provided by the Documentation Center of Cambodia ('DC-Cam'), the Defence reiterates its request to call the director of DC-Cam, Youk Chhang, as a witness in Case 002 as soon as possible<sup>7</sup>—preferably during the as-yet-to-be-scheduled debate on the admission of documents.<sup>8</sup>

### **C. The Defence Intends to Submit Documents in Accordance with Applicable Cambodian Law**

4. As previously notified, the Defence intends to put before the Trial Chamber documentary evidence related to, among other things: (i) the various topics identified in the Defence's multiple 'Requests for Investigative Action';<sup>9</sup> (ii) the first two phases of the alleged population movement, including the possible criminal activity of certain individuals who failed to appear before the OCIJ pursuant to validly issued summonses;<sup>10</sup> (iii) the alleged overall death toll, including individuals who may have died in the implementation of the so-called 'K-5 Plan';<sup>11</sup> and (iv) political interference at the ECCC.<sup>12</sup>
5. Pursuant to Article 334 of the Cambodian Code of Criminal Procedure (the 'CCP'), the submission of such material may be done at any time '[u]ntil the end of the trial hearing'. However, as the Defence intends to put a number of its documents through

<sup>6</sup> See n 1, *supra*.

<sup>7</sup> See Document No **E-93/4.3**, 'Witness Summaries – Nuon Chea Defence Team', 21 June 2011, ERN 00707964–00708109.

<sup>8</sup> See Document No **E-155**, SLO Memorandum re 'Next group of witnesses and experts to be heard in Case 002/01', 15 December 2011, ERN 00760310–00760311, p 2.

<sup>9</sup> See Document No **E-9/26**, 'Notice of Joinder in Ieng Sary's Initial Submissions Regarding Documents to Be Relied Upon at Trial & Additional Submissions Regarding New Documents', 19 April 2011, ERN 00665543–00665546, para 5.

<sup>10</sup> See Document No **E-131/1/9**, 'Objections, Observations, and Notifications Regarding Various Documents to Be Put Before the Trial Chamber', 14 November 2011, ERN 00752669–00752684, para 32.

<sup>11</sup> *Ibid*, para 33.

<sup>12</sup> *Ibid*, para 34.

TCE-38,<sup>13</sup> a detailed list of which will be submitted in the coming days, well in advance of that expert's testimony and the above-referenced debate on documents.<sup>14</sup>

6. Nuon Chea reserves his right to submit all documents and evidence conducive to ascertaining the truth in accordance with the CCP.

CO-LAWYERS FOR NUON CHEA



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<sup>13</sup> See Document No **E-155**, SLO Memorandum re 'Next group of witnesses and experts to be heard in Case 002/01', 15 December 2011, ERN 00760310–00760311, p 2. and Document No **E-131/1.1**, 'Confidential Annex A: Parital List of Witnesses, Experts, and Civil Parties for First Trial in Case 002, 18 October 2011, ERN 00747687–00747694.

<sup>14</sup> *N.B.* Most of these documents are already part of the case file.