

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

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**CIVIL PARTIES LIST OF DOCUMENTS RELEVANT TO THE INITIAL TRIAL
SESSION (28 November – 16 December 2011)**

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I. PROCEDURAL BACKGROUND AND CONTEXT

1. During the Trial Management Meeting and the Initial hearing, the Trial Chamber has informed the parties of its intention to commence the hearing on the substance with consideration of four first Trial segments, namely: “(1) the structure of Democratic Kampuchea (DK); (2) the roles of each Accused during the period prior to the establishment of DK, including when these roles were assigned; (3) the role of each Accused in the DK government, their assigned responsibilities, the extent of their responsibilities, the extent of their authority and the lines of communication throughout the temporal period with which the ECCC is concerned; and (4) policies of DK on the issues raised in the Indictment”¹.
2. On 20 June 2011, the Trial Chamber issued an “advance notice of deadline for supplementary document/exhibit list”² in relation to the first above segments.
3. Consequently, on 22 July 2011, the Civil Parties submitted their revised lists of documents and exhibits in relation to the first four Trial segments³: The Civil Parties filed the following annexes:
 - *Revised Annex 7a (i)*⁴ list specific documents already in the Case File to be put before the Chamber relevant to the first Trial segments. The Lead Co-Lawyers submitted that these documents were related to segments 1 and 4.
 - *Revised Annex 7 a (ii)*⁵ is an inventory of all supporting documents from the Closing Order sections relevant to the first four segments of the Trial
 - *Revised Annex 7 a (iii)*⁶ compiles all the admissible civil party applications considering that “the Civil Party applications as a whole contain important evidence of the structure of Democratic Kampuchea and CPK policies
 - *Revised Annex 7b*⁷ is a list of new documents relevant to the first four phases of the Trial.

¹ Transcript of the Trial Management Meeting, 5 April 2011, p. 52.

² E103.1.1, Trial Chamber’s proposed modification of deadlines in relation to three recent Prosecution findings, advance notices of deadline for supplementary document/exhibit lists (for first phase of trial).

³ E109/2, Civil Party Lead Co-Lawyers Revised List of Documents and Exhibit relevant to the First Four Trial Segments

⁴ E109/2.1, Revised Annex 7a (i) and (ii) (document already in the case file to be put before the Chamber)

⁵ Id.

⁶ E109/2.2, Annex 7 a (iii) Civil Party Applications.

- *Revised Annex 7c*⁸ is the List of Exhibits relating to the first four phases of the Trial already in the Case File.
- 4. On 22 September 2011 the Trial Chamber issued a « Severance Order Pursuant to Rule 89ter »⁹ which severs the proceedings into several distinct Trials and indicates that the first Trial will deal with “*a) Factual allegations described in the Indictment as population movement phases 1 and 2; and b) Crimes against humanity including murder, extermination, persecution (except on religious grounds), forced transfer and enforced disappearances (insofar as they pertain to the movement of population phases 1 and 2)*”¹⁰.
- 5. On 18 October 2011, the Chamber issued a Scheduling order¹¹ for opening statements and hearing on the substance in Case 002 in which it schedules the commencement and duration of the initial segment of the hearing of evidence in Case 002, from Monday 28 November 2011 until Friday 16 December 2011
- 6. In a 25 October 2011 Memorandum the Chamber ordered the parties to indicate no later than 1 November 2011 which “*documents and exhibits from its earlier list they seek to admit before the Chamber in connection with those witnesses and experts who may be called during the first three weeks of Trial*”¹².

II – Request for rectification of the E131/1 Trial Chamber’s Memorandum

- 7. The Trial Chamber’s memorandum E131/1 describe the documents proposed by Civil Parties as “*all of the documents from the Case File referenced in the footnotes of the Closing order, as well as 24 additional documents also from the Case File (E109/2)*”¹³.
- 8. This description is incomplete. As described in paragraph 3 above, the Civil Parties also filed *Revised Annex 7 a (iii)* which compiles all the admissible civil party applications considering that the Civil Party applications as a whole contain important evidence of the structure of Democratic Kampuchea and CPK policies

⁷ E109/2.3, Revised Annex 7 b (new documents to be put before the Chamber relevant to the First Four Segments) and Annex 7 c (exhibits relevant to the First Four Segments).

⁸ Id.

⁹ E124, Severance order pursuant to Rule 89ter, 22 September 2011

¹⁰ See supra footnote 2 at para. 2

¹¹ E131, Scheduling Order for opening statements and hearing on the substance in Case 002, 18 October 2011

¹² E131/1, Trial Chamber’s Memorandum on witness lists for early trial segments, deadline for filing of admissible challenges to documents and exhibits, and response to Motion E109/5.

¹³ E131/3,

9. Therefore the Civil Parties request the Chamber to file a corrigendum listing the entirety of the documents filed for the first four segments.

III – Revised list of documents from E109 for the initial trial session



10. Annex B¹⁴ of the above memorandum provides information about the first session of the Trial (28 November - 16 December 2011) regarding the order of conduct and the list of civil parties and witnesses who may be called to testify.

11. While the Chamber indicates that it will start with Segment 1 namely on the “Structure of the Democratic Kampuchea” it indicates that “*whilst some latitude will be granted by the Chamber to permit broader questioning of these Civil Parties and witnesses in relation to policies and practices relevant to other portions of the Indictment, the parties are requested to focus their detailed questioning of each Civil Party and witness to facts relevant to the first trial segments. Where necessary, recall of witnesses and Civil Parties to examine in detail areas covered in later trials will be permitted by the Chamber*”¹⁵.

12. Taking into account the above, the Civil Parties indicate that they request the Chamber to admit all the annexes of E109/2 namely :

- **E109/2.1** Attachment 1: Revised annex 7a – Documents already in the Case File to be put before the Chamber
- **E109/2.2** Attachment 2: annex 7a (iii) Civil Party Applications
- **E109/2.3** Attachment 3: Revised annex 7b – New documents to be put before the Chamber relevant to the first four Trial segments

Respectfully submitted by

| Date | Name | Place | Signature |
|--------------------|--|------------|---|
| 28 October 2011 | PICH Ang National Lead-Co-Lawyer | Phnom Penh |  |
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¹⁴ E131/1.2 regarding Civil Parties, witnesses and experts to be called during the first trial segment of Case 002 (28 November 2011 — 16 December 2011)

¹⁵ E131/1.2, confidential annex B: Civil Parties, witnesses and Expert to be called during the first trial segment of Case 002.