



**ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ**

**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**  
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

**អង្គជំនុំជម្រះសាលាដំបូង**  
Trial Chamber  
Chambre de première instance

**សំណុំរឿងលេខ: ០០២/១៩ កញ្ញា ២០០៧/អវតក/អជសដ**  
Case File/Dossier No. 002/19-09-2007/ECCC/TC

<b>ឯកសារដើម</b>
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ..... ០៤ / ១២ / ២០១២ .....
ម៉ោង (Time/Heure):..... ០៧:៥០ .....
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: ..... <i>[Signature]</i> .....

**Before:** Judge NIL Nonn, President  
Judge Silvia CARTWRIGHT  
Judge YA Sokhan  
Judge Jean-Marc LAVERGNE  
Judge YOU Ottara

**Date:** 3 December 2012

**Original language(s):** Khmer/English/French

**Classification:** PUBLIC

**DECISION ON OBJECTIONS TO DOCUMENTS PROPOSED TO BE PUT BEFORE THE CHAMBER IN  
CO-PROSECUTORS' ANNEXES A6-A11 AND A14-A20 AND BY THE OTHER PARTIES**

**Co-Prosecutors**  
CHEA Leang  
Andrew CAYLEY

**Accused**  
NUON Chea  
IENG Sary  
KHIEU Samphan

**Civil Party Lead Co-Lawyers**  
PICH Ang  
Elisabeth SIMONNEAU FORT

**Lawyers for the Defence**  
SON Arun  
Michiel PESTMAN  
Victor KOPPE  
ANG Udom  
Michael G. KARNAVAS  
KONG Sam Oun  
Arthur VERCKEN  
Jacques VERGÈS  
Anta GUISSÉ

## 1. INTRODUCTION

1. The Co-Prosecutors seek to put before the Chamber all documents listed in their Annexes A6-A11 and A14-A20.<sup>1</sup> The Chamber is also seised of requests to put before it ten documents proposed by the Civil Party Lead Co-Lawyers, document D222/1.17 proposed by IENG Sary and 78 documents proposed by KHIEU Samphan.<sup>2</sup> The present decision, which follows oral hearings regarding objections to these documents pursuant to Internal Rule 87(3), determines whether these documents satisfy the criteria to be put before the Chamber contained in that sub-rule.

## 2. PROCEDURAL HISTORY

2. On 22 July 2011, the Co-Prosecutors filed 20 Annexes (A1-A20) of documents they proposed to put before the Trial Chamber.<sup>3</sup> The Defence teams subsequently filed objections to some of these documents.<sup>4</sup>

<sup>1</sup> Co-Prosecutors' Response to the Trial Chamber's request for Documents relating to the First Phase of Trial, E109/4, 22 July 2011 ("Co-Prosecutors' Response"); Annex 6: DK Biographies (E109/4.6); Annex 7: DK Commerce Records (E109/4.7); Annex 8: Tram Kak District Records (E109/4.8); Annex 9: S-21 Prisoner Records (E109/4.9); Annex 10: S-21 Confessions (E109/4.10); Annex 11: CF1 Trial Transcripts (E109/4.11); Annex 14: Site Identification Reports (E109/4.14); Annex 15: Maps and Photographs (E109/4.15); Annex 16: Audio and Video (E109/4.16); Annex 17: International Communications (E109/4.17); Annex 18: International Media Reports (E109/4.18); Annex 19: Academic Articles, Analytical Reports and Books (E109/4.19); Annex 20: Rogatory Reports (E109/4.20).

<sup>2</sup> See Lead Co-Lawyers' Revised annex 7a – Documents already in the Case File to be put before the Chamber, E109/2.1, 8 August 2011 (the remaining 15 of the documents on this annex either overlap with the Co-Prosecutors' proposed documents or have already been put before the Chamber); IENG Sary's document and exhibit lists for the initial four trial topics, E109/6.2, 8 August 2011 (D313/1.2.2 having already been put before the Chamber as E3/88) and Documents for First Phases of Trial, E109/1.1, 22 July 2011 (the following ten documents having already been put before the Chamber, namely D28-Annex (E3/21), 13.2 (E3/182), D201/8 (E3/43), D200/3 (E3/64), D200/9 (E3/67), D125/160 (E3/58), D167 (E3/42), D199/20 (E3/96), D166/166 (E3/35) and D91/9 (E3/104)); see also Updated memorandum for next document hearing (12-19 March 2012), E172/5, 2 March 2012, para. 3.

<sup>3</sup> Co-Prosecutors' Response (identifying documents relevant to the first trial segments from those included in the Co-Prosecutors original document lists (Co-Prosecutors' Rule 80(3) Trial Document List, E9/31, 19 April 2011)). Annex 21 is a list of documents not on the Case File and not subsequently included in the Co-Prosecutors list of 22 July 2011. The documents in that annex are addressed in the Chamber's Decision Concerning New Documents and Other Related Issues, E190, 30 April 2012 ("New Document Decision").

<sup>4</sup> Objections, Observations, and Notifications regarding various documents to be put before the Trial Chamber, E131/1/9, 14 November 2011 ("NUON Chea Document Objections"); Document objections and further submission pursuant to rule 92, E131/1/12, 5 January 2012 ("NUON Chea Additional Document Objections"); Objection to the admissibility of the other parties' remaining document lists for the first four segments of the first trial, E131/1/11, 5 January 2012 ("KHIEU Samphan Document Objections"); IENG Sary's objections to the admission of certain OCP documents for the first four trial segments, E131/1/10, 5 January 2012 ("IENG Sary Document Objections"); see also Co-Prosecutors' Witness lists for early trial segments, deadline for filing of admissibility challenges to documents and exhibits, and response to motion E109/5, E131/1, 25 October 2011.

3. The parties were first granted an opportunity to present objections to documents listed in Annexes A1-A5 during a hearing on 16-19 January 2012 ("First Document Hearing").<sup>5</sup> The Chamber ruled on these objections, together with objections to documents cited in relevant paragraphs of the Closing Order, on 9 April 2012.<sup>6</sup>

4. Objections to documents listed in the Co-Prosecutors' Annexes A6-A11 and A14-20, as well as to a number of documents proposed by the other parties, were presented during a hearing on 12-15 March 2012 ("Third Document Hearing").<sup>7</sup>

### **3. SUBMISSIONS**

#### **3.1. Documents listed in Co-Prosecutors' Annexes A6-A11 and A14-A20**

5. In addition to their written objections, all Defence teams availed themselves of the opportunity to object orally to documents listed in the Co-Prosecutors' Annexes A6-A11 and A14-A20 during the Third Document Hearing.<sup>8</sup> As the original Defence submissions contained objections to documents listed in all of the Co-Prosecutors' Annexes A1-A20, most of the present objections to documents in Annexes A6-A11 and A14-A20 are identical to

---

<sup>5</sup> Transcript ("T."), 17-19 January 2012. During the First Document Hearing, the parties were also granted an opportunity to pose objections to documents cited in the footnotes to the historical background section of the Closing Order. Subsequently, on 16 February 2012, the parties were provided an opportunity to object to documents cited in the footnotes to the paragraphs of the Closing Order relevant to communication and administrative structure and some elements of the roles of the Accused ("Second Document Hearing"). On 11 January 2012, the Trial Chamber further announced its intention to put before it contemporaneous Democratic Kampuchea ("DK") era documents listed in the Co-Prosecutors' Annexes A1-A10 (*see* Scheduling of oral hearing on documents (16-19 January 2012), E159, 11 January 2012 ("First Document Hearing Scheduling Order"), para. 8).

<sup>6</sup> Decision on Objections to Documents Proposed To Be Put Before the Chamber on the Co-Prosecutors' Annexes A1-A5 and to Documents Cited in Paragraphs of the Closing Order Relevant to the First Two Trial Segments of Case 002/01, E185, 9 April 2012 ("Framework Document Decision") with two Annexes (E185.1 and E185.2).

<sup>7</sup> T., 12-15 March 2012; Updated memorandum for next document hearing (12-19 March 2012), E172/5, 2 March 2012, para. 2. This hearing was limited to documents that had not to date been discussed in court or considered in the Framework Document Decision. As several documents listed in the Co-Prosecutors' Annexes A6-A20 were also cited in relevant Closing Order footnotes, objections to them were considered in the Framework Document Decision (*see* Annex A to the Framework Document Decision (E185.1)). Defence objections to documents listed in Annexes A12-A13 were not considered in the Third Document Hearing but were instead addressed in the Chamber's Decision on Co-Prosecutors' Rule 92 Submission Regarding the Admission of Witness Statements and Other Documents Before the Trial Chamber, E96/7, 20 June 2012 ("Witness Statements Decision").

<sup>8</sup> *See also* Scheduling of oral hearing on documents (13-16 February 2012), E170, 9 February 2012, para. 6 (indicating that court time scheduled for adversarial argument in relation to specified categories of documents is envisaged as an alternative to the filing of written objections).

those addressed by the Framework Document Decision. The Defence teams object to the tendering of some of these documents on the following grounds<sup>9</sup>:

- i. Most of these documents fall outside the scope of Case 002/01;<sup>10</sup>
- ii. Not all of these documents are relevant to ascertaining the truth;<sup>11</sup>
- iii. Several copies of documents cannot be verified against their originals;<sup>12</sup>
- iv. As the Co-Prosecutors are parties to proceedings and thus not an independent source, documents prepared by individuals affiliated with that Office must be evaluated with caution and admitted only if their authors testify before the Chamber and are subject to cross-examination;<sup>13</sup>
- v. Documents that relate to the acts or conduct of the Accused or a key issue in the case cannot be admitted without cross-examination of a relevant witness;<sup>14</sup>
- vi. Documents such as site identification reports, maps, photographs, audio and video recordings, international media reports, academic articles, analytical reports, books and rogatory reports may only be admitted if they are authentic, relevant and reliable, and if their authors, producers or other relevant witnesses testify before the Chamber;<sup>15</sup>
- vii. Several documents may be considered torture-tainted and therefore inadmissible in accordance with the relevant ECCC jurisprudence;<sup>16</sup>
- viii. Not all documents are available in all three ECCC official languages;<sup>17</sup>
- ix. Transcripts of hearings from Case 001 should not be admitted and witnesses testifying in Case 001 whose testimony is also sought in Case 002/01 should instead be recalled to give evidence;<sup>18</sup>
- x. Chain of custody of documents originating from the Documentation Center of Cambodia (“DC-Cam”) is questionable and the testimony provided by DC-Cam staff indicate that these documents may be unreliable;<sup>19</sup> and
- xi. Documents relating to the Accused IENG Thirith should be considered inadmissible or admitted only with caution following her severance from proceedings in Case 002/01.<sup>20</sup>

<sup>9</sup> T., 15 March 2012, pp. 1, 35-36; T., 13 March 2012, p. 4 (relying in particular on the criteria contained in Internal Rule 87(3)(a), (c) and (d)).

<sup>10</sup> T., 12 March 2012, p. 72; T., 13 March 2012, pp. 3, 7, 12-15; T., 15 March 2012, pp. 32-33, 37.

<sup>11</sup> T., 15 March 2012, p. 34.

<sup>12</sup> T., 12 March 2012, pp. 63-64, 67, 89; T., 13 March 2012, p. 9.

<sup>13</sup> T., 12 March 2012, pp. 64-66, 78, 104.

<sup>14</sup> T., 12 March 2012, pp. 68, 79-80, 83, 87; T., 13 March 2012, pp. 5, 20-21.

<sup>15</sup> T., 12 March 2012, pp. 96-105; T., 13 March 2012, pp. 8, 13, 15-17, 20.

<sup>16</sup> T., 12 March 2012, pp. 74, 84, 92, 94; T., 13 March 2012, p. 10.

<sup>17</sup> T., 12 March 2012, pp. 88, 92, 101; T., 13 March 2012, pp. 16, 19.

<sup>18</sup> T., 12 March 2012, pp. 94, 96; T., 13 March 2012, p. 11.

<sup>19</sup> T., 13 March 2012, pp. 8-9; T., 15 March 2012, p. 40.

6. In response, the Co-Prosecutors acknowledge that in order to be put before the Chamber, documents must *prima facie* comply with the standards of reliability, relevance and authenticity set forth in Internal Rule 87(3).<sup>21</sup> Documents, however, should be evaluated in their entirety, weighed for their corroborative value, and assessed in terms of their internal and external indicia of reliability.<sup>22</sup> Many of the Defence objections concern the probative value and thus weight to be afforded to documents rather than their admissibility.<sup>23</sup> The provenance and chain of custody of these documents is not in doubt as they originate from reliable sources and are therefore authentic and reliable.<sup>24</sup> Secondary sources which concern the acts and conduct of the Accused (such as contemporaneous Democratic Kampuchea (“DK”) era documents or books) are admissible under the ECCC legal framework without the need to summon their individual authors and it is for the Chamber to accord each document appropriate weight in its evaluation of all evidence.<sup>25</sup> The Civil Party Lead Co-Lawyers concur with the Co-Prosecutors.<sup>26</sup>

### **3.2. Documents proposed by the other parties**

7. The Defence teams submit that only one of the documents proposed by the Civil Party Lead Co-Lawyers is relevant to Case 002/01.<sup>27</sup> The Lead Co-Lawyers counter that all documents proposed are relevant but concede that not all are yet available in all official ECCC languages.<sup>28</sup> However, they contend that a document should not at this stage be declared inadmissible only on grounds of the availability or otherwise of its translation.<sup>29</sup>

8. The Co-Prosecutors and the Civil Party Lead Co-Lawyers do not object to the documents proposed by the Defence.<sup>30</sup> The IENG Sary Defence objects to one document proposed by KHIEU Samphan concerning the Accused IENG Thirith on grounds that it is no longer relevant to Case 002/01.<sup>31</sup>

---

<sup>20</sup> T., 12 March 2012, pp. 84-85; T., 13 March 2012, p. 3.

<sup>21</sup> T., 13 March 2012, pp. 28-29.

<sup>22</sup> T., 13 March 2012, pp. 69-70; T., 14 March 2012, p. 9.

<sup>23</sup> T., 13 March 2012, pp. 30, 32.

<sup>24</sup> T., 13 March 2012, p. 43.

<sup>25</sup> T., 13 March 2012, pp. 69-70.

<sup>26</sup> T., 14 March 2012, pp. 107-108.

<sup>27</sup> T., 12 March 2012, pp. 71, 110; T., 13 March 2012, p. 21.

<sup>28</sup> T., 14 March 2012, p. 108.

<sup>29</sup> T., 14 March 2012, p. 102.

<sup>30</sup> T., 13 March 2012, pp. 23-24, 103-104 (noting that some of the documents in their Annexes were also proposed by the KHIEU Samphan Defence).

<sup>31</sup> T., 12 March 2012, p. 110.

## 4. FINDINGS

### 4.1. Introduction

9. In its Framework Document Decision, the Chamber outlined the following general principles governing the admissibility of documents within the ECCC's legal framework:<sup>32</sup>

- a. All documents cited in the portions of the Closing Order relevant to each trial segment in Case 002/01 are entitled to a presumption of relevance and reliability (including authenticity);<sup>33</sup>
- b. Contemporaneous DK era documents originating from DC-Cam are entitled to a rebuttable presumption of *prima facie* relevance and reliability (including authenticity). On the basis of the testimony of the DC-Cam Director and Deputy Director, the Chamber declared the methodology used by DC-Cam in obtaining, archiving and preserving documents to be reliable and found no basis to conclude that documents originating from DC-Cam were likely to have been tampered with, distorted or falsified;<sup>34</sup>
- c. The Chamber declined to adopt a presumption of relevance and reliability (including authenticity) for all documents put before the Trial Chamber in Case 001 on grounds that not all of these documents are relevant to Case 002/01. However, the reliability accorded to them in Case 001 is one factor to be considered in determining their compliance with Internal Rule 87;<sup>35</sup>
- d. Issues concerning, amongst other things, the legibility of copies of documents or discrepancies between an audio recording and the written statement which summarized it are matters going to the weight to be accorded to evidence rather than its admissibility pursuant to Internal Rule 87(3);<sup>36</sup>
- e. There is no requirement within the ECCC legal framework that documents be put before the Chamber only in connection with the testimony of a witness, expert or Civil Party. While sources such as books, analytical reports, documentary films or

<sup>32</sup> See also First Document Hearing Scheduling Order; Trial Chamber response to portions of E114, E114/1, E131/1/9, E131/6, E136 and E158, E162, 31 January 2012 ("Summary of Oral Decision"); Decision on NUON Chea's Request for a Rule 35 Investigation Regarding Inconsistencies in the Audio and Written Records of OCII Witness Interviews, E142/3, 13 March 2012 ("Audio Recordings Decisions"); New Document Decision and Witness Statement Decision.

<sup>33</sup> Framework Document Decision, para. 20; see also Summary of Oral Decision, para. 3 and T., 26 January 2012, pp. 85-88.

<sup>34</sup> Framework Document Decision, para. 28. Among the documents included in Annexes 1-20, the Co-Prosecutors identified 2,384 documents as originating from DC-Cam (see Co-prosecutors' Response to NUON Chea Defence Request for a List of Documents Provided by DC-Cam that are Contained in the OCP Rule 80(3) first phase document list with confidential Annexes A and B, E161, 23 January 2012).

<sup>35</sup> Document Framework Decision, para. 34; see also T., 3 April 2012, pp. 65-66 (noting that the Chamber has already decided to place before it specified written records of interview of KAING Guek Eav made by the Co-Investigating Judges and thus rejecting the Defence's objections to them).

<sup>36</sup> Framework Document Decision, paras 21 and 30.

media articles are not as such inadmissible, the appropriate weight to be accorded to these sources shall be assessed by the Chamber in due course,<sup>37</sup> and

- f. Objections lacking sufficient specificity as to the basis of the alleged inadmissibility of particular documents or categories of documents shall be rejected.<sup>38</sup>

10. Related principles, governing the admissibility and criteria for evaluation of new documents and written statements tendered by the parties absent the testimony of their authors, as well as modalities for adversarial challenge to this material, have been set forth in later decisions of the Chamber and trial management memoranda.<sup>39</sup>

#### **4.2. Objections to documents listed in Co-Prosecutors' Annexes A6-A11 and A14-A20**

11. According to Internal Rule 87(3), only those documents which are *prima facie* relevant, reliable and authentic may be put before the Chamber. The Chamber has reviewed each document included in Annexes A6-A11 and A14-A20 and has considered all objections to them raised by the parties in light of the criteria contained in Internal Rule 87(3) and the Trial Chamber's jurisprudence.

12. The Defence object to a number of documents by merely asserting, without further elaboration, that they are irrelevant. Although objections lacking sufficient specificity as to the basis for the inadmissibility of particular documents or categories of documents shall in general be rejected, the Trial Chamber has nonetheless reviewed all documents impugned on this basis. It finds all, with the exception of Document D29 (a filing by the Co-Prosecutors), to fall within the scope of Case 002/01 and to be relevant to ascertaining the truth and therefore decides to admit these documents. The Defence objections described in paragraph 5(i) and (ii) (above) are consequently rejected.

13. The Chamber notes that a number of objections are relevant to the weight to be accorded to individual documents and not to whether they may be put before the Chamber pursuant to Internal Rule 87. Questions regarding the probative value and thus weight to be accorded to documents are irrelevant to the assessment of their conformity with the Rule 87(3) criteria. The probative value and thus weight to be accorded to documents shall nonetheless be

<sup>37</sup> Framework Document Decision, paras 21 and 31.

<sup>38</sup> Framework Document Decision, para. 23; *see also* First Document Hearing Scheduling Order, para. 2.

<sup>39</sup> *See e.g.* New Document Decision; Witness Statement Decision, paras 20-25 and 30-31 (*see also* Forthcoming Document Hearings and Response to Lead Co-Lawyers' Memorandum concerning the Trial Chamber's Request to Identify Civil Party Applications for use at Trial (E208/4) and KHIEU Samphan Defence Request to Revise Corroborative Evidence Lists (E223), E223/2, 19 October 2012.

considered by the Chamber in its evaluation of all evidence in connection with the verdict. The Chamber consequently rejects the Defence objections described in paragraph 5(iii).

14. The Chamber also finds that objections to documents prepared by individuals affiliated with the Office of the Co-Prosecutors to be matters relevant to the weight to be accorded to a document, rather than to its admissibility pursuant to Internal Rule 87(3). It acknowledges that a number of documents tendered before it were prepared by individuals proposed to be heard as experts before the Chamber. Ultimate determinations as to whether these individuals will be heard before the Chamber remain pending. While the Chamber determines these documents to be relevant to Case 002/01, the Chamber agrees that absent the ability to examine the authors of certain of these documents, their probative value will be negligible. The Chamber therefore rejects the Defence objections contained in paragraph 5(iv).

15. In an earlier decision, the Chamber found four documents relating to the Accused IENG Thirith to be irrelevant to the scope of Case 002/01.<sup>40</sup> The Chamber notes that even though some of the documents included in Annexes A6-A11 and A14-A20 relate to the Accused IENG Thirith, a number of these documents pertain also to the other Accused or to issues relevant to Case 002/01. With the exception of six documents, the Chamber determines these documents to be relevant to Case 002/01 and thus dismisses the objection raised to them in paragraph 5(xi).

16. Regarding the availability of translations of documents into all ECCC official languages, the Trial Chamber has previously indicated that parties seeking the introduction of documents at trial bear the burden of ensuring their timely availability in all three official languages.<sup>41</sup> Although the Chamber has previously granted some latitude where the parties are precluded from doing so due to workload constraints of the Interpretation and Translation Unit (“ITU”), it has recently directed parties, in consultation with the ITU, to adjust the quantity of material that they seek to tender into evidence to that which can be made available in all official ECCC languages by Monday, 4 March 2013.<sup>42</sup> The Chamber rejects the objections raised in paragraph 5(viii) but advises the parties that material for which translations are unavailable by this date cannot be considered to have been put before the Chamber.

---

<sup>40</sup> New Document Decision, para. 27.

<sup>41</sup> Framework Document Decision, para. 21.

<sup>42</sup> Forthcoming document hearings and response to Lead Co-Lawyers' memorandum concerning the Trial Chamber's request to identify Civil Party applications for use at trial (E208/4) and KHIEU Samphan defence request to revise corroborative evidence lists (E223), E223/2, 19 October 2012 (“Memorandum on Forthcoming Document Hearings”), paras 9, 13.



17. Finally, the Chamber rejects the remaining objections contained in paragraph 5(v), (vi), (vii), (ix) and (x) as being in substance identical the objections upon which the Trial Chamber has previously ruled.<sup>43</sup>

18. Having examined all documents listed in Annexes A6-A11 and A14-A20, the Chamber finds all, with the exception of seven documents, to be *prima facie* relevant and reliable (including authentic) and thus consistent with the admissibility criteria contained in Internal Rule 87. The Chamber has therefore assigned them an E3 number and put them before the Chamber.<sup>44</sup>

19. All objections raised to these documents over the course of the trial shall nonetheless be considered by the Chamber when weighing the probative value to be accorded to each of these documents in relation to the verdict.

#### **4.3. Objections concerning documents proposed by the other parties**

20. Absent objections to the documents proposed by the Defence teams, and following their review by the Chamber, these documents have been considered to have satisfied the Internal Rule 87(3) criteria and thus put before the Chamber. IENG Sary objected to one document proposed by KHIEU Sampan on the ground that it concerns IENG Thirith.<sup>45</sup> The Chamber considers that this document also contains information relevant to the scope of Case 002/01 and has therefore decided to place it before the Chamber.

21. Concerning the Defence objections to the documents proposed by the Lead Co-Lawyers, the Chamber disagrees that these documents are irrelevant to Case 002/01. The Chamber therefore rejects these objections and places these documents before it.

#### **4.4. Conclusion**

22. Of all documents considered in this Decision, the Chamber has declined to put seven before it. The Chamber has determined that these documents are irrelevant to the trial in Case 002/01. The Chamber has deferred its decision on more than 400 documents listed in the Co-

---

<sup>43</sup> Framework Document Decision, paras 21, 28-31 (concerning, amongst other things, the admissibility of copies of documents and material such as analytical reports, books, documentaries and media articles and the limited uses to which evidence obtained under torture may be put); Witness Statement Decision, paras 20-25, 30-31 and 34-35 (concerning the admissibility of transcripts from other trials and of written statements which go to proof of the acts and conduct of the Accused).

<sup>44</sup> See New Document Decision, para. 18.

<sup>45</sup> T., 12 March 2012, p. 110; referring to Annex A: IENG Thirith Interview by Elizabeth BECKER, D108/5.1.

Prosecutors' Annex 21 in consequence of the New Documents Decision. Adversarial argument in relation to these documents will shortly be scheduled and a decision in relation to them rendered in due course.<sup>46</sup>

23. For ease of reference, the Chamber has listed all documents put before the Chamber in consequence of this decision in three Annexes, namely Annex A (pertaining to the documents listed in Co-Prosecutors' Annexes A6-A11 and A14-A20), Annex B (pertaining to the documents proposed by the Civil Party Lead Co-Lawyers) and Annex C (pertaining to the documents proposed by KHIEU Samphan and the single document proposed by IENG Sary).

**FOR THE FOREGOING REASONS, THE TRIAL CHAMBER:**

**CONSIDERS** those documents contained in the Co-Prosecutors' Annexes A6-A11 and A14-A20 to have been put before the Chamber, with the exception of seven documents indicated in Annex C to this decision, as identified in that Annex (E185/1.3);

**FURTHER CONSIDERS** those documents proposed by the Civil Party Lead Co-Lawyers to have been put before the Chamber, as identified in Annex B to this Decision (E185/1.2);

**CONSIDERS** those documents proposed by KHIEU Samphan to have been put before the Chamber, as identified in Annex A to this Decision (E185/1.1);

**FURTHER CONSIDERS** document D222/1.17 proposed by IENG Sary to have been put before the Chamber, as identified in Annex A to this decision (E185/1.1); and

**RECALLS** that the probative value and thus weight to be accorded to all evidence put before the Chamber in consequence of this decision will be determined by the Chamber at the conclusion of the hearing of evidence in Case 002/01 and in connection with the verdict. *RI get*

Phnom Penh, 3 December 2012  
President of the Trial Chamber



*Nil Nonn*  
**Nil Nonn**

<sup>46</sup> Memorandum on Forthcoming Document Hearings, paras 2-6 (giving advanced notice of forthcoming document hearings, also in relation to these documents).