

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

FILING DETAIL

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INITIAL SUBMISSIONS REGARDING UNCONTESTED FACTS

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SUBMISSIONS

1. Pursuant to this Chamber's 'Order to File Material in Preparation for Trial',¹ counsel for the Accused Nuon Chea (the 'Defence') hereby files these initial submissions regarding uncontested facts.
2. On 10 March 2011, the Office of the Co-Prosecutors (the 'OCP') invited the Defence 'seek instructions on whether [their] client will not contest any of the Closing Order factual findings contained in pages 13 to 323 entitled "Part 1 Factual Findings" and in pages 390 to 396 entitled "Part 4 Character Information".'² In response to this invitation, and following consultation with the Accused, the Defence informed the OCP that, at this stage of the proceedings, the Defence is unable to reach an agreement with the OCP as to any of the 'facts' specifically alleged in the Closing Order.
3. For the reasons expressed previously,³ the Defence reserves its right to supplement and/or otherwise modify these submissions, *at any time*, pursuant to further instructions from the Accused. Additionally, the Defence reiterates that it has filed a preliminary objection regarding the legality of the ECCC Internal Rules (the 'Rules'), in particular Rule 80(3)(e).⁴ The Defence has argued that the obligation imposed by that Rule is in violation of the Accused's right to remain silent, his presumption of innocence, and the corresponding full and unconditional burden on the OCP to prove the case against him.⁵
4. In any event, the Defence files the instant submissions in good faith and takes the position that all material filed to date is consistent with applicable obligations under Cambodian

¹ See Document No **E-9**, 'Order to File Material in Preparation for Trial', 17 January 2011, ERN 00635754–00635759, para 9 ('The Co-Prosecutors and each Defence team shall file their joint list of uncontested facts pursuant to Rule 80(3)(e) no later than 25 March 2011. Each party shall also indicate whether these agreed facts will have an impact on their respective proposed Witness and Expert Lists and whether any proposed witness or expert is consequently withdrawn.');

² OCP Memorandum to Defence, 10 March 2011, re 'Trial Chamber's Order for a Joint List of Uncontested Facts'; See also Document No **D-427**, 'Closing Order', 15 September 2010, ERN 00604508-00605246.

³ See Document No **E-9/4/4**, (NC) 'List of Proposed Witnesses, Experts, and Civil Parties', 15 February 2011, ERN 00644417–00644423, para 2.

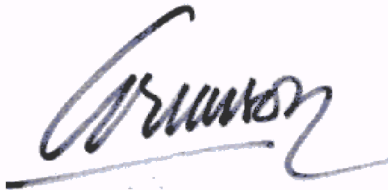
⁴ See Document No **E-51/3**, (NC) 'Consolidated Preliminary Objections', 25 February 2011, ERN 00648279–00648310, paras 66–72..

⁵ See Document No **E-51/3.2**, (NC) 'Annex A: Unjustifiable Inconsistencies Between the Rules and the CCP', 25 February 2011, ERN 00643795–00643798 (Annex to Nuon Chea's Consolidated Preliminary Objections).

law. The Defence reserves its right to continue to challenge any Rule or order of this Chamber that unlawfully departs from such established domestic procedure.

5. The Defence is currently in the process of receiving further instructions from Nuon Chea regarding certain facts that he may not seek to contest at trial. The Defence will submit any such proposals to the OCP in due course and notify the Chamber and the other parties accordingly.

CO-LAWYERS FOR NUON CHEA



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