

## IENG Sary's Objections to the Documents Proposed by the OCP in E223/2/1 (E223/2/1.4)

No.	Doc. No.	E9/31	Type	Author	Date	Title	Description	Points of Indictment	Objection
1	IS 18.78	E9/31.19 (Annex 19) No. 41	Analytical Report	SIN Khin	23-May-1997	Analytical Report by DC-Cam entitled "Site Report Form Number 150201"	Describes the location of a prison and burial site at Tuol Po Chrey.	<b>Tuol Po Chrey Execution Site [175: 698 to 714]</b>	<p>This document is a report prepared by DC-Cam. It is not a contemporaneous DK document from DC-Cam (which the Trial Chamber has indicated in E185/1, para. 9b, is entitled to the rebuttable presumption of prima facie relevance and reliability). DC-Cam cannot be impartial and unbiased in Case 002. DC-Cam's mandate is not to seek the truth or to determine whether genocide or crimes against humanity occurred, but to verify its predetermined conclusion that these crimes occurred. This document is unreliable and unsuitable to prove facts it purports to prove. The Trial Chamber should reject requests for the admission of this document pursuant to Rule 87(3)(c). For further argument, see IENG Sary's Objections to the Admissibility of Certain Categories of Documents, 6 September 2011, E114, paras. 1 (Standards for the admission of documentary evidence set by the Establishment Law), 2-5 (Standards for the admission of documentary evidence set by the Rules), 7-9 (Reliability), 11 (Relevance), 14 (DC-Cam Documents).</p> <p>The author of this report is not presently scheduled to testify in Case 002/01. If Mr. IENG Sary is not afforded his absolute right under Rule 84(1) to confront the author of this report, this document is also inadmissible pursuant to Rule 87(3)(d). For further argument, see IENG Sary's Objections to the Admissibility of Certain Categories of Documents, 6 September 2011, E114, paras. 1 (Standards for the admission of documentary evidence set by the Establishment Law), 7-9 (Reliability), 11 (Relevance), 18-19 (Reports, articles and non-contemporaneous documents).</p>
2	D313/1.2.104	E9/31.15 (Annex 15) No. 546	Photograph	ETCHESON Craig	??-??-1997	Photograph depicting Tuol Po Chrey killing site	Photograph by DC-Cam depicting witness Seng Chhorn at site of Tuol Po Chrey mass graves, in Sector 7 of the Northwest Zone, circa 1997.	<b>Tuol Po Chrey Execution Site [175: 698 to 714]</b>	<p>This photograph from 1997 simply depicts a person who provided evidence to DC-Cam during the preparation of one of its reports. This person is not a witness in Case 002/01 and it is unclear how this person's image has any relevance to the facts at issue in Case 002/01. It should be rejected as irrelevant pursuant to Rule 87(3)(a). Furthermore, this photograph cannot be accepted at face value as being authentic</p>

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									without, at a minimum, adducing evidence from the photographer. The photograph is unreliable and unsuitable to prove facts it purports to prove, and it is inadmissible pursuant to Rule 87(3)(c). Finally, the photographer is not presently scheduled to testify in Case 002/01. Because Mr. IENG Sary has not been afforded his absolute right under Rule 84(1) to confront the photographer, this document is also inadmissible pursuant to Rule 87(3)(d). For further argument, see IENG Sary's Objections to the Admissibility of Certain Categories of Documents, 6 September 2011, E114, paras. 1 (Standards for the admission of documentary evidence set by the Establishment Law), 7-9 (Reliability), 11 (Relevance), 18-19 (Reports, articles and non-contemporaneous documents).
3	D313/1.2.106	E9/31.15 (Annex 15) No. 547	Photograph	ETCHESON Craig	??-??- 1997	Photograph depicting Tuol Po Chrey mass grave pits	Photograph by DC-Cam depicting witness HEM Chea at site of Tuol Po Chrey mass graves, in Sector 7 of the Northwest Zone, circa 1997.	Tuol Po Chrey Execution Site [175: 698 to 714]	This photograph from 1997 simply depicts a person who provided evidence to DC-Cam during the preparation of one of its reports. This person is not a witness in Case 002/01 and it is unclear how this person's image has any relevance to the facts at issue in Case 002/01. It should be rejected as irrelevant pursuant to Rule 87(3)(a). Furthermore, this photograph cannot be accepted at face value as being authentic without, at a minimum, adducing evidence from the photographer. The photograph is unreliable and unsuitable to prove facts it purports to prove, and it is inadmissible pursuant to Rule 87(3)(c). Finally, the photographer is not presently scheduled to testify in Case 002/01. Because Mr. IENG Sary has not been afforded his absolute right under Rule 84(1) to confront the photographer, this document is also inadmissible pursuant to Rule 87(3)(d). For further argument, see IENG Sary's Objections to the Admissibility of Certain Categories of Documents, 6 September 2011, E114, paras. 1 (Standards for the admission of documentary evidence set by the Establishment Law), 7-9 (Reliability), 11 (Relevance), 18-19 (Reports, articles and non-contemporaneous documents).
4	D125/194	E9/31.20 (Annex 20) No. 60	Rogatory Report	ECCC-OCIJ	19-Jun- 2008	Report of the Execution of Rogatory Letter	Describes mission to interview witnesses OUK Savuth alias Nhor, SUY Seng Chhorn and SUM Alat alias CHHONG Lat related to several issues, including Tuol Po Chrey Execution Site.	Tuol Po Chrey Execution Site [175: 698 to 714]	This document is a report of execution of rogatory letter. It contains summaries of witness interviews and does not necessarily reflect an accurate representation of the answers the witnesses may have provided to questions posed. Thus, this document should be rejected pursuant to Rule 87(3)(c), as it is unreliable and unsuitable

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									<p>to prove facts it purports to prove. Further, Mr. IENG Sary was afforded no opportunity to confront these witnesses. Should the Trial Chamber find that this document is admissible pursuant to the criteria set out in Rule 87(3), it should give little or no weight to the witness statements contained herein. According to Trial Chamber Decision E96/7, para. 24, the statements contained in this report should not be accorded any probative value unless they: are of a cumulative nature; relate to background, crime base, or proof of threshold elements of international crimes; are a general or statistical analysis of ethnic composition of population; concern impact on victims; or are impossible to subject to confrontation because the author has died, cannot be traced, or is unable to testify orally. For further argument, see IENG Sary's Response to the Co-Prosecutors' Rule 92 Submission Regarding the Admission of Written Witness Statements Before the Trial Chamber &amp; Request for Public Hearing, 22 July 2011, E96/3; IENG Sary's Objections to the Admissibility of Certain Categories of Documents, 6 September 2011, E114, paras. 1 (Standards for the admission of documentary evidence set by the Establishment Law), 7-9 (Reliability), 11 (Relevance), 18-19 (Reports, articles and non-contemporaneous documents).</p>
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