

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

**FILING DETAILS**

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**CO-PROSECUTORS' COMMENTS ON AGENDA OF TRIAL MANAGEMENT  
MEETING FOR CASE 002/02**

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**Co-Prosecutors**  
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**Distributed to:**

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**SUBMISSION**

1. In response to the Trial Chamber's memorandum of 8 November 2013,<sup>1</sup> informing the parties of the scheduling of a Trial Management Meeting (TMM) on 11, 12 and, if necessary, 13 December 2013 in order to discuss matters related to Case 002/02, the Co-Prosecutors submit the following comments.
2. The Co-Prosecutors request that the TMM agenda include discussion of how evidence that was presented during the course of Case 002/01 will be treated in Case 002/02. The Co-Prosecutors give advance notification that it will be their position that evidence introduced in Case 002/01 is considered already on the record for purposes of Case 002/02, without the need for any additional application from the parties or any form of further judicial recognition from the Trial Chamber in Case 002/02.
3. Relatedly, the Co-Prosecutors request that the TMM agenda include what impact the factual findings in the Case 002/01 Trial Judgement could have on Case 002/02. It will be the Co-Prosecutors' position that there is no necessity to take any type of judicial notice of adjudicated factual findings from Case 002/01. The factual findings and judgement in Case 002/02 should instead be based on the testimony, documents and other evidence before the Trial Chamber at the conclusion of those proceedings, including the evidence on record introduced in Case 002/01.
4. The Co-Prosecutors also take this opportunity to advise the Trial Chamber and the parties that it will be their submission that all remaining charges in the Case 002 Closing Order should be tried in Case 002/02, but that the crime base used to support those charges should be limited to a representative sample of the crimes. The Co-Prosecutors will submit that this approach fully complies with the Supreme Court Chamber's "Decision on Immediate Appeals Against Trial Chamber's Second Decision Severance of Case 002"<sup>2</sup> and its "Decision on the Co-Prosecutors' Immediate Appeal of the Trial Chamber's Decision Concerning the Scope of Case 002/01."<sup>3</sup> As instructed by the Trial Chamber, the Co-Prosecutors will be prepared to make further and more detailed submissions on this proposal during or before the TMM.

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<sup>1</sup> **E301 Trial** Chamber Memorandum: Scheduling of Trial Management Meeting in Case 002/02, 08 November 2013.

<sup>2</sup> **E284/4/7** Decision on Immediate Appeals Against Trial Chamber's Second Decision on Severance of Case 002, 23 July 2013.

<sup>3</sup> **E163/5/1/13** Decision on the Co-Prosecutors' Immediate Appeal of the Trial Chamber's Decision Concerning the Scope of Case 002/01, 8 February 2013.

5. The Co-Prosecutors are of the view that trial in Case 002/02 should begin as expeditiously as possible. An early start to the trial would: first, increase the chances of completing the trial and appeal proceedings on these charges; second, be consistent with the Accused rights to a speedy trial; and third, limit the overall cost of the tribunal's operations by moving the ECCC closer toward the completion of its mandate. The Co-Prosecutors suggest that the agenda include proposed dates from each of the parties as to when they can submit proposed witness lists and the earliest date at which they will be ready for the hearing of evidence in Case 002/02 to commence.

Respectfully submitted,

Date	Name	Place	Signature
20 November 2013	CHEA Leang Co-Prosecutor	Phnom Penh	
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