

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC **Party Filing:** Co-Prosecutors
Filed to: Trial Chamber **Original Language:** English
Date of document: 13 June 2014

CLASSIFICATION

**Classification of the document
suggested by the filing party:**

PUBLIC with 23 Confidential Annexes

Classification by Trial Chamber:

សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:



CO-PROSECUTORS' RULE 80(3) TRIAL DOCUMENT LIST

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SUBMISSION

1. Pursuant to Internal Rule 80(3) and in accordance with the Trial Chamber's "Order to File Updated Material in Preparation for Trial in Case 002/02" issued on 8 April 2014 ("Order"),¹ as amended by the "Decision on the Joint Request regarding Refiling of Admitted Evidence in Case 002/03, and Filing in One Language" of 21 May 2014 ("Decision"),² the Co-Prosecutors submit this updated list of documents already admitted as evidence before the Chamber, together with new documents they intend to put forward during trial proceedings in Case 002/02 ("Trial Document List").
2. The documents in the Trial Document List are identified in 23 separate Annexes comprising three groups, **Annexes 1A to 20A, B and C1 and C2**.
3. **Annexes 1A to 20A** comprise 6 489 documents included on the Co-Prosecutors previous Rule 80 Document List filed in April 2011 ("Initial R80 List"),³ and follow the same logic and structure, with one Annex per document type or related types.⁴ Document descriptions and the most relevant, non-exhaustive points of the Indictment have been updated based on the scope of trial in Case 002/02. The different legal status of the documents in the Annexes have been identified in three ways, with (a) grey highlighting, (b) blue highlighting and (c) no highlighting:
 - (a) 169 documents bearing **grey highlighting** with text struck through are being withdrawn from the Co-Prosecutors' document list;

¹ **E305** Order to File Updated Material in Preparation for Trial in Case 002/02, 8 April 2014 ("Order").

² **E305/2** Decision on Joint Request regarding Refiling of Admitted Evidence in Case 002/03, and Filing in One Language, 21 May 2014 ("Decision").

³ **E9/31** Co-Prosecutors' Rule 80(3) Trial Document List, 19 April 2011 (and 21 related Annexes), as corrected by **E9/31/1** Co-Prosecutors' Rule 80(3) Trial Document List – Corrections to Annex 5, 25 April 2011 (and one related Annex).

⁴ Document types include: Accused Statements (Annex 1A); CPK Publications and Directives (Annex 2A); CPK Meeting Minutes (Annex 3A); DK Communications (Annex 4A); DK Media and Public Statements (Annex 5A); DK Biographies (Annex 6A); DK Commerce Records (Annex 7A); Tram Kak District Records (Annex 8A); S-21 Prisoner Records (Annex 9A); S-21 Confessions (Annex 10A); Case 001 Trial Transcripts (Annex 11A); Witness Statements (Annex 12A); Complaints (Annex 13A); Crime Site Identification Reports (Annex 14A); Maps and Photographs (Annex 15A); Audio and Video (Annex 16A); International Communications (Annex 17A); International Media Reports (Annex 18A); Academic and Research Publications (Annex 19A); and Rogatory Reports (Annex 20A).

- (b) 4 774 documents bearing **blue highlighting** *without* text struck through have already been placed before the Chamber from Case 002/01 and previously admitted; 13 documents *with* text struck through are duplicate entries from the Initial R80 List which have already been admitted by the Chamber; and
- (c) 1 546 documents bearing **no highlighting** have already been proposed in the Co-Prosecutors' Initial R80 List and continue to be proposed as documents to be put before the Chamber in Case 002/02.
4. **Annex B** comprises 184 documents not included in the Co-Prosecutors' Initial R80 List, but were subsequently put before the Chamber and admitted in Case 002/01 as new evidence under Internal Rule 87(4).
5. **Annexes C1** and **C2** comprise 856 documents not previously put forward, which the Co-Prosecutors intend to be put before the Chamber in Case 002/02. Of these, the 383 documents in **Annex C1** are already part of the Case File. The remaining 473 documents in **Annex C2** are not yet included in the Case File, have already been assigned Evidence Reference Numbers (ERN) in most cases and will be placed on the Shared Materials Drive for review by the Parties and the Chamber.
6. In accordance with the terms of the Order,⁵ the Annexes consist of tables that include the following document details: (1) the E3 admitted evidence number from the 002/01 trial; (2) any other case file document number; (3) the type or category of the document (where more than one category is included in an Annex); (4) the author of the document (where appropriate); (5) the date of the document; (6) the title of the document; (7) the evidence reference number ("ERN") for the Khmer, English and French version of the document whether the original or a translation (where available); (8) a description of the document; and (9) the most relevant, non-exhaustive points of the Indictment which the document assists in proving.
7. The documents within **Annexes 1A** to **20A** are ordered chronologically or alphabetically, as most appropriate to assist the Chamber and other parties in locating the documents and understanding their relevance. **Annexes B, C1** and **C2** are ordered by type then date of

⁵ **E305** Order, *supra* note 1 at paras. 11-12 and fn. 11.

document. As directed by the Chamber, the Co-Prosecutors will provide Microsoft Word versions of the Annexes to the Chamber's Greffiers for internal use.⁶

8. The Co-Prosecutors have excluded from their current Trial Document List 267 statements by witnesses and Civil Parties in Cases 003 and 004, whose evidence has come to the attention of the Co-Prosecutors solely through interviews conducted by the Co-Investigating Judges, and which are presently classified as confidential within those Case Files. The International Co-Prosecutor duly filed requests to the International Co-Investigating Judge to disclose these interviews to the Chamber and the Parties in Case 002/02.
9. On 8 May 2014, the International Co-Investigating Judge denied these requests "at this stage" but "remained seized" thereof,⁷ finding that, for the time being, such disclosure "could potentially endanger the investigation" in each case.⁸ The International Co-Investigating Judge noted that "no fixed date has been set for the commencement of trial in Case 002/02,"⁹ and confirmed that "Once the International CIJ deems that disclosure of the documents is no longer capable of jeopardising the investigation, he will authorise the [International Co-Prosecutor] to seek their admission in Case 002/02"¹⁰ and "will inform the Co-Prosecutors as soon as it becomes prudent to oblige the Request."¹¹ Once a trial date is set, the International Co-Prosecutor undertakes to immediately notify the International Co-Investigating Judge and to reiterate his request for disclosure.
10. Only English copies of Annexes to this Submission have been provided, as it is not possible to complete the translations of them within the required time limits, even with the full use of internal language capabilities.¹² Accordingly, as authorised by the

⁶ E305 Order, *supra* note 1 at para. 13.

⁷ CF003-D100/1 Decision on the International Co-Prosecutor's Request to Disclose Case 003 Interviews relevant to Case 002/02, 8 May 2014 at para. 17; CF004-D193/1 Decision on the International Co-Prosecutor's Request to Disclose Case 003 Interviews relevant to Case 002/02, 8 May 2014 at para. 17.

⁸ *Ibid.*

⁹ *Ibid.* at para. 11 [both Decisions].

¹⁰ *Ibid.* at para. 12 [both Decisions].



¹¹ *Ibid.* at para. 13 [both Decisions].

¹² E305/2 Decision, *supra* note 1 at para. 7 ["Where feasible, each party shall also make use of its internal language capabilities to minimize the workload of the Interpretation and Translation Unit..."].

Chamber,¹³ the Co-Prosecutors make their submission in English, with Khmer and French translations to follow as soon as possible.

11. The Co-Prosecutors do not intend at this stage to seek admission of any exhibits that constitute “tangible objects” as defined in the Glossary to the Rules.

Respectfully submitted,

Date	Name	Place	Signature
13 June 2014	CHEA Leang Co-Prosecutor	Phnom Penh	
	Nicholas KOUMJIAN Co-Prosecutor		

¹³ **É305/2** Decision, *ibid.* at p. 5.