

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

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**CIVIL PARTY LEAD CO-LAWYERS REVISED LIST OF DOCUMENTS AND
EXHIBIT RELEVANT THE FIRST FOUR TRIAL SEGMENTS**

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Civil Party Lead Co-Lawyers Revised List of Documents and exhibits relevant to the first four trial segments

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I. PROCEDURAL BACKGROUND AND CONTEXT

1. On 17 January 2011, the Trial Chamber filed an “Order to file material in preparation for Trial” (**E9**). Pursuant to paragraphs 12 and 14 of the Order, the Trial Chamber requested the parties to file a list of documents already in the Case File they intend to put before the Chamber (para. 12 (i)); a list of the new documents they intend to put before the Chamber (para. 12 (ii)); a “Documentary Evidentiary Chart” (para. 12 (iii)); and a list of exhibits they intend to offer in the case (para. 14).
2. Pursuant to Internal Rule 80(3) and in accordance with the Trial Chamber’s Order **E9**, the Civil Party Lead Co-Lawyers filed on 19 April 2011 their list of documents and exhibits they intended to put before the Chamber at Trial (E9/32 and ANNEXES 7a(i), 7a(ii), 7a(iii) and 8¹).
3. During the Trial Management Meeting of 5 April 2011, the Trial Chamber has informed the parties of its intention to commence the hearing on the substance with consideration of four areas, namely:
 - Segment 1 - the structure of Democratic Kampuchea (**DK**);
 - Segment 2 - the roles of each Accused during the period prior to the establishment of DK, including when these roles were assigned;
 - Segment 3 - the role of each Accused in the DK government, their assigned responsibilities, the extent of their responsibilities, the extent of their authority and the lines of communication

¹ Annex 7 a (i): Document and Exhibit Lists – Request for specific documents in Case File by the Co-Lawyers for Civil Parties (including annexes b) and c)), 19 April 2011, Doc n° **E/9/32.2**; Annex 7a(ii): Document and Exhibit Lists - Case 002 Closing Order Endnote Documents, 19 April 2011, Doc n° **E/9/32.3**; Annex to 7a(iii) Victim Information Forms- Legend, 19 April 2011, Doc n° **E/9/32.4** (see also **E/9/32.4.1**, **E/9/32.4.2** and **E/9/32.4.3** ; Annex 8: Documentary evidentiary chart, 19 April 2011, Doc n° **E/9/32.5**.

throughout the temporal period with which the ECCC is concerned; and

- Segment 4 - Policies of DK on the issues raised in the Indictment.²
4. On 20 June 2011, the Trial Chamber issued an “advance notice of deadline for supplementary document/exhibit list” in relation to the first phases of trial (E103.1.1) in which it requests the parties to submit their revised lists of documents and exhibits no later than Friday 22 July 2011.
 5. The Lead Co-Lawyers hereby submit their revised list of documents and exhibits in relation to the first four trial areas.

II. CONTENT OF THE ANNEXES

6. In paragraph 12 (i), (ii), (iii) of the Order E9, the Chamber required the parties to provide if available a descriptive and analytical list of all the documents a party intends to put before the Court. The Lead Co-Lawyers previously submitted that this paragraph must be read in conjunction with Rule 87 and Rule 69 which provide that once the Closing Order has been issued, the Case File of the investigation is forwarded in its entirety to the Trial Chamber.³ Accordingly, to require, prior to the hearing on the substance, a list describing the documents in relation to the first four segments of the trial already in the Case File appears to be an unnecessary requirement which should not limit the rights of parties to produce a document at any time provided they comply with the requirements set out in Rule 87.
7. As the Chamber is seized of the entirety of the Case File, it cannot reasonably require that the parties submit an exhaustive list of documents which could potentially deprive them of placing before the Chamber further documents and exhibits deemed relevant to the four segments. In any case, the Lead Co-Lawyers

² Transcript of the Trial Management Meeting, 5 April 2011, p. 52.

³ Civil Party Lead Co-Lawyers Lists of Documents and Exhibit (7 and 8), 19 April 2011, Doc. n° E9/32.
Civil Party Lead Co-Lawyers Revised List of Documents and exhibits relevant to the first four trial segments

consider that the revised list required cannot have the consequence of limiting the parties' right to put before the Chamber other material already on the Case file. As provided in Rule 87 : "During the trial, either on its own initiative or at the request of a party, the Chamber may summon or hear any person as a witness or admit any new evidence which it deems conducive to ascertaining the truth"

8. Rule 80 (3) (d) only requires that new documents are to be described prior to the hearing. Thus the Civil Parties will not deprive themselves of the potential use of material on the Case File during the early stages of the trial.
9. The Lead Co-Lawyers respectfully submit the following Revised Annex 7 "Revised documents and exhibit list" following consultation with the Civil Party lawyer teams.
10. *Revised Annex 7a (i)* list specific documents already in the Case File to be put before the Chamber *relevant to the first four trial segments*. The Lead Co-Lawyers submit that these documents⁴ are related to segments 1 and 4.
11. *Revised Annex 7 a (ii)* is an inventory of all supporting documents from the Closing Order sections relevant to the first four segments of the trial, namely:

*Historical Background*⁵

*Administrative Structures (centre)*⁶

- The Communist Party of Kampuchea (CPK)
- Central committee
- Standing committee
- Offices of "870"
- Ministries (government) of democratic Kampuchea

*Administrative structures (national)*⁷

⁴ There are 25 documents included in the annex 7a (i) as the documents already in the case file.

⁵ Closing Order, 15 September 2010, Doc n° **D427**, pp. 13-16.

⁶ *Ibid.*, pp. 16-23.

Civil Party Lead Co-Lawyers Revised List of Documents and exhibits relevant to the first four trial segments

*Communication structure*⁸

- Channels of communication
 - Communication Within the Centre
 - Zone to Centre Communication
 - Zone to Sector and District Communication
 - External Communication
 - Meetings to “Study at the Centre”
- Means of Communication
 - Letters
 - Messengers
 - Telegram Communication
 - Political and Education Material

*Military Structure*⁹

- Establishment of the Revolutionary Army of Kampuchea
- Role of RAK
- CPK Centre military organs
 - Military Committee of the Central Committee
 - General Staff
- Composition of the RAK
 - The Regular army
 - Centre Divisions
 - Zone Armies
 - Militia
- Communication / Reporting
 - Communication Between Divisions and Centre
 - Communication Inside the Divisions
- Discipline
- Participation of RAK in purges

⁷ *Ibid.*, pp. 23-25.

⁸ *Ibid.*, pp. 25-33.

⁹ *Ibid.*, pp. 33-39.

Armed Conflict

*Factual findings of joint criminal enterprise*¹⁰: (Dates and participation of the accused) in the following five policies:

- Movement of the population;
- Cooperatives and worksites;
- Security centers and execution sites
- Treatment of targeted groups
- The regulation of marriage

*Roles of the charged persons*¹¹: Background, Roles and Functions, Participation in The Common Purpose, Knowledge of the Existence of an International Armed Conflict¹²

- Nuon Chea
- Ieng Sary
- Khieu Samphan
- Ieng Tirth

12. **Revised Annex 7 a (iii)** compiles all the admissible civil party applications. Each application is composed of a standard *Victim Information Form* (VIF) usually with an attachment containing supplementary information, as well as documentary annexes. Each application includes a *Victims Unit Individual Report*. This report translates the key information contained in the VIF into English and summarizes the alleged criminal acts. The Case File reference of all Civil Party related documents is D22/XXXX. For the sake of clarity revised Annex 7 a (iii) only refers to the first D22/XXXX court reference.

13. The Civil Party Lead Co-Lawyers consider the Civil Party applications as a whole contain important evidence of the structure of Democratic Kampuchea and CPK policies. No single application contains information relevant to the entire structure of DK or each of the five policies of the CPK. Therefore it is impossible to note

¹⁰ *Ibid.* pp. 41-59.

¹¹ *Ibid.* pp. 214-323. The Lead Co Lawyers file a temporary list of the relevant footnotes from these sections. A finalized version (editing only) will be submitted to the Chamber.

¹² footnotes 3652 to 5140

- with specificity which application(s) contain evidence of which specific fact relevant to segments 1 and 4. However, in order to prepare adequate filings relevant to trial segments 1 and 4, the Civil Party Lead Co-Lawyers must rely on the probative information contained within the mass of Civil Party applications and argue for their inclusion as a whole.
14. Internal Rules 23 bis (1) and (4), and Article 3.2 of the Practice Direction provide that Civil Party applications “*must contain sufficient information to allow verification of their compliance with these IRs. In particular, the application must provide details of the status as a Victim, specify the alleged crime and attach any evidence of the harm suffered, or tending to show the guilt of the alleged perpetrator*”, allowing the Co-Investigating Judges or the appeal Chamber to be “*satisfied that facts alleged in support of the application are more likely than not to be true*”. This level of proof is specific to Civil Party admissibility and distinct from the sufficiency of evidence criterion set out in Internal Rule 67 (3)(c)
15. Since the Co-Investigating Judges or the Pre-Trial Chamber assume the truthfulness of all admitted applications, the evidence contained within them are to be considered as conducive to ascertaining the truth.
16. The **Revised Annex 7b** submitted by the Lead Co-Lawyers provides a list of new documents relevant to the first four phases of the trial. The Lead Co-Lawyers request to put before the Chamber an additional documentary film¹³ and book¹⁴ since these documentary documents are considered as important to show the role of the accused before, during and after the Khmer Rouge Regime. These new documents and documentary film are in relation to the first four trial segments.
17. The **Revised Annex 7c** List of Exhibit relating to the first four phases of the trial already in the Case File relevant to the role of the accused and knowledge of the CPK policy of forced marriage.


¹³ It is indicated as number 16 of the Annex 7 b

¹⁴ It is indicated as number 17 of the Annex 7b

REQUEST TO THE TRIAL CHAMBER

The Lead Co-Lawyers request that the documents and exhibit listed in the revised ANNEXES 7a, 7b, 7c be accepted and placed before the Chamber.

Respectfully submitted,

Date	Name	Location	Signatures
July 22, 2011	PICH Ang Lead co-Lawyer	Phnom Penh	
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