

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

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**CO-PROSECUTORS' REQUEST TO INCLUDE ADDITIONAL CRIME SITES
WITHIN THE SCOPE OF TRIAL IN CASE 002/1**

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I. INTRODUCTION AND PROCEDURAL HISTORY

1. In its decision severing proceedings in Case 002 into several discrete trials,¹ the Trial Chamber (“Chamber”) indicated that it:

*...may at any time decide to include in the first trial additional portions of the Closing Order in Case 002, subject to the right of the Defence to be provided with opportunity to prepare an effective defence and all parties to be provided with timely notice.*²

2. Having considered and dismissed the Co-Prosecutors’ request for reconsideration of the severance of the proceedings,³ the Trial Chamber observed that it:

*...did not exclude the possibility of adding additional charges or counts to the first trial in Case 002 where circumstances permit. The Chamber takes note of the Co-Prosecutors’ indication in its Request of possible additional topics for inclusion in the first trial and will be guided by its views as to the priority allegations for consideration during later phases of the trial...*⁴

3. At the informal trial management meeting of 2 December 2011, the Senior Legal Officer indicated, on behalf of the Chamber, that the Chamber remained open to extending the scope of the first trial to include additional crime sites and factual allegations, if circumstances allow.⁵

4. The Co-Prosecutors respectfully request that the Trial Chamber include the following crime sites and factual allegations from the Closing Order within the scope of Case 002/1:

- (a) Executions of 17 April 1975 evacuees at sites in Kampong Tralach Leu District (District 12), Kampong Chhnang Province (Sector 31 of the Western Zone) (paras. 691, 693-697 of the Closing Order);
- (b) Executions of former Lon Nol soldiers and officials in 1975 at Tuol Po Chrey, Kandieng District, Pursat Province (Sector 7 of the Northwest Zone) (paras. 698-711 of the Closing Order); and
- (c) Security centre S-21 and related execution site at Choeung Ek, Kandal Province (paras. 415-475 of the Closing Order), *including* the purges of cadres from the new North, Central (old North) and East Zones sent to S-21 (paras. 192-204 of the Closing Order) but *excluding* the worksite at Prey Sar, Dangkao District, Kandal Province.

¹ E124 Severance order pursuant to Rule 89ter, 22 September 2011 (“Severance Order”).

² E124 *Ibid.* at para. 6.

³ E124/7 Decision on Co-Prosecutors’ request for reconsideration of the terms of the Trial Chamber’s Severance Order (E124/2) and related motions and annexes, 18 October 2011 at para. 12.

⁴ E124/7 *Ibid.* at para. 12.

⁵ Notes of OCP representative present at the 2 December 2011 informal trial management meeting.

5. These crime sites reflect just three of the nine initially proposed by the Co-Prosecutors for inclusion in the first trial.⁶ The Co-Prosecutors submit that the addition of these factual allegations is necessary in the interests of justice, and that the criteria relevant to the Chamber's assessment in this regard should include: (i) the interest in following, as far as possible, the chronology and logic of the Closing Order; (ii) the quality and sufficiency of the evidence; and (iii) the need for a reasonably representative factual scope in the trial.
6. In addition, the Co-Prosecutors submit that the proposed extension in the scope of the trial would meet and surpass international procedural standards regarding adequate time for the preparation of an effective defence and timely notice to the parties.
7. Finally, the Co-Prosecutors submit that a decision to extend the scope of trial can and should be made now, prior to the conclusion of that part of the proceedings relevant to historical background. This would facilitate effective preparations by all parties by favouring a more structured and well-integrated presentation of evidence; making effective use of the questioning time for witnesses who can potentially give evidence relevant to a more representative set of grave crimes as well as over-arching policies of the alleged joint criminal enterprise; and thus minimising the need for recall of a witness.

II. EXTENDING THE SCOPE OF TRIAL AS PROPOSED WOULD BE IN THE INTERESTS OF JUSTICE

a. The inclusion of the proposed crime sites reflects the logic and chronology of the Closing Order

8. The Chamber has indicated that Case 002/1 will comprise phases 1 and 2 of the population movement as well as specified crimes against humanity insofar as they pertain to the relevant population movement phases.⁷ The Chamber has also stated that the Severance Order serves the objective “[t]o follow as far as possible the chronology and/or logical sequence of the Closing Order...”⁸ The Co-Prosecutors respectfully submit that, considering the chronological and logical sequence of the events contained in the Closing Order, the execution sites of District 12 and Tuol Po Chrey and the S-21 security centre should be included within the scope of case 002/1 for the reasons set out below.
9. Witness testimony confirms that, in the one to two month period immediately following the 17th April 1975, evacuees from Phnom Penh and Kampong Chhnang Town, who were identified as former Khmer Republic soldiers and officials, were executed at District 12

⁶ E124/2 Co-Prosecutors' request for reconsideration of "Severance order pursuant to Internal Rule 89ter", 3 October 2011 at paras. 36-44.

⁷ E124/7.2 Annex: List of paragraphs and portions of the Closing Order relevant to Trial One in Case 002, amended further to the Trial Chamber's Decision on Ieng Thirith's Fitness to Stand Trial, 30 November 2011.

⁸ E124/7 *supra* note 3 at para. 10.

execution sites.⁹ Additionally, in the immediate aftermath of the “liberation” of Phnom Penh, former Lon Nol soldiers and officials were rounded up and subsequently executed at Tuol Po Chrey execution site.¹⁰ These executions, estimated to be between 2,000 and 3,000 people in Tuol Po Chrey alone,¹¹ occurred in the immediate aftermath of the CPK’s entry into Phnom Penh and were a direct result of the CPK’s evacuation of the population of Phnom Penh and other cities, during which enemies of the Party were identified and eliminated.

10. The decision to establish the S-21 security centre was taken at a meeting held in Phnom Penh on 15th August 1975,¹² with the centre becoming fully operational in October 1975.¹³ The establishment of S-21 formed part of the CPK policy to use violence to eliminate political enemies, a policy that was developed starting at the First Party Congress of 1960. S-21 was integral to the realisation of this policy and served as a key organ of the CPK from October 1975, reporting to the highest echelons of the Party.¹⁴ The decision to evacuate Phnom Penh was predicated on the basis that, in flushing out the cities, the Party would be able to identify “enemies” and eliminate them at security centres and killing sites. In Case 001, Duch testified that:

*...new people or the 17 April people...had no rights [...] Those people who were sent to S-21, the Party regarded them as the enemy already; and for the enemies, they all had to be smashed.*¹⁵

11. Accordingly, the crimes committed at S-21, which occurred as early as 1975, are also directly linked to the decision and subsequent implementation of the policy of forced transfer. All three proposed crime sites were operational in 1975, when the alleged crimes against humanity resulting from population movement took place. On this basis, the Co-Prosecutors respectfully submit that the inclusion of the proposed additional crime sites would be in the interests of justice, considering the logic and chronology of the Closing Order.

⁹ D427 Closing Order, 15 September 2010 at para. 691.

¹⁰ D427 *ibid.* at paras. 709-710

¹¹ D427 *ibid.* at para. 711

¹² D427 *ibid.* at para. 416

¹³ D427 *ibid.* at para. 416

¹⁴ D427 *ibid.* at para. 422

¹⁵ Transcript of Trial Proceedings, Questioning of the Accused, Kaing Guek Eav “Duch”, Case File No. 001/18-07-2007-ECCC/TC, 8 June 2009 at p. 5:15-20.

b. Well-substantiated crimebase is available concerning the proposed crime sites

12. In assessing whether extension of scope of trial is in the interests of justice, the Co-Prosecutors submit that the Chamber should also consider the quality and sufficiency of the evidence available in connection with the proposed additional crime sites.
13. The crimebase evidence for security centre S-21 and Choeung Ek are well-documented. Under the DK regime, these sites were instrumental in enforcing, from the leadership, the CPK's criminal plan to systematically eliminate its perceived and actual enemies and purge any adversarial forces of the party. The Closing Order contains 72 paragraphs of evidence related to S-21, Choeung Ek and purged cadres, including those from the new North, Central (old North) and East Zones, who were sent to S-21.¹⁶ The allegations in these portions of the Closing Order are substantiated with reference to both documents and witness statements provided to the Co-Investigating Judges.¹⁷ The Closing Order states that S-21 was "an organ of the Communist Party of Kampuchea [and] its management reported to the highest echelons of the Party."¹⁸ Duch has testified about the Standing Committee's effective control over the operations of S-21. In the Judgement in Case 001, this Chamber recognised a wealth of facts surrounding crimes committed at S-21 and Choeung Ek.¹⁹ This Judgment also refers to the "historical and political context [of] the structure and policy of the CPK, particularly as it applied to the operation of S-21."²⁰ In light of the strong evidentiary basis for crimes that occurred at S-21 and Choeung Ek crime sites, it is in the interests of justice to expand the scope of the first trial to include these additional sites.
14. There is also a significant evidentiary nexus between the proposed crime sites in District 12 and Tuol Po Chrey and the facts associated with historical background and the first phase of the population movement, being the focus of the first trial before the Chamber. In the Closing Order, the Co-Investigating Judges found that the execution sites in Kampong Tralach Leu District (District 12), Kampong Chhnang Province were established by CPK cadres before the fall of Phnom Penh on 17 April 1975, and that CPK headquarters were

¹⁶ See **D427** *supra* note 9 at paras. 192-204, 415-475 (notes 1806-2045, 637-697).

¹⁷ See **D427** *ibid.* at notes 637-697, 1806-2045.

¹⁸ **D427** *ibid.* at para. 422.

¹⁹ **E188** Case File/Dossier No. 001/18-07-2007/ECCC/TC, Kaing Guek Eav alias Duch, Judgment, 26 July 2010 at pp. 42-72.

²⁰ *Ibid.*

located in that district in the months preceding 17 April 1975.²¹ The executions of evacuees in District 12 were crimes specifically committed as part of the first forced movement, further to the CPK's goal of identifying and eliminating enemies removed from the cities. The Tuol Po Chrey execution site came into operation during or immediately following the first forced movement of the population.²² The primary victims of the crimes committed at these sites in the period immediately following 17 April 1975 were former soldiers, officials and civil servants of the Khmer Republic regime.²³

c. The selection and prioritisation of crime sites within the first trial should be reasonably representative of the alleged criminal conduct

15. The Severance Order and Decision rejecting the Co-Prosecutors' request for reconsideration rest on the assumption that further phases of Case 002 will, in fact, take place. As such, the Chamber finds that "there is no need for the first trial to be reasonably representative of the totality of charges in the indictment."²⁴ Thereafter, Ieng Thirith was declared unfit to stand trial.²⁵ Trial proceedings have had to be delayed or rescheduled on very short notice owing to health concerns for Nuon Chea,²⁶ witnesses²⁷ and Civil Parties.²⁸
16. The Co-Prosecutors remain concerned that this first trial within Case 002, relating to the forced movement of population, may constitute the legacy of this Chamber to the Cambodian people. In this light, the effect of the Severance Order is analogous to a selection of cases to be tried, as has occurred at the ICC and ICTY. Case selection and prioritisation directly impacts the fulfilment, or otherwise, of the object and purpose of the *Agreement Between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea* ("Agreement"). The preamble to the Agreement states that "*the General Assembly recognized the legitimate concern of the Government and the people of Cambodia in the pursuit of justice and national reconciliation, stability, peace*

²¹ D427 *supra* note 9 at paras. 687-697.

²² D427 *ibid.* at paras. 698-714.

²³ D427 *ibid.*

²⁴ E124/7 *supra* note 3 at para. 9.

²⁵ E138 Decision on Ieng Thirith's fitness to stand trial, 17 November 2011.

²⁶ Transcript of Trial Proceedings, Case File No. 002/19-09-2007-ECCC/TC, 5 & 6 December 2011.

²⁷ Transcript of Trial Proceedings, Case File No. 002/19-09-2007-ECCC/TC, 9 December 2011.

²⁸ Transcript of Trial Proceedings, Case File No. 002/19-09-2007-ECCC/TC, 7 December 2011.

and security.”²⁹ Accordingly, the pursuit of justice and national reconciliation, stability, peace and security in Cambodia are important objectives that should guide the work of the ECCC. Providing a true historical account of the crimes committed during the period of Democratic Kampuchea (“DK”) is vital to these objectives.³⁰ The accuracy of the historical record can be significantly advanced if the first trial is reasonably representative of the crimes committed during the DK regime.³¹

17. Case selection and prioritisation affects the way in which the justice process is received by the victims and others affected by the atrocities.³² It can also affect the perceived legitimacy of the process by states and the international community.³³ For example, a respected commentator on the work of the International Criminal Court has observed that the narrow charges (recruiting child soldiers) confirmed against Thomas Lubanga Dyilo damaged perceptions of that Court.³⁴ Some parallels may be drawn with the current situation before the ECCC. The first trial currently includes only the first two phases of the population movement. This stands in marked contrast to the wider pool of crime sites involving crimes of even greater gravity than those presently included in first trial. The three proposed crime sites involve acts of killing characterised as crimes against humanity in the Closing Order.³⁵
18. The first trial currently also excludes crime sites that are intrinsically linked to the first phase of the forced movement of population from Phnom Penh. In order to reach an accurate judicial assessment of the forced movement of population, the Chamber should consider all specific crimes alleged in connection with these facts. The mass executions of evacuees and former Lon Nol soldiers and officials at Tuol Po Chrey and District 12 were planned and committed as part of the phase 1 forced movement of population, and should be tried together with the forced movement. The Co-Prosecutors submit that the first trial should, at a minimum, be reasonably representative of crimes that occurred within the broader context of forced movement, including its outcomes.

²⁹ Agreement Between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, 6 June 2003 at p. 1.

³⁰ Anees Ahmed and Margaux Day, *Prosecution Criteria at the Khmer Rouge Tribunal*, Publication Series No. 4 (2010, Second Edition) at p. 115.

³¹ *Ibid.*

³² Morten Bergsmo, *The Theme of Selection and Prioritization Criteria and Why it Is Relevant*, FICHL Publication Series No. 4 (2010, Second Edition) at p. 9.

³³ *Ibid.*

³⁴ Richard Dicker, *Making Justice Meaningful for Victims*, FICHL Publication Series No. 4 (2010, Second Edition) at p. 270.

³⁵ See para. 20 below.

19. Extending the scope of the first trial to include the proposed crime sites would also more accurately link the forced movement to the crimes against humanity with which the Accused are charged in the Closing Order. The Closing Order characterises the forced movement of the population from towns and cities to rural areas as crimes against humanity committed by means of a joint criminal enterprise, specifically: murder, persecution on political grounds, and other inhumane acts through “attacks against human dignity” and forced transfer.³⁶ The Closing Order further characterises the first and second phase of the population movement as the crime against humanity of extermination.³⁷
20. In the Co-Prosecutors’ submission, linking the forced movement from Phnom Penh to killings at District 12 and Toul Po Chrey is integral, in the every least, to an accurate judicial assessment of: (i) the material and associated mental elements of killing or causing death, for the crimes against humanity of murder and extermination; (ii) the material element and associated mental element of conduct constituting or being part of a mass killing, for the crime against humanity of extermination; (iii) the nature of the deprivation of fundamental rights and the specific intent element, for the crime against humanity of persecution; and (iv) the common contextual and associated mental elements for all crimes against humanity charged in the Closing Order.

**III. EXTENDING THE SCOPE OF TRIAL AS PROPOSED WOULD
RESPECT THE RIGHT TO PREPARE AN EFFECTIVE DEFENCE AND
THE REQUIREMENT OF TIMELY NOTICE TO THE PARTIES**

21. In any decision to extend the scope of the first trial, the Chamber has indicated the importance of the rights of the Defence “to be provided with opportunity to prepare an effective defence”³⁸ and the requirement that all parties “be provided with timely notice”.³⁹ The requirement of adequate notice of charges and fair proceedings set out in Art. 35 new of the ECCC Law reflect those required in international criminal procedure and human rights law.⁴⁰
22. A review of the scope of the requirements of *sufficient notice* and *adequate time* in the practice of the *ad hoc* Tribunals demonstrates: (i) that the specificity of the charges, material facts and evidence set out in the Closing Order⁴¹ demonstrably surpasses

³⁶ D427 *supra* note 9 at para. 1525(i).

³⁷ D427 *supra* note 9 at para. 1381.

³⁸ E124 Severance Order *supra* note 1 at para. 6.

³⁹ E124 *ibid.*

⁴⁰ Vladimir Tochilovsky, *Jurisprudence of the international criminal courts and the European Court of Human Rights: procedure and evidence* (2008) at p. 280.

⁴¹ D427 *supra* note 9.

international standards; and (ii) that the a period of over 13 months since notification of the Closing Order constitutes, in the circumstances, adequate time for preparation by the Defence.

23. When assessing the *requirement of sufficient notice*, the essential question for a Trial Chamber is “whether the Defence has had reasonable notice of, and a reasonable opportunity to investigate and confront, the Prosecution case.”⁴² This has been found to include an obligation to “plead in the indictment all material facts underpinning the charges in the indictment, *but not the evidence by which the material facts are to be proven*”.⁴³ The sufficiency of notice applies both to substantive offences and modes of liability and as such, if the theory of joint criminal enterprise is relied upon, then notice must include the purpose of the enterprise, the identity of the participants, and the nature of the accused’s participation therein.⁴⁴
24. In the present case, the Closing Order details specific charges against each Accused, describes the alleged modes of liability in some detail, provides all associated material facts and – surpassing international standards – over 5 000 references to evidentiary material. The Co-Prosecutors submit, on this basis, that the Accused in Case 002 have been fully and properly notified of the charges and case to answer, including with regard to the three additional crime sites proposed in this Request.
25. When assessing the *requirement of adequate time* to prepare a defence, the ICTY Trial Chamber has held that a case-by-case evaluation will necessarily be required:
- It is impossible to set a standard of what constitutes adequate time to prepare a defence because this is something which can be affected by a number of factors including the complexity of the case, and the competing forces and claims at play, such as consideration of the interests of other accused persons.*⁴⁵
26. By way of example, in the complex, multi-accused *Delalić* trial, the ICTY Trial Chamber considered the adequacy of time for preparation one month before the start of the trial and found that a period of eight months from initial appearances was a “sufficient period of

⁴² *Prosecutor v Théoneste Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Kabiligi Request for Particulars of the Amended Indictment (ICTR Trial Chamber), 27 September 2005 at para. 5 (citing *Prosecutor v Eliézer Niyitegeka*, Judgment (ICTR Appeals Chamber), 9 July 2004 at para. 196: “[A] Trial Chamber should naturally consider whether the Prosecution has previously provided clear and timely notice of the allegation such that the Defence has had a fair opportunity to conduct investigations and prepare its response”). See also *Prosecutor v Augustin Bizimungu et al.*, Case No. ICTR-00-56-T, Decision on Nindiliyimana’s Extremely Urgent Motion to Prohibit the Prosecution from Leading Evidence on Important Material Facts Not Pleaded in the Indictment Through Witness Anf (ICTR Trial Chamber), 15 June 2006 at para. 27.

⁴³ *Prosecutor v Miroslav Kvočka et al.*, Case No. IT-98-30/1-A, Judgment (ICTY Appeals Chamber), 28 February 2005 at para. 27 [“*Kvočka* Appeals Judgment”, emphasis added].

⁴⁴ *Kvočka* Appeals Judgment, *ibid.* at para. 65.

⁴⁵ *Prosecutor v Zejnil Delalić et al.*, Case No. IT-96-21-T, Decision on the Applications for Adjournment of the Trial Date (ICTY Trial Chamber), 3 February 1997 at para. 19.

time [for counsel] to familiarise themselves with both the law and the procedure.”⁴⁶ The Trial Chamber gave weight to the fact that one co-accused had “strongly protested”⁴⁷ any further delay in the commencement of the trial.

27. During the judicial investigation, until the determination of the appeals arising from the Final Submission (i.e. 10 September 2010), all three Co-Accused have had the opportunity to monitor the evidence being placed on the Case File and participate in the investigation, whether as Suspects or Charged Persons, as provided in particular by Rules 55(6), 55(1), 57(2), 58(6), 61(4) and 66(3). During this phase of proceedings, all Defence teams and Civil Parties filed numerous submissions and appeals on the Case File. It is incontrovertible that the Defence has been on notice of the body of evidence against the Co-Accused on an evolving basis from as early as the provisional detention of the Co-Accused in November 2007, more than four years ago.
28. The Closing Order was notified to all Co-Accused, Civil Parties and their counsel on 16 September 2010. The trial began on 21 November 2011.⁴⁸ The Co-Prosecutors submit that a period of 14 months from notice of a complete set of charges to trial is more than adequate time to prepare to answer the case in full, and therefore the addition of any portions from the Closing Order during trial will not affect or undermine the requirements of adequate notice in this case. The same reasoning applies, *mutatis mutandis*, to notification of other parties to the proceedings.

IV. EXTENDING THE SCOPE OF THE FIRST TRIAL WOULD PROMOTE THE OVERALL EFFICACY OF THE PROCEEDINGS

29. The Co-Prosecutors submit that the proposed extension in the scope of trial at this stage of the proceedings affords the benefits of a more structured and well-integrated presentation of evidence; making effective use of the questioning time for witnesses who can potentially give evidence relevant to a more representative set of grave crimes as well as over-arching policies of the alleged joint criminal enterprise; and minimising the need for recall of Civil Parties and witness to those among the relatively few that have been heard to date.
30. At least 21 Civil Parties, witnesses and experts *currently appearing on the Chamber’s partial list* for the case 002/1 would also be able to provide evidence relevant to over-arching policies of the alleged joint criminal enterprise concerning the treatment of “enemies” or the implementation of these policies at the proposed additional crime sites.⁴⁹

⁴⁶ *Ibid.* at para. 26.

⁴⁷ *Ibid.* at para. 26.

⁴⁸ E131 Scheduling order for opening statements and hearing on the substance in Case 002, 18 October 2011.

⁴⁹ TCW-604, TCCP-142, TCW-542, TCW-797 and TCW-601 (relevant to CPK/DK administrative structures); TCW-320, TCW-609, TCW-475, TCW-694, TCW-586, TCW-724, TCW-323, TCW-796, TCW-490, TCW-

A further 10 witnesses and experts from the Chamber's current list would provide evidence of purges and their connection to the S-21 security centre.⁵⁰ This substantial overlap supports the Co-Prosecutors' submission that the proposed extended scope of trial promotes the overall efficacy of the proceedings. In many instances, questioning relevant to the proposed extended scope would follow naturally, logically and efficiently – from questioning on the current scope of trial.

31. By way of illustration, in his written record of interview,⁵¹ Civil Party TCCP-185 indicated that on 20 September 1978, having previously spoken out about “Angkar’s mismanagement”,⁵² he was called to travel to Phnom Penh with a group of at least seven other named cadres identified as “long time strugglers”.⁵³ The written record does not mention the Civil Party’s recollection of the fate of his fellow cadres. During questioning by the Co-Lawyer for Nuon Chea during the current trial proceedings, he testified to most of the same facts, stating that he came back to Phnom Penh in 1978⁵⁴ but additionally specified four names of cadres among those who travelled with him who were put on a truck and “taken away”.⁵⁵ He added that he does not know whether the four cadres were “taken to Toul Sleng”.⁵⁶ A review of the trial transcript clearly supports the view that only a few minutes of additional questioning by the Chamber or the parties could have completed this Civil Party’s evidence on all issues relevant to the proposed extended scope of trial. Similar logic applies to the testimony of most other Civil Parties, witnesses and experts identified above.
32. Extending the scope of trial as requested would, of course, entail calling a limited number of additional Civil Parties, witnesses and experts. The Co-Prosecutors’ initial Rule 80 list identified five witnesses in connection with Tuol Po Chrey; 12 witnesses in connection with District 12 execution sites; and one Civil Party and five witnesses in connection with S-21.⁵⁷ While deferring fully to the competence of the Chamber to determine which witnesses may best assist to establish the truth in connection with the proposed additional crime sites, the Co-Prosecutors submit that the additional time required to hear this testimony is fully justified in light of the over-riding considerations of interests of justice set out above.

707, TCW-794, TCW-234, TCW-583 and TCW-321 (relevant to the structure and operation of DK Ministries); TCW-91 and TCCP-186 (relevant to political education sessions).

⁵⁰ TCW-428, TCW-645, TCW-487, TCW-297, TCW-110 and TCW-326 (relevant to purges of cadres); TCW-281 (relevant to S-21); as well as experts TCE-11, TCE-41 and TCE-44 (relevant to the DK security centre system, of which S-21 formed a part).

⁵¹ The written record of interview of TCCP-185 has been admitted in its entirety by the Chamber: see **E3/125**, Written record of interview of Civil Party [TCCP-185], 8 November 2009.

⁵² **E3/125**, *ibid.* at A11, p. 6.

⁵³ **E3/125**, *ibid.* at A11, p.7.

⁵⁴ **E1/25.1** Transcript, 11 January 2012 at p. 60:14:22.

⁵⁵ **E1/25.1** *ibid.* at p. 61:16-17.


⁵⁶ **E1/25.1** *ibid.*

⁵⁷ **E9/4.1** Confidential Annex: proposed order of witness appearance at trial, 17 January 2011.

V. RELIEF SOUGHT

33. For these reasons, the Co-Prosecutors request that the Trial Chamber determine that an extension of the scope of trial in Case 002/1 would be in the interests of justice, and to order that the following crime sites and factual allegations from the Closing Order be brought within the scope of Case 002/1:
- (a) Executions of 17 April 1975 evacuees at sites in Kampong Tralach Leu District (District 12), Kampong Chhnang Province (Sector 31 of the Western Zone) (paras. 691, 693-697 of the Closing Order);
 - (b) Executions of former Lon Nol soldiers and officials in 1975 at Tuol Po Chrey, Kandieng District, Pursat Province (Sector 7 of the Northwest Zone) (paras. 698-711 of the Closing Order); and
 - (c) Security centre S-21 and related execution site at Choeung Ek, Kandal Province (paras. 415-475 of the Closing Order), *including* the purges of cadres from the new North, Central (old North) and East Zones sent to S-21 (paras. 192-204 of the Closing Order) but *excluding* the worksite at Prey Sar, Dangkao District, Kandal Province.

Respectfully submitted,

Date	Name	Place	Signature
27 January 2012	CHEA Leang Co-Prosecutor	Phnom Penh	
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