

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

FILING DETAILS

Case File No. : 002/19-09-2007-ECCC/TC
Party Filing : Co-Lawyers for the Defence of Mr Khieu Samphan
Filed Before : The Trial Chamber
Original : French
Date of Document : 5 July 2011

CLASSIFICATION

Classification of document Suggested by the Filing party: Public (Annexes confidential)

Classification by the Trial Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer's Name:

Signature:



**REQUEST TO ADD WITNESSES TO THE TENTATIVE LIST FOR THE FIRST
PHASES OF TRIAL**

Filed by:

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Samphan
SA Sovan
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Before:

The Trial Chamber
 Judge NIL Nonn
 Judge Sylvia CARTWRIGHT
 Judge THOU Money
 Judge Jean-Marc LAVERGNE

Assisted by:

SENG Socheata
 Marie CAPOTORTO
 Shéhérazade BOUARFA
 Archibald CELEYRON

Judge YA Sokhan

Co-Prosecutors

CHEA Leang
 Andrew CAYLEY

Civil Party Lawyers

PICH Ang
 Elisabeth SIMMONNEAU FORT

MAY IT PLEASE THE TRIAL CHAMBER

I – Introduction

1. On 27 June 2011, the Trial Chamber provided the parties in Case File 002 with the tentative list of witnesses, civil parties and experts that the Chamber intends to call during the first four phases of the trial.¹
2. Emphasising that the list is provisional and that no witness has been rejected at this stage,² the Chamber indicated that the parties could add witnesses to the list, no later than 5 July³, so that “no vitally important, relevant witness or expert is omitted”.⁴
3. Mr Khieu Samphan hereby submits the list of witnesses and experts he considers essential, and has attached brief explanations as to why.

II. Discussion

4. As he stated during the proceedings,⁵ Mr Khieu Samphan has noted that the overwhelming majority of witnesses appearing on the Chamber’s provisional list have been proposed by the Co-Prosecutors (93.75%).⁶
5. Mr Khieu Samphan has already indicated that he is prepared to actively contribute to his trial and to ascertaining the truth. However, in order for him to do so, the Chamber must hear his proposed witnesses.
6. The Chamber has indicated on several occasions that no witness has been rejected.⁷ However, it is very difficult to know whether witnesses who do not appear on the

¹ Draft transcript of Initial Hearing (T.), 27 June 2011, pp. 8-10.

² Draft transcript, 30 June 2011, p. 1, lines 9-14 and 17-18.

³ Draft transcript, 30 June 2011, p.2, line 17, p. 49, lines 3-4.

⁴ Draft transcript, 30 June 2011, p. 2, lines 13-21.

⁵ Draft transcript, 30 June 2011, pp. 22-25.

⁶ Of the total number of witnesses, Civil Parties and experts, **94.75% were proposed by the Co-Prosecutors.**

⁷ Draft transcript, 30 June 2011, p. 1, lines 9-14.

Original FRENCH: 00711687-00711690

Chamber's provisional list stand any chance of being heard during the later phases of the trial, in the absence of any information about their number and the subject matter of their testimony.

7. This means that some of the witnesses proposed by Mr Khieu Samphan may no longer be relevant for the later phases of the trial. However, they are already seen to be relevant for the first four phases.⁸
8. Mr Khieu Samphan has provided brief explanations about this, in relation to both those witnesses who were previously heard before the Co-Investigating Judges (Annex 1) and those who have not been heard (Annex 2).
9. The Chamber will note that the witnesses in Annex 1 have not been objected to by the Co-Prosecutors, as opposed to a very small number appearing in Annex 2. Furthermore, the Co-Prosecutors have conceded that the witnesses and experts proposed by Mr Khieu Samphan, regarding whom they have raised no objections, "may provide relevant and probative evidence of the material facts of the Indictment."⁹
10. The Chamber may determine that some of these witnesses shall be more relevant at later phases of the trial, for reasons known only to the Chamber. Be that as it may, such witnesses ought to be heard in the interests of justice and of a fair trial.

⁸ The first four phases of trial are: 1) The structure of Democratic Kampuchea 2) Roles of each accused during the period prior to the establishment of Democratic Kampuchea, including when these roles were assigned 3) Role of each accused in the Democratic Kampuchean government, their assigned responsibilities, the extent of their authority and the lines of communication, throughout the temporal period with which the ECCC is concerned; and 4) Policies of Democratic Kampuchea on the issues raised in the indictment. See for example: Directive in Advance of Initial Hearing Concerning Proposed Witnesses, E93 or T. 5 April 2011, p. 52.

⁹ Co-Prosecutors' Objection to the Proposed Witnesses, Civil Parties and Experts Proposed by Other Parties, with 11 Confidential Annexes, 7 March 2011, E9/14/1/1, para. 39.
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FOR THESE REASONS

11. The Trial Chamber is requested to:

- ADD Mr KHIEU Samphan's proposed witnesses to the tentative list for the first four phases of trial, or at least, summon them during the later phases of the trial.

**WITHOUT PREJUDICE,
AND JUSTICE SHALL BE DONE**

	SA Sovan Jacques VERGÈS	Phnom Penh Paris	
Date	Name	Place	Signature