

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

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CIVIL PARTY LEAD CO-LAWYERS' RULE 80 WITNESS, EXPERT AND CIVIL PARTY LISTS, INCLUDING CONFIDENTIAL ANNEXES 1, 2a, 2b, 3a, 3b, AND 4.

FILED BY:**DISTRIBUTE TO:****Civil Party Lead Co-Lawyers**Mr. PICH Ang
Ms. Elisabeth SIMONNEAU FORT**Trial Chamber**Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge THOU Mony**Co-Lawyers for Civil Parties**Mr. HONG Kimsuon
Ms. SIN Soworn
Mr. KIM Mengkhy
Ms. MOCH Sovannary
Ms. CHET Vanly
Mr. LOR Chunthy
Mr. VEN Pov
Ms. TY Srinna
Mr. SAM Sokong
Mr. KONG Pisey
Mr. YUNG Phanit
Ms. Silke STUDZINSKY
Ms. Françoise GAUTRY**Co-Prosecutors**Ms. CHEA Leang
Mr. Andrew T. CAYLEY**Accused and Defence:****IENG Sary**
Mr. ANG Udom
Mr. Michael G. KARNAVAS**IENG Thirith**

Mr. PHAT Pouy Seang

Ms. Martine JACQUIN
Mr. Philippe CANONNE
Ms. Elizabeth RABESANDRATANA
Ms. Annie DELAHAIE
Mr. Olivier BAHOUGNE
Ms. Lyma NGUYEN
Mr. Mahdev MOHAN
Ms. Marie GUIRAUD
Mr. Patrick BAUDOIN
Ms. Fabienne TRUSSES-NAPROUS
Mr. Ferdinand DJAMMEN-NZEPA
Ms. Christine MARTINEAU
Ms. Laure DESFORGES
Ms. Isabelle DURAND
Mr. Emmanuel ALTIT
Mr. Emmanuel JACOMY
Mr. Barnabe NEKUIE
Mr. Daniel LOSQ
Mr. Julien RIVET
Mr. Pascal AUBOIN
Ms. Nushin SARKARATI

Ms. Diana ELLIS

NUON Chea

Mr. SON Arun
Mr. Michel PESTMAN
Mr. Victor KOPPE

KHIEU Samphan

Mr. SA Sovan
Mr. Jacques VERGES
Mr. Philippe GRECIANO

I. PROCEDURAL BACKGROUND, APPLICABLE LAW AND INTRODUCTION

1. On 13 January 2011, the Trial Chamber (“TC”) received the case file from the Pre-Trial Chamber.
2. On 17 January 2011, the Trial Chamber issued the “Order to File Material in Preparation for Trial”¹ (“Order”). On 17 January 2011, the Parties were notified of this Order.
3. On 28 January 2011, the Office of the Co-Prosecutors (“OCP”) filed “Co-Prosecutors’ Rule 80 Expert, Witness and Civil Party Lists, Including Confidential Annexes 1, 2, 3, 3A, 4, and 5”, pursuant to the time limits set by Rule 80(1) of the Internal Rules (“IR”) and TC’s Order². On 31 January 2011, this submission was notified.
4. Pursuant to Rule 80(2) of the IR, the Lead Co-Lawyer Section respectfully submits six confidential annexes containing the lists prepared by the Civil Party Lawyers marked in different colours for each team (Annex 1) Witnesses (Annex 2a and 2b), Civil Parties (Annexes 3a and 3b) and Experts (Annex 4) that they request to be summoned to appear at trial; and the order in which they are requested to appear at trial (Annex 5).

II. ANNEXES 1 TO 4

Contents

5. Annexes 2a, 2b, 3a, 3b, and 4 contain the names and other information as requested by the TC of 146 civil parties, 18 witnesses, and 15 experts. The Annexes include, to the extent that this information is available to the Lead Co-Lawyers: each individual’s gender; place and date of birth; current address or contact details; document reference number of related documents; the type of oath that is expected each individual will take or, alternatively, where an oath is not required, their relationship to individuals in the case that precludes them from taking an oath as prescribed in Rule 24(2); the expected

¹ Order to File Material in Preparation for Trial, Trial Chamber, Case No. 002/19-09-2007-ECCC/TC, 17 January 2011, E9.

² Co-Prosecutors’ Rule 80 Expert, Witness and Civil Party Lists, Including Confidential Annexes 1, 2, 3, 3A, 4, and 5, 28 January 2011, E9/4.

language of the individual's testimony; and the estimated length of time required for the testimony.

6. Annex 1 is a clarification of the colours used to differentiate the different proposal lists received by the Civil Party Lead Co-Lawyers from each Civil Party Lawyer team. Each team was randomly assigned a different colour by the Lead Co-Lawyer Section; the colours do not have any other meaning other than to distinguish among the legal teams. As requested by Civil Party Lawyers, each proposed Witness, Civil Party or Expert is labelled in the colour corresponding to the legal team that suggested the respective Witness, Civil Party or Expert.

Protective Measures

7. Annexes 2b and 3b contain the details of proposed Witnesses and Civil Parties, respectively, for whom protective measures are requested or, granted. Annexes 2a, 3a, and 4 do not contain information concerning protective measures that may have been requested by individuals on the lists, as although some of this information is understood to have been gathered by the Office of the Co-Investigating Judges, it was not placed on the Case File.

III. SELECTION CONSIDERATIONS

8. The Civil Party Lead Co-Lawyers received from the Civil Party Lawyers the proposed lists after they had undertaken a thorough analysis of which Witnesses, Civil Parties and Experts would be the most appropriate with regards to the facts in the Closing Order or in relation to the impact of the crimes. By doing this, the rights of the Accused to a fair trial and keeping in mind the necessity of an efficient and expeditious trial have been balanced with due diligence. The testimony of at least these 146 Civil Parties, chosen among the 2123 already admitted by the Office of the Co-Investigating Judges will be central in assisting the Prosecution in proving the allegations contained in the Indictment; they are particularly pertinent in proving key material facts. They will also assist the Chamber to

assess the harm caused to the Civil Parties and to exercise their right to participate in the proceedings in a meaningful way.

9. In the event that a Witness, Expert or Civil Party, enlisted in the annexes, for any reason, cannot appear at Trial and their presence would be crucial to the proceedings, the Civil Party Lead Co-Lawyers shall provide notice to the Trial Chamber and preserve their right to request that alternative Witnesses, Experts or Civil Parties be summoned to appear in order to testify on the same or similar critical issue(s).

10. Some of the proposed Experts in Annex 4 have not been interviewed by the Office of the Co-Investigating Judges. Nevertheless the Lead Co-Lawyers consider that these individuals are in a position to offer unique expertise in a wide range of pertinent issues related to the Case. This would be further developed when the Annex related to the Expert Qualifications, Summary of Proposed Expertise and Points of the Indictment will be submitted as requested by the Trial Chamber by 23 February 2011.



IV. REQUEST

11. The Civil Party Lead Co-Lawyers request that:

- (1) Once the schedule has been decided upon, the Witnesses, Civil Parties and Experts identified in Annexes 2a, 2b, 3a, 3b and 4 shall be summoned to give evidence before the Trial Chamber pursuant to Rule 84 (2);

- (2) The Trial Chamber order the Witness & Expert Unit to provide all information necessary to the Chamber in order for them to make a determination as to whether protective measures are necessary for the Experts, Witnesses and Civil Parties that have requested them throughout these proceedings pursuant to Article 33 (new) of the Law on the Establishment and Internal Rule 29.

Respectfully submitted,

| Date | Name | Place | Signature |
|------------------|---|------------|---|
| 14 February 2011 | PICH Ang Lead Co-Lawyer | Phnom Penh |  |
| | Elisabeth SIMONNEAU- FORT Lead Co-Lawyer | Phnom Penh |  |