

BEFORE THE TRIAL CHAMBER**EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/TC**Party Filing:** Mr KHIEU Samphan**Filed To:** The Trial Chamber**Original Language:** French**Date of Document:** 13 February 2012**CLASSIFICATION****Classification Suggested by the Filing Party:** Public**Classification by the Trial Chamber:** Public សាធារណៈ/Public**Classification Status:****Review of Interim Classification:****Records Officer's Name:****Signature:****RESPONSE TO THE CO-PROSECUTORS' REQUEST TO INCLUDE ADDITIONAL
CRIME SITES WITHIN THE SCOPE OF THE FIRST TRIAL OF CASE 002**Filed by:**Lawyers for Mr KHIEU Samphan**KONG Sam Onn
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Samy SALAMONBefore:**The Trial Chamber**Judge NIL Nonn
Judge Silvia CARTWRIGHT
Judge YOU Ottara
Judge Jean-Marc LAVERGNE
Judge YA Sokhan**Co-Prosecutors**CHEA Leang
Andrew CAYLEY**All Civil Party Lawyers****All Defence Teams**

MAY IT PLEASE THE TRIAL CHAMBER

1. On 22 September 2011, the Trial Chamber issued an order in which it ordered “the separation of proceedings concerning the charges and factual allegations” of the Closing Order in Case 002.¹
2. On 3 October 2011, the Co-Prosecutors requested the Chamber to “exercise its judicial discretion to reconsider and revise the Order in the terms proposed” by the Co-Prosecutors by including an additional nine crimes sites to the first trial of Case 002, or to “hear the parties, in writing or orally, on alternate formats of severance in Case 002.”²
3. Taking into account the responses of the defence teams of Mr NUON Chea and Mr IENG Sary,³ the Trial Chamber dismissed in its entirety the Co-Prosecutors’ Request to reconsider the terms of the Severance Order.⁴
4. On 27 January 2012, the Co-Prosecutors requested the Chamber to include three of the nine sites which were initially proposed on 3 October 2011.⁵
5. On 3 February 2012, Mr IENG Sary requested the Chamber, *inter alia*, to dismiss the Co-Prosecutors’ request on the ground that it was another attempt by the Co-Prosecutors to request the Trial Chamber to reconsider its Severance Order.⁶
6. On 8 February 2012, the Co-Prosecutors replied to Mr IENG Sary, indicating that, “no other Defence teams submitted responses to the Chamber”.⁷ Mr KHIEU Samphan wishes to remind the Co-Prosecutors that Article 8.3 of the Practice Direction on Filing Documents before the ECCC provides that responses are to be filed within ten days of “notification of the

¹ Severance Order Pursuant to Internal Rule 89*ter*, E124.

² Co-Prosecutors’ Request for Reconsideration of “Severance Order Pursuant to Internal Rule 89*ter*”, E124/2 para.45.

³ Response to Co-Prosecutors’ Request for Reconsideration of the Severance Order, 11 October 2011, E124/5; IENG Sary’s Response to the Co-Prosecutors’ Request for Reconsideration of “Severance Order Pursuant to Internal rule 89*ter*”, 13 October 2011, E124/6.

⁴ Decision on the 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, E124/7.

⁵ Co-Prosecutors’ Request to Include Additional Crime Sites within the Scope of Trial in Case 002/1, 27 January 2012, (notified to the parties on 1 February 2012), E163.

⁶ IENG Sary’s Response to the OCP’s Request to Include Additional Crime Sites within the Scope of Trial in Case 002/01, E163/1.

⁷ Co-Prosecutors’ Leave to Reply and Reply to IENG Sary’s Response Regarding Additional Crime Sites Within the Scope of Trial in Case 002/01, 8 February 2012, E163/2, para.2.

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document to which the participant is responding.” In this instance, the Co-Prosecutors’ request was notified on 1 February 2012. The parties therefore have until 13 February to file a response.

Inadmissibility of the Co-Prosecutors’ Request

7. Mr KHIEU Samphan submits that the Co-Prosecutors’ request is repetitive. The Co-Prosecutors are reiterating their earlier requests, but with a reduced scope.⁸ To the extent that the Chamber dismissed the Co-Prosecutors’ earlier request in its entirety,⁹ Mr KHIEU Samphan will not respond to the substance of this new request, and he requests the Chamber to reject the Co-Prosecutors’ Request without considering it any further.

FOR THESE REASONS

8. The Defence for Mr KHIEU Samphan requests the Trial Chamber to:

- REJECT the Co-Prosecutors’ Request without considering it any further.

	KONG Sam Onn	Phnom Penh	[Signed]
	Arthur VERCKEN	Paris	for [Signed]
	Jacques VERGÈS	Paris	for [Signed]
Date	Name	Place	Signature

⁸ E163, para. 5 “These crime sites reflect just three of the nine initially proposed by the Co-Prosecutors for inclusion in the first trial”..

⁹ E124/7.