

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

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC

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IENG THIRITH MOTION TO SUBMIT ITS LIST OF DOCUMENTS

Defence for Ieng Thirith:

PHAT Pouv Seang
Diana ELLIS, QC

Trial Chamber Judges:

NIL Nonn, President
Silvia CARTWRIGHT
THOU Mony
Jean-Marc LAVERGNE
Ya SOKHAN

Civil Party Co-Lead Lawyers:

PICH Ang
Elisabeth SIMONNEAU FORT

Co-Prosecutors:

CHEA Leang
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1. On 17 January 2011, the Trial Chamber considered itself seized of Case 002, and indicated in the 'Order to File Material in Preparation for Trial' (**Order**)¹ that the parties have to file their document and exhibits lists (**Documents List**) in accordance with the said Order by 13 April 2011.² On 28 March 2011 the Trial Chamber issued a memorandum to all the parties, informing them of the Chamber's judicial recess during the period of 11 and 18 April 2011.³ No documents can be filed during this recess, as a result of which the Documents List must be filed on 19 April 2011.
2. The defence for Madame Ieng Thirith (**Accused**) herewith submits its Documents List, attached hereto as **Annex 1** and its Evidentiary Chart, attached as **Annex 2**.
3. The defence reiterates that it is currently not receiving instructions from the Accused. The selection of documents is therefore made by the defence acting on behalf of the Accused. The defence respectfully seeks to ensure that it reserves its right to add documents to the Documents List, if the circumstances change and the Accused is able to instruct her defence in the future date and is able to participate actively in the proper preparation of her defence.
4. An e-mail dated 8 April 2011 from the Trial Chamber's Senior Legal Officer, Ms. Susan Lamb, to the parties specified that:


The Chamber confirms that all parties are obliged, on 19 April, to file only those documents germane to their witnesses sought and the case against their particular client. There is no obligation to submit documents assumed to be of relevance to witnesses called by other parties.
5. Accordingly, the defence will only submit those documents it deems relevant to its own case and witnesses, and it presumes that the other parties will likewise file all documents relevant to their own witnesses. Should one of the parties fail to do so, the defence reserves the right to rely on documents the other party has failed to put on its Documents List and which are relevant to a specific witness.

¹ TC, Order to File Material in Preparation for Trial, 17 January 2011, Document No. E9.

² Order, para. 12.

³ TC, Memorandum, 28 March 2011, Document No. E68.

6. Internal Rule 84 grants the Accused 'the absolute right to summon witnesses against [...] her whom the Accused had no opportunity to examine during the pre-trial stage'. If the Co-Prosecutors intend to submit into evidence witness statements against the Accused made before the Co-Investigating Judges, the defence contends that those witnesses should give live testimony as it has the absolute right to cross-examine such witnesses. The defence wishes to emphasize that this right only applies in its absolute form to the Accused and not to the other parties.
7. Finally, at the Trial Management Meeting the issue of authentication of documents was raised.⁴ The defence herewith informs the Chamber that it has not authenticated the documents on its Documents List, nor is it in a position to do so. The defence reserves the right to challenge the authenticity of all documents put into evidence before the Chamber. It is fundamental to a fair trial that the provenance of each and every document sought to be relied upon by the Trial Chamber should be properly identified so that its authenticity can be confirmed, though admissibility may not be the issue as much as the weight attached to it.

Party	Date	Name Lawyers	Place	Signature
Co-Lawyers for Ieng Thirith	19 April 2011	PHAT Pou Seang Diana ELLIS, QC	Phnom Penh	 P.P.

⁴ See Draft Transcript of Trial Management Meeting, 5 April 2011, page 74.