

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

FILING DETAIL

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**REQUEST FOR A COMPREHENSIVE, ORGANIZED AND SEQUENTIAL LIST OF
ALL DOCUMENTS ADMITTED INTO EVIDENCE IN CASE 002/01**

Filed by

Nuon Chea Defence Team:
SON Arun
Victor KOPPE
PRUM Phalla
SUON Visal
Joshua ROSENSWEIG
Forest ONEILL-GREENBERG
Elizabeth BUDNITZ

Distribution

Co-Accused

Co-Prosecutors:
CHEA Leang
Andrew CAYLEY

Co-Lawyers for Civil Parties:
PICH Ang
Elisabeth SIMONNEAU-FORT

The Co-Lawyers for Nuon Chea ('the Defence') hereby submit the instant request for a comprehensive list of all documents admitted in Case 002/01:

1. In a courtesy copy of a memorandum circulated to the parties on 15 August 2013 ('Memorandum'), the Chamber stated:

NUON Chea has filed a request to be provided with a "definitive" list of E3 documents. With the notification of the third document decision (E185/2) and the written statements decision (E299), and the accompanying annexes, the Chamber has accorded an E3 number to all the documents admitted in Cases 002/01. Until these numbers are transferred to Zylab, parties should rely upon the E3 classification indicated in the annexes to E185/2 and E299. The Chamber considers the remaining submissions in E295/3 to be repetitive of previous NUON Chea filings addressed in the Chamber's written statements decision (E299) and reminds the parties that no further motions are to be filed on the subject of the admissibility and probative value of witness statements.¹

2. The Defence notes firstly that the request for 'a "definitive" list of E3 documents' was made not by the defence for Nuon Chea but the defence for Khieu Samphan, which has repeatedly sought such a list without obtaining any clear response from the Chamber.² The Defence furthermore notes that the Chamber's instructions in the Memorandum remain ambiguous in relation to whether such a list is forthcoming. In particular, the Memorandum does not clarify whether a list will be provided once the new document numbers are 'transferred to Zylab'. The requests for a definitive list of E3 numbers were, in any event, independent of the Chamber's 'written statements decision (E299)'.
3. Admitted documents have been listed on a series of annexes attached to various decisions issued by the Chamber over the course of the trial. While some of those annexes concern specific themes, others constitute collections of documents tendered by particular parties or at particular times. The annexes are available to the parties in 'pdf' form only, and as a consequence cannot be organized or sorted electronically. Most importantly, it appears that even in the aggregate, these annexes are not comprehensive as a list of admitted documents. For instance, some documents appear to have been issued E3 numbers in daily Written Records of Proceedings without having been listed on an annex.³ As the

¹ Memorandum from President of the Trial Chamber to Parties, circulated via email from Ken Roberts, dated 15 August 2013.

² See e.g., Document No. **E-295/2**, 'Nouvelle demande de la Défense de M. KHIEU Samphân de report du point de départ du délai de dépôt des conclusions finales', 8 August 2013, paras 8, 13; Document No. **E-288/2**, 'Observations de la Défense de M. KHIEU Samphân en vue de la réunion de mise en état du 13 juin 2013', 5 June 2013, paras 23-24.

³ See e.g., E3/3988 through E3/3994.

Co-Prosecutors recently noted, other documents may have ‘fallen through the cracks’, and not yet assigned E3 numbers although possibly admitted into evidence.⁴

4. Possession of a ‘definitive’ list of E3 numbers is essential. First, it would provide the parties with full clarity about exactly which documents have been admitted and avoid any possible uncertainty. For obvious reasons, certainty concerning the evidence on which the Chamber may rely in the verdict is essential to the parties’ ability to draft closing submissions.⁵ Second, such a list would provide Nuon Chea with a condensed and comprehensive overview of the evidence, which is essential to his ability to advise counsel in light of his limited ability to concentrate for prolonged periods. It would provide similar assistance to national and international counsel. Third, this list would facilitate and expedite the drafting process, to the extent that conversions are still required between document numbers used during the investigation and those assigned at trial.
5. For these reasons, the Defence respectfully requests that the Chamber clarify whether a definitive list of all admitted documents is forthcoming and urgently issue such a list, indicating original document numbers and those assigned by the Chamber at trial.

CO-LAWYERS FOR NUON CHEA



SON Arun



Victor KOPPE

⁴ Document No. **E-1/227.1**, ‘Transcript of Trial Proceedings’, 23 July 2013, pp. 44:16-45:3.

⁵ Document No. **E-295/3**, ‘Request for Clarification Concerning Decision on Admissibility of Witness Statements, Complaints and Transcripts and for Extension of the Deadline for Closing Submissions’, 9 August 2013.