

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

Case File No.: 001/18-07-2007-ECCC/TC
Filed Before: Trial Chamber
Document Date: 16 February 2009
Filing Party: Lawyers for KAING Guek Eav alias Duch
Original Language: FRENCH
Type of document: PUBLIC

DEFENCE RESPONSE TO THE CO-PROSECUTORS' MOTION TO SUBMIT NEW
EVIDENCE, DATED 28 JANUARY 2009

Filed by:
Lawyers for the Accused
KAING Guek Eav
KAR Savuth
François ROUX

Filed before:
Trial Chamber Judges
Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge THOU Mony
Co-Prosecutors
CHEA Leang
Robert PETIT
Lawyers for the Civil Parties
KONG Pisey
HONG Kimsuon
YOUNG Panith
Silke STUDZINSKY
KIM Mengkhy
MOCH Sovannary
Martine JACQUIN
Philippe CANNONE
TY Srinna
Pierre Olivier SUR

ឯកសារទទួល
DOCUMENT RECEIVED/DOCUMENT REÇU
ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de réception):
..... ១៦ . ០១ . ២០០៩

ឯកសារច្បាប់សម្រាប់ប្រើប្រាស់តាមច្បាប់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវបញ្ជាក់ (Certified Date/Date de certification):
..... ០៦ . ០១ . ២០០៩

[001/18-07-2007-ECCC/TC]

MAY IT PLEASE THE TRIAL CHAMBER

1. In a Motion dated 28 January 2009, the Co-Prosecutors moved and requested the Trial Chamber for leave to submit new evidence, namely two sequences of film footage of S-21 which, they assert, contain images filmed in the immediate aftermath of the discovery of S-21 by Vietnamese troops.¹
2. The Defense notes that the Co-Prosecutors' preliminary investigation lasted nearly one year, that the Co-Prosecutors subsequently participated in more than 10 months of judicial investigation and that nearly six months elapsed after their appeal against the Closing Order before they filed the Motion at issue before the Trial Chamber, which is now seised of the matter.
3. Accordingly, the Defence considers the Co-Prosecutors' submissions in justification of the late filing of these materials to be totally inadmissible.
4. Consequently, as matters stand, the Defence moves and requests the Trial Chamber that these materials be excluded from the proceedings.
5. In the unlikely event that the Trial Chamber decides to grant the Co-Prosecutors' Motion, the Defence wishes to inform the Trial Chamber that as far as the Defence is concerned, these film sequences amount to a blatant attempt to massage the facts, and that the Defence reserves the right to revisit the issue during the substantive trial.

WITH ALL PROPER RESERVES

Co-Lawyers Kar Savuth François Roux	Phnom Penh	
Name	Place	Signature

¹ *Motion of Co-Prosecutors to Submit New Evidence*, 28 January 2009 (French translation served on 11 February 2009), E5/10.