



**ឯកសារដើម**  
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ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

**TRIAL CHAMBER**

**TO: All parties, Case 002**

**សាធារណៈ / Public**

**Date: 16 July 2012**

**FROM: NIL Nonn, President, Trial Chamber**



**CC: All Trial Chamber Judges, Trial Chamber Senior Legal Officer**

**SUBJECT: Response to IENG Sary's second Rule 87(4) request regarding material which may be used during the examination of Expert David Chandler (E172/24/5)**

1. The Trial Chamber is seised of a request from the IENG Sary Defence to put five documents before the Chamber and to be afforded the opportunity to use this material during the examination of Expert David CHANDLER pursuant to Rule 87(4).
2. As the IENG Sary Defence points out, the documents identified as (C), (D) and (E) in its motion E172/24/5 have been included in other parties' lists of proposed documents for the early trial segments.<sup>1</sup> The Chamber recalls its previous direction that "any document the parties intend to use in court and which has not been accorded an E3 classification [...] or which is not mentioned on any list of documents proposed to be put before the Chamber must instead satisfy the requirements of Internal Rule 87(4)" (E199). In light of the fact that documents (C)-(E) were included on the Co-Prosecutors' list of documents filed in July 2011, there is no need for a Rule 87(4) application to be made in respect of them and they may be put before the Chamber in the course of trial proceedings subject to their satisfaction of the usual evidentiary criteria set out in Rule 87(3).
3. The documents identified as (A) and (B) in E172/24/5 were not included in any other party's list of proposed documents; however, they are merely different editions of books which have been

<sup>1</sup> Document D288/4.59.1 is included as entry #51 in the Co-Prosecutors' list E109/4.11; D108/50/1.74 is included as #169 in E109/4.19; and D222/1.16 is #243 in E109/4.19.

included in other parties' document lists.<sup>2</sup> The Chamber recalls that it has previously allowed a new document to be placed on the Case File belatedly on the grounds that it was closely related to material properly identified on a party's list and it was in the interests of justice to allow the two sources to be evaluated together (E190, paragraph 32). In this instance, the Chamber considers that it is in the interests of justice to allow the various editions of these books to be evaluated together. Documents (A) and (B) may therefore be put before the Chamber and used during the examination of Expert David CHANDLER, subject to satisfaction of the usual Rule 87(3) criteria.

4. This constitutes the Chamber's official response to motion E172/24/5.

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<sup>2</sup> Document (A) ("A History of Cambodia", 4<sup>th</sup> edition) corresponds to entry #173 in the Co-Prosecutors' list E109/4.19 ("A History of Cambodia", 3<sup>rd</sup> edition), which is on the Case File as D366/7.1.69. Document (B) ("Brother Number One: A Political Biography of Pol Pot", 1<sup>st</sup> edition) corresponds to entry #171 in E109/4.19 ("Brother Number One: A Political Biography of Pol Pot", revised edition), which has been put before the Chamber as E3/17. The IENG Sary Defence neglected to provide this information in its motion. The Chamber repeats its previous reminder to the parties that, when seeking to put documents before the Chamber, they should give the Chamber full information about the document lists (if any) in which the material has been identified: T., 21 June 2012, pp. 93-94.