

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
..... 07 / 08 / 2012

ម៉ោង (Time/Heure): 14 : 30

អន្តើទទួលបន្ទុកសំណុំរឿង (Case File Officer/L'agent chargé du dossier):
..... S. ANN RAYA

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

សាធារណៈ / Public

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

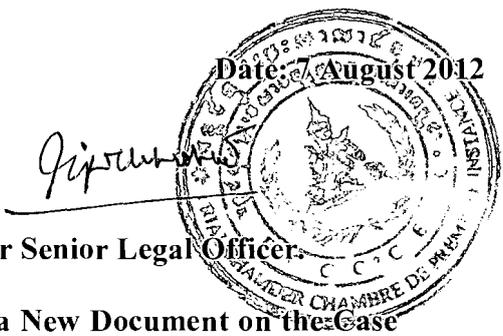
TRIAL CHAMBER

TO: All parties, Case 002

FROM: NIL Nonn, President, Trial Chamber

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer.

SUBJECT: Response to Rule 87(4) Request to Place a New Document on the Case File (E217)



1. The Trial Chamber is seised of a request from the NUON Chea Defence to place a new document on the Case File, and to allow the use of the document during the examination of forthcoming witnesses and the making of final submissions (E217). The document in question is an article about the ECCC published on the internet on or around 23 July 2012. The application is variously phrased as “a request to place a new document [...] on the Case-File” (E217, para. 1) and a request “to admit the Article as a piece of ‘new evidence’” (E217, para. 12). The Chamber understands the application to be a request to put the document before the Chamber pursuant to Internal Rule 87(4).

2. Under Rule 87(4), the Chamber may admit new evidence which it deems conducive to ascertaining the truth, subject to the general criteria for the admissibility of evidence set out in Rule 87(3). Rule 87(3) provides, in particular, that the Chamber may reject a request for evidence where it finds that it is “irrelevant or repetitious”.

3. The NUON Chea Defence acknowledges that “each of the Article’s major points has (in one way or another) formed the factual basis for written submissions filed by the Defence before this Chamber” (E217, para. 5). Although the NUON Chea Defence contends that the article contains “several new conclusions” (E217, para. 10), it does not attempt to substantiate this assertion or reconcile it with the previous admission that the article’s major points have already formed the factual basis of prior submissions. Moreover, conclusions drawn by a journalist regarding the fairness of proceedings at the ECCC – even if they are new conclusions – have no evidential value, and are unsuitable to prove the facts they purport to prove. As such, they do not fall within the scope of Internal Rule 87(4). For these reasons, the Chamber considers that the article does not contain any new facts and is merely repetitious of previous filings. Accordingly, the NUON Chea Defence’s request is rejected.

4. The Chamber notes that the article has already been placed on the Case File as an automatic consequence of its being annexed to the NUON Chea Defence's filing (E217.1). For the avoidance of doubt, the Chamber clarifies that the article may not be put before it as evidence (*i.e.* utilised during the questioning of any witness or relied upon as evidence by any party during its final submissions).