

**ឯកសារដើម**  
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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):  
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មន្ត្រីទទួលបន្ទុកសំណុំរឿង (Case File Officer/L'agent chargé de dossier):  
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E285/3



**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**

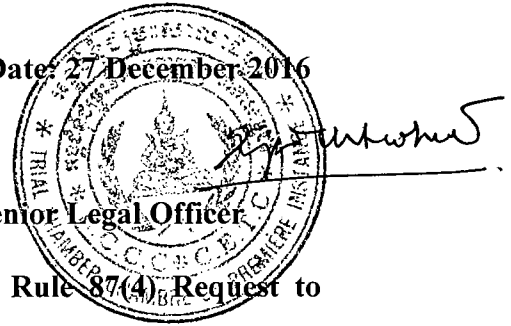
**សាធារណៈ / Public**

**TO: All Parties, Case 002** **Date: 27 December 2016**

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

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

**SUBJECT: Decision on Civil Party Lead Co-Lawyers' Rule 87(4) Request to Admit a Document into Evidence (E285/2)**



1. The Trial Chamber is seised of an Internal Rule 87(4) request, filed on 14 December 2016 by the Civil Party Lead Co-Lawyers to place on the case file and admit into evidence an appendix to the second edition of the book “Cambodia’s Hidden Scars” (“Request”) (E285/2). The Chamber in Case 002/01 granted a request by Lead Co-Lawyers to admit into evidence the first edition of the book “Cambodia’s Hidden Scars” (E285/1). The second edition of this book includes a new appendix, which is a report prepared by the Stanford University School of Medicine on the mental health impact of the trauma suffered by the Civil Parties in Case 002/02 (“Report”) (E285/2.1). The Chamber heard oral submissions from the parties on 15 December 2016. The NUON Chea Defence opposed the admission of the Report on the basis of the methodology used and the conclusions contained therein. The other parties did not oppose the Request (T., 15 December 2016, pp 25-30, draft).

2. According to Internal Rule 87(4), the Trial Chamber may admit, at any stage of the trial, all evidence that it deems conducive to ascertaining the truth, where that evidence also satisfies the *prima facie* standards of relevance, reliability and authenticity required under Rule 87(3). The Chamber determines the merit of a request to admit new evidence in accordance with the criteria in Rule 87(3). Rule 87(4) also requires that any party seeking the admission of new evidence shall do so by a reasoned submission. The requesting party must satisfy the Trial Chamber that the proposed evidence was either unavailable prior to the opening of the trial or could not have been discovered with the exercise of reasonable diligence. However, in certain cases, the Chamber has admitted evidence which does not strictly speaking satisfy this criterion, including in instances

where evidence relates closely to the material already before the Chamber and where the interests of justice require the sources to be evaluated together, and where the proposed documents are exculpatory and require evaluation to avoid a miscarriage of justice (E276/2, para. 2 referring to E190 and E172/24/5/1; E260, para. 5).

3. Given that the Lead Co-Lawyers were only informed about the publication of the Report on 23 November 2016 (E285/2, para. 12), it was unavailable at the start of the trial and the Lead Co-Lawyers exercised reasonable diligence in bringing the Request. The Chamber therefore finds that the Request was timely. Having considered the submissions of the parties and the content of the Report, the Chamber finds that the latter updates a study already admitted and could assist the Chamber in assessing the mental harm suffered by the Civil Parties and is thus conducive to ascertaining the truth. While the NUON Chea Defence raised objections with respect to the methodology and the nature of the conclusions reached in the Report, these are factors which the Chamber will assess in weighing the probative value of the evidence and does not preclude its admission.

4. The Chamber therefore finds that the Report should be admitted pursuant to Internal Rule 87(4) and grants the Lead Co-Lawyers' request. The Chamber assigns document number E3/10790 to the Report and instructs that the Khmer translation be completed as soon as possible.

5. This constitutes the Chamber's official response to E285/2.