

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

FILING DETAILS

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**CO-PROSECUTORS' RULE 87(4) REQUEST TO PLACE PHOTOGRAPHS
ON THE CASE FILE WHICH ARE RELEVANT TO THE
EXPERT WITNESS TESTIMONY OF ELIZABETH BECKER**

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REQUEST

1. Pursuant to Rule 87 (4) of the ECCC Internal Rules, the Co-Prosecutors respectfully seek leave to place 12 photographs taken during Elizabeth Becker's visits to Cambodia both before (see photo 1) and during the period of Democratic Kampuchea (see photos 2 – 12). These photos were either taken by Elizabeth Becker or someone present with her at the time. They are likely to assist Elizabeth Becker in providing her testimony when she appears at trial and thereby assist the Trial Chamber in ascertaining the truth concerning the facts alleged in the Indictment.
2. In applying Rule 87(4) the Trial Chamber has held that a party "may submit any new 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). Ordinarily, the requesting party must also satisfy the Chamber that the proposed evidence was either not available before the opening of the trial or could not have been discovered with the exercise of due diligence. However, in certain cases, the Chamber has admitted documents which are not, strictly speaking, new, including in instances where a document relates closely to material already on the Case File and where the interests of justice require the sources to be evaluated together, where the proposed documents are exculpatory and require evaluation to avoid a miscarriage of justice, or where the other parties do not object to the documents (*see e.g.* E260 and E172/24/5/1)."¹
3. These 12 color photos were taken during Elizabeth Becker's visit to Cambodia in 1978 except for one which appears to be taken during her time in Cambodia from 1973 to 1974. The photos record some of the locations she was shown and the people she met including Ieng Sary and Pol Pot. A few of these photos (number 6 and 11 below) and similar photos appear in her book "*When the War Was Over*" (E3/20)² which has been admitted as evidence by the Trial Chamber. However the photos in the book are in black and white and are of a poorer

¹ E260 Memorandum to the Parties, "Response to Rule 87(4) Requests to Place New Documents on the Case File", 18 January 2013 at para. 5.

² Page 304 of the English Version.



quality. The photos are annexed to this submission. and are described in the table below.

| No | Description | ERN |
|----|---|---------------------|
| 1 | Elizabeth Becker walking along a road with soldiers | P 00889590-00889590 |
| 2 | Independence Monument | P 00889586-00889586 |
| 3 | Central Market | P00889603-00889603 |
| 4 | Two cadres standing on road | P 00889587-00889587 |
| 5 | Dudman, Becker, Commander Pin and Caldwell standing on road | P00889605-00889605 |
| 6 | Women working | P00889597-00889597 |
| 7 | Women working | P00889599-00889599 |
| 8 | 2 Women standing in front of hut | P00889596-00889596 |
| 9 | Workers in the field | P 00889601-00889601 |
| 10 | Young boy | P 00889589-00889589 |
| 11 | Pol Pot | P 00889606-00889606 |
| 12 | Caldwell with Ieng Sary | P 00889591-00889591 |

4. The photographs are relevant in that they record the general conditions in Democratic Kampuchea as shown to her by CPK officials. One photo also records the presence of Ieng Sary in Cambodia at the time. They are prima facie reliable in that from the information obtained from the Bophana website it appears these photographs have either been taken by Elizabeth Becker herself or in her company whilst on her visit in 1978 and previously in 1973-74. In addition, given the length of time between Elizabeth Becker's visit to Democratic Kampuchea, now over 34 years ago, these photos are likely to assist her in refreshing her memory.
5. It is unknown to the Co-Prosecutors whether these photographs were available on the Bophana website prior to the commencement of the trial. It is submitted however as these photographs are either the same, of the same type or are visual representations of descriptions that appear in her book - in line with the Trial Chambers jurisprudence - although they are not "strictly speaking new" this evidence closely relates to her book which has already been admitted as

evidence. It is therefore submitted it is in the interests of justice to allow the admission of such photographs to assist Elizabeth Becker in refreshing her memory of events and consequently further assist the Trial Chamber in ascertaining the truth.

Respectfully submitted,

| Date | Name | Place | Signature |
|--------------|---------------------------------------|------------|---|
| 1 March 2013 | CHEA Leang Co-Prosecutor | Phnom Penh |  |
| | William SMITH Deputy Co-Prosecutor | |  |

