

BEFORE THE TRIAL CHAMBER**EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/TC**Party Filing:** Mr KHIEU Samphân**Filed to:** Trial Chamber**Original Language:** French**Date of Document:** 26 March 2013**CLASSIFICATION****Classification of the Document Suggested by the Filing Party:** Public**Classification by the Trial Chamber:** Public**Classification Status:****Records Officer's Name:****Signature:**

**MR KHIEU SAMPHÂN'S REQUEST TO PUT BEFORE THE CHAMBER
A NEW DOCUMENT**

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Before:**The Trial Chamber**

Judge NIL Nonn

Judge Silvia CARTWRIGHT

Judge YOU Ottara

Judge Jean-Marc LAVERGNE

Judge YA Sokhan

The Co-Prosecutors

CHEA Leang

Andrew CAYLEY

All Civil Party Lawyers**All Defence Teams**

MAY IT PLEASE THE TRIAL CHAMBER

1. On 7 March 2013, The KHIEU Samphân Defence was apprised of the interview given by Expert Witness Philip SHORT to the *Phnom Penh Post* newspaper appearing on that day.¹
2. Today, pursuant to Internal Rule 87(4), the KHIEU Samphân Defence is requesting that the interview be put before the Chamber and admitted into evidence.²
3. It goes without saying that the interview given and published in March 2013 was not available before the opening of the trial. Even by exercising all due diligence, the Defence could never have discovered the interview before it was published.
4. Moreover, this new document is conducive to ascertaining the truth and fulfils the requirements listed in Internal Rule 87(3).³
5. In the interview, Mr SHORT describes a lengthy encounter with Mr KHIEU Samphân which appears to have occurred 12 years ago. He says that on that occasion they discussed issues relevant to the current trial.
6. In the article, Mr SHORT also refers to interviews he had with witnesses who have already testified during the trial. He provides the example of a witness whose testimony before the Chamber differs from statements given earlier to Mr SHORT. The Expert Witness specifies that he recorded such statements.

¹ *Phnom Penh Post* article entitled “*Pol Pot biographer talks tribunal*”, interview of Philip SHORT by Justine DRENNAN, 7 March 2013, annexed

² “During the trial, either on its own initiative or at the request of a party, the Chamber may summon or hear any person as a witness or admit any new evidence which it deems conducive to ascertaining the truth. Any party making such request shall do so by a reasoned submission. The Chamber will determine the merit of any such request in accordance with the criteria set out in Rule 87(3) above. The requesting party must also satisfy the Chamber that the requested testimony or evidence was not available before the opening of the trial.”

³ “(...) The Chamber may reject a request for evidence where it finds that it is: a. irrelevant or repetitious; b. impossible to obtain within a reasonable time; c. unsuitable to prove the facts it purports to prove; d. not allowed under the law; or e. intended to prolong proceedings or is frivolous.”

7. Moreover, the article is particularly relevant because in it Mr SHORT mentions:

- facts related in his book that have already been put before the Chamber⁴ and which describe the ideas and deeds of the Khmer Rouge;
- an article he wrote ⁵ in the past which the Chamber has already deemed conducive to ascertaining the truth and accepted to have tendered into evidence.⁶

8. Furthermore, the Defence advises that it has requested the translation of this short article which will be available in all three of the working languages of the Court before Mr Philip SHORT appears to testify.

9. **WHEREFORE**, the Defence for Mr KHIEU Samphân requests the Trial Chamber to PUT BEFORE THE CHAMBER and ADMIT INTO EVIDENCE this new document.

	Mr KONG Sam Onn	Phnom Penh	[Signed]
	Ms Anta GUISSÉ	Phnom Penh	[Signed]
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⁴ E3/9, Philip Short, *Pol Pot: Anatomy of a Nightmare*

⁵ E226/1.1.1, Philip Short, *Devil's advocate: there should be no KR trial*, *The Phnom Penh Post*, issue 9/23, 10-23 November 2000.

⁶ E260, Response to Internal Rule 87(4) Requests to Place New Documents on the Case File concerning the Testimony of Witnesses François PONCHAUD and Sydney SCHANBERG (E243) and Experts Philip SHORT (E226, 226/1 and 230) and Elizabeth BECKER (E232 and E232/1), Memorandum, 18 January 2013, paras. 4 and 6. MR KHIEU SAMPHAN'S REQUEST TO PUT BEFORE THE CHAMBER NEW A DOCUMENT
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