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du dossier: **SANN RADA**

E338

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

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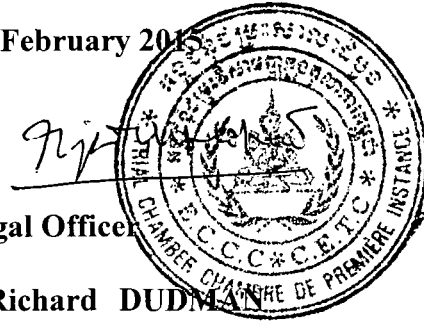
TRIAL CHAMBER

សាធារណៈ / Public

TO: All Parties, Case 002

Date: 6 February 2015

FROM: NIL Nonn, President of the Trial Chamber



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

SUBJECT: Documents related to Elizabeth BECKER and Richard DUDMAN placed on the Case File by the Trial Chamber on its own initiative

1. The Trial Chamber places onto the Case File several documents related to upcoming testimony of Elizabeth BECKER and Richard DUDMAN.

Elizabeth BECKER

2. In Case 002/01, the Co-Prosecutors filed a request, pursuant to Internal Rule 87(4), to place on the Case File and admit into evidence twelve colour photographs taken during Elizabeth BECKER's visits to Cambodia during the Democratic Kampuchea period (E264/2; The photographs are attached to the Co-Prosecutors' Request). However, the Trial Chamber did not proceed with the testimony of Elizabeth Becker due to IENG Sary's hospitalization and a work stoppage by the Interpretation and Translation Unit, both in March 2013 (see E264/3). As a result, the Trial Chamber did not rule on E264/2. The Trial Chamber now intends to call Elizabeth BECKER to give evidence in Case 002/02 during the portion of the trial related to the Tram Kok Cooperatives and Kraing Ta Chan Security Centre (E305/6.1).

3. In E264/2, the Co-Prosecutors submitted that the photos will likely refresh Elizabeth BECKER's memory or otherwise assist her to give evidence (E264/2, paras 1, 4). The photos document several locations she visited, general conditions in Democratic Kampuchea at the time of her visit, and her meetings with POL Pot and IENG Sary (E264/2, paras 3, 4). The Co-Prosecutors also submitted that two of the photos and other similar photos are included in Elizabeth BECKER's book, *When the War Was Over: Cambodia and the Khmer Rouge Revolution*, a source already on the Case File (E3/20), and that the photos are evidence closely related to the book (E264/2, paras 3, 5). The Co-

Prosecutors, who took these photos from a website, did not know whether these photos were available before the start of Case 002 (E264/2, para. 5). For these reasons, the Co-Prosecutors submitted that admitting these documents onto the Case File is in the interests of justice.

4. According to Internal Rule 87(4), the Trial Chamber may admit 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).

5. In certain cases the Trial Chamber will admit evidence that does not strictly satisfy this criteria when the interests of justice so require (E190, paras 19-21; E289/2, para. 3). These instances include where evidence relates closely to material already before the Trial Chamber and where the interests of justice require the sources to be evaluated together, where the proposed evidence is exculpatory and requires evaluation to avoid a miscarriage of justice, or where the other parties do not object to the evidence (*see e.g.* E190 and E172/24/5/1).

6. The Trial Chamber finds that these photos are relevant, reliable, and authentic and relate closely to E3/20. The interests of justice require them to be evaluated together. The photos may also be useful in refreshing Elizabeth BECKER's memory, considering that her visits to Democratic Kampuchea took place about forty years ago. The photos are therefore conducive to ascertaining the truth. In the interests of justice, the Trial Chamber places these photos on the Case File.

7. The Chamber also places onto the Case File and admits into evidence the following documents — contemporaneous news articles written by Elizabeth BECKER, a letter to the United Nations by a representative of Democratic Kampuchea, and additional photographs — which pertain to her expected testimony and will be conducive to ascertaining the truth. The Chamber considers these documents to be *prima facie* relevant, reliable, and authentic as required by Internal Rule 87(3):

- *Angkor Wat Given New Symbolic Role* (Herald Tribune), 29 December 1978, ERN (En) S 00014128-00014128;
- *Cambodia Bars Details on Phnom Penh* (IHT), 3 January 1979, ERN (En) 00419355-00419356;
- *'Three hours later, a terrorist shot his way into our house, threatened me with a pistol, shot at and killed Caldwell at point-blank range'* Dudman (The Guardian), 27 December 1978, ERN (En) S 00014105-00014105;
- *Few answers to troublesome questions* (International Herald Tribune), 27 December 1978, ERN (Eng) S 00014114-00014114;
- UN Doc. A/34/621-S/13589, Annex ("Crimes of the Hanoi Authorities against Kampuchea and against Humanity"), 26 October 1979, ERN (En) 00180075-00180103, ERN (Fr) 00180133-00180165;

- colour photographs taken during Elizabeth BECKER's visits to Cambodia during the Democratic Kampuchea period:
 - i. Watering the Rice Fields, ERN P 00889583-00889583;
 - ii. Khmers Working, ERN P 00889584-00889584;
 - iii. Khmers Working on Boat, ERN P 00889585-00889585;
 - iv. Khmers, ERN P 00889588-00889588;
 - v. E. B. Eating with Others, ERN P 00889593-00889593;
 - vi. Posing at Temple, ERN P 00889594-00889594;
 - vii. Sary, ERN P 00889595-00889595;
 - viii. Women Carrying Sacks, ERN P 00889598-00889598;
 - ix. E. B. with the Two Journalists and Khmer Man, ERN P 00889600-00889600;
 - x. E. B. Exhibition 1, ERN P 00889602-00889602; and
 - xi. E. B. Exhibition 4, ERN P 00889604-00889604.

These documents are currently available to the parties through the Shared Materials Drive in Zylab.

Richard DUDMAN

8. In accordance with Internal Rule 87(4), the Trial Chamber also places onto the Case File the following documents pertinent to the expected evidence of upcoming witness Richard DUDMAN, namely:

- Article by R. Dudman: *Forty Days with the Enemy*, 1 November 1971, pp. 5-10, ERN (En) S 00023188-00023193;
- Department of Press and Information of the Ministry of Foreign Affairs – Review, “Kampuchea Democratique,” March 1978, ERN (Fr) S 000501000-00050139; and
- *Conformity a must for survival in Cambodia* (Chicago Tribune), 26 December 1978, ERN (En) 00444937-00444938.

The Chamber considers these documents, which are also currently available to the parties through the Shared Materials Drive in Zylab, to be *prima facie* relevant, reliable, and authentic as required by Internal Rule 87(3).