

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

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CO-PROSECUTORS' REQUEST TO ADMIT EXCERPT OF BOOK "BROTHERS IN ARMS" RELEVANT TO CASE 002/02 PURSUANT TO RULES 87(3) & 87(4)

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I. Introduction

1. Pursuant to Rules 87(3), 87(4) and the Trial Chamber's oral ruling on the 31 March 2015, the Co-Prosecutors submit this motion to have admitted into evidence an excerpt of a book by Professor Andrew Mertha titled "Brothers in Arms: Chinese Aid to the Khmer Rouge, 1975-1979" (the "Book").

II. Procedural History

2. On 3 March 2015, the Co-Prosecutors submitted a motion to have the Book admitted into evidence pursuant to Rules 87(3) and 87(4).¹
3. On 13 March 2015, Khieu Samphan responded opposing the request.²
4. On the 31 March 2015, the Trial Chamber provided an oral ruling ordering the Co-Prosecutors to submit a new request identifying the excerpt(s) of the Book they seek to have admitted.³

III. Rules 87(3) and 87(4)

5. Accompanying this filing as **Annex A** is the excerpt of the Book the Co-Prosecutors seek to have admitted. Specifically, the Co-Prosecutors are seeking to admit the second full paragraph on page 7, beginning with "But the domestic politics..." (the "Excerpt"). The Excerpt meets the criteria for admission laid out in Rule 87(3). It contains material relevant to the proceedings in Case 002/02, and in particular to the Tram Kak Cooperatives crime site. It addresses a trip by a Chinese dignitary, Chen Yonggui, who was also head of a model Chinese commune, to Democratic Kampuchea. It describes his meetings with various DK officials, and his visit to the Tram Kak District and the Leay Bo model commune.
6. The author of the Book holds a doctorate in political science from the University of Michigan and is a Professor of Government at Cornell University, where he specialises in Chinese and Cambodian politics.⁴

¹ **E342** International Co-Prosecutor's Request to Admit Book Relevant to Case 002/02 Pursuant to Rules 87(3) & 87(4), 3 March 2015.

² **E342/1** Réponse à la Demande du co-Procureur international aux fins d'autoriser le versement aux débats d'un livre pertinent au regard du procès 002/02 en application des règles 87 3) et 87 4) du Règlement intérieur, 13 March 2015.

³ **E1/285.1** Transcript, 31 March 2015 [10.03.05].

7. Rule 87(4) states that the party requesting to submit new evidence must satisfy the Chamber that the requested evidence was not available before the opening of the trial. The Trial Chamber has held that for Case 002/02, the opening of trial occurred in June 2011.⁵ The Book was not published until 2014 and thus the relevant excerpt was not available before the opening of trial.

8. Although, as ordered, the Co-Prosecutors have identified the excerpt they are currently seeking to have admitted, they submit that it would be preferable, and consistent with prior practice, to admit the entire Book. The Co-Prosecutors recall that during the Case 002 investigation the parties initially observed a practice of submitting excerpts of books for inclusion in the Case File. This system was eventually found to be unwieldy as, over time, parties would seek the admission of multiple excerpts from the same book, resulting in different portions of the same book on the Case File under different document numbers. This system was therefore eventually discarded in favour of admitting the entire book to the Case File, and then allowing parties to seek translations of the portions of the book they deemed relevant.

IV. Relief Requested


9. Therefore, the Co-Prosecutors respectfully request:
 - (a) that the entire Book⁶ be placed on the Case File; and
 - (b) that the Excerpt, attached as **Annex A**, be admitted into evidence in Case 002/02 pursuant to Rules 87(3) and 87(4).

⁴ See <http://government.arts.cornell.edu/faculty/mertha/> (last visited 2 March 2015).

⁵ **E307/1** Decision on Parties' Joint Request for Clarification Regarding Application of Rule 87(4) (E307) and the Nuon Chea Defence Notice of Non-Filing of Updated Lists Evidence (E305/3), 11 June 2014; **E307/1/2** Decision on Joint Request for *de novo* Ruling on the application of Internal Rule 87(4), 21 October 2014, para. 10.

⁶ **E342.1** Brothers in Arms: Chinese Aid to the Khmer Rouge 1975-1979, 2014.

Respectfully submitted,

Date	Name	Place	Signature
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