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E415/2/2

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 July 2016¹

FROM: YA Sokhan, for the President of the Trial Chamber

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

SUBJECT: Decision on the KHIEU Samphan Defence's request to replace documents



1. The Trial Chamber is seized of a motion filed by the KHIEU Samphan Defence on 22 July 2016 (“Motion”, E415/2/1) in response to a Rule 87(4) request filed by the Co-Prosecutors on 13 July 2016 (E415/2). The Chamber rendered an oral ruling on the Co-Prosecutors’ Rule 87(4) request on 26 July 2016, admitting into evidence chapters 3 to 11 of Henri LOCARD (2-TCE-90)’s book *Pourquoi les Khmers Rouges* (“Book”) in its 2016 version (Draft T. of 26 July 2016, pp.82-83) and implicitly denying the KHIEU Samphan Defence’s request to direct the Co-Prosecutors to select more precise and relevant excerpts of the Book.
2. On 27 July 2016, the Co-Prosecutors sent an email to the Trial Chamber specifying minor corrections to E415/2 and seeking the admission into evidence of additional pages from the Book consisting of the endnotes corresponding to the admitted chapters 3 to 11 (attached to this memo). The Trial Chamber considers that the endnotes form an integral part of the admitted chapters and hereby clarifies that pp. 352-366 of the Book (FR ERN 01303710-01303717) are admitted as part of E3/10640.
3. In the Motion, the KHIEU Samphan Defence seeks clarifications from the Trial Chamber in relation to the 2016 version of the Book, which is available on the Shared Materials Drive (“SMD”). The KHIEU Samphan Defence claims that the Parties were not notified when this version of the Book was placed on SMD and it questions whether

¹ A courtesy copy of this memorandum was circulated to all Parties via email on 27 July 2016.

the Parties are free to use it in their submissions (E415/2/1, paras. 11-12). If they are, the KHIEU Samphan Defence requests to replace the five admitted excerpts from the 2013 version of the Book with their corresponding sections in the 2016 version (E415/2/1, paras. 14, 22).

4. The Trial Chamber refers to its decision of 13 July 2016 admitting the five excerpts referenced in the Motion. In that decision, the Chamber also notified the Parties that it had “obtained an electronic copy of the upcoming second edition of the Book, which Mr. Henri LOCARD (2-TCE-90) provided through WESU on 1 July 2016”. The Chamber specified that it was placing the 2016 version of the Book on the SMD in order to make it available to the Parties should they “seek to admit any relevant extract” (E406/1, para.13). The Chamber therefore finds that the Parties were notified of the Book’s 2016 edition in a timely manner. The Chamber further notes that the five excerpts referenced in the Motion are contained within the nine chapters of the 2016 version of the Book that have already been admitted into evidence. The request by the KHIEU Samphan Defence to replace these excerpts is therefore moot.

5. This constitutes the Chamber’s official response to E415/2/1.