

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

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**CO-PROSECUTORS' RESPONSE TO IENG SARY RULE 87(4) REQUEST
REGARDING MATERIAL WHICH MAY BE USED DURING THE EXAMINATION
OF ELIZABETH BECKER**

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RESPONSE




1. On 19 October 2012 the Co-Prosecutors were notified of the Ieng Sary Defence (“the Defence”) request to put before the Chamber an article written by David Chandler in 1986, entitled *Requiem for the 1970s: Elizabeth Becker's When The War Was Over*, in which David Chandler reviewed the then recently published book (“the Book Review”).¹ The purpose of the request was to enable the Defence to examine Elizabeth Becker on the comments made by David Chandler in the Book Review.
2. The Co-Prosecutors do not object to the admission of the Book Review. However they wish to make the following observations as to the document’s ability to assist the Trial Chamber in ascertaining the truth at trial. First, it is a book review of the first edition of the book, not the second edition of the book that is on the Case File. This second edition includes further research by the author. Second, despite the fact that the Book Review was authored over 25 years ago, David Chandler has not been given an opportunity to comment on whether he still holds the original views on the book in light of the further research he has done on the Democratic Kampuchea period. Third, if Professor Chandler still holds these views now, he has not been given the opportunity to comment on whether these views would also apply to the second edition of the book which includes additional research.
3. An opportunity was available to put these issues to David Chandler when he testified before the Chamber in July 2012. Although the Defence was not in possession of the document at that point in time, they were aware of his views on the first edition of Elizabeth Becker’s book. However, they did not put any questions to him with respect to his views on the book and Elizabeth Becker’s further research. If this had been done, the Trial Chamber would be in a far better position to determine the validity and applicability of Professor Chandler’s opinion in the Book Review. This would also have given a more reliable evidential foundation for future questions by the Defence to Ms. Becker. The Defence consultant, Michael Vickery, intimates as

¹ E232/1, Ieng Sary’s Rule 87(4) Request regarding material which may be used during the examination of Elizabeth Becker, notified on 19 October 2012.

such, where he states “ it might be interesting to send him this copy and ask what he thinks about it.”²

4. Consequently, although the Co-Prosecutors do not object to the admission of this document, it is submitted its evidentiary value is limited for the reasons outlined above. It is reasonable for the Defence to put questions to Elizabeth Becker as to the general import of David Chandler’s views of the first edition of her book. However, it is submitted that it would be unfair for the Defence to read specific extracts from a book review written over 25 years ago, in circumstances where the Trial Chamber has no reliable, up-to-date information from its author as to the current accuracy and applicability of those views.
5. Such approach may mislead the expert to believe that the views held by David Chandler then, are confirmed as of now, and are applicable to the second edition of her book which is on the Case File. With these caveats the Co-Prosecutors do not object to the Defence request to have the document admitted under Rule 87(4).

Respectfully submitted,

Date	Name	Place	Signature
30 October 2012	CHEA Leang Co-Prosecutor		
	Andrew CAYLEY Co-Prosecutor		

² **Attachment D,E232/1.1.4.** to IENG Sary’s Rule 87(4) Request regarding material which may be used during the examination of Elizabeth Becker, notified on 19 October 2012.