



ឯកសារដើម
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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):
28 / 02 / 2012

ម៉ោង (Time/Heure) : 9:40 ព្រះរាជាណាចក្រកម្ពុជា

មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé du dossier: Ratanak 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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

9 February 2012

Substantive Hearing on evidence – Day 29

Prepared by:

DUCH Phary and Roger PHILLIPS

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge YOU Ottara.
Reserve Judges: Judge THOU Mony (Reserve); Judge Claudia FENZ (Reserve)
Greffiers: Mr. DUCH Phary, Mr. Roger PHILLIPS.
OCP: Mr. Dale Lysak, Mr. CHAN Dararasmey, Mr. SENG Bunkheang, Mr. Chanlino Pak, Mr. CHEA Phalla.
Accused: Mr. KHIEU Samphan; Mr. NUON Chea; Mr. IENG Sary.
Defence for the Accused: Mr. SON Arun, Mr. Michiel PESTMAN; Mr. KONG Sam Onn; Mr. ANG Udom, Mr. Michael G. KARNAVAS.
Civil Parties: Mr. PICH Ang, Ms. Elisabeth SIMONNEAU-FORT, Mr. LOR Chunthy, Mr. HONG Kimsuon, Ms. MOCH Sovannary, Mr. Barnabé NEKUIE, Ms. SIN Soworn, Ms. CHET Vanly.
Witness: none
Others: Ms. Almaz TEFFERA.

<u>General court times</u>		
Day	Start time: 09:05	Finish time: 14:50
Recess am	Start time: 10:30	Finish time: 10:50
Recess	Start time: 11:50	Finish time: 13:35
Recess pm	Start time:	Finish time:
	Total Court Time:	3 hours, 40 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Observation by the Trial Chamber	Trial Chamber	09:05	09:05
Presentation of documents by Judge YA Sokhan	Trial Chamber; Co-Prosecutor	09:05	14:45
Waiver of presence by IENG Sary and NUON Chea	IENG Sary Defence; NUON Chea Defence; Trial Chamber; Co-Prosecutor	10:30 11:45	10:30 11:50
Observations and request for further time to question its client	NUON Chea Defence; Trial Chamber	10:55	10:55
Examination of the Accused NUON Chea (cont'd)	NUON Chea Defence	11:10	11:45
Observation that documents will be presented to the Chamber	CLCP	14:45	14:50

Summary of Proceedings

Observation by the Trial Chamber

The Chamber recognizes the Accused's exercise of their right to remain silent.

Presentation of documents by Judge YA Sokhan

Judge YA Sokhan presents documents to the parties and asks them to raise objections, if they so choose. The Accused IENG Sary and KHIEU Samphan wish not to respond to any documents but to exercise their right to remain silent. The Co-Prosecutor presents documents to the Chamber. The Accused NUON Chea responds shortly to several of the documents presented by the Co-Prosecutor.

The Co-Prosecutor reads out the uncontested facts in relation to the historical background, agreed upon with the IENG Sary Defence.

Request for waiver of the right to be present in the courtroom by the Accused IENG Sary and NUON Chea

The IENG Sary and NUON Chea Defence teams request for a waiver of the right to be

present in the courtroom. The Chamber grants the request submitted by Accused IENG Sary and instructs him to participate in the proceedings from the holding cell via audio-visual equipment. The IENG Sary Defence is required to submit a waiver (see attachment). However, the Co-Prosecutor reminds the NUON Chea Defence that its presentation of documents will refer to documents relating to NUON Chea, requiring thus the Accused's presence.

Observations and request for further time to question its client

The Chamber dismisses the Defence's request in relation to the submission of the required witness list.

NUON Chea Defence asks permission for additional time (about 30 minutes) to question its client in relation to the historical background of the CPK. The Chamber reminds the Defence team that it had sufficient time to question its client. The Chamber, however, grants its request.

Examination of the Accused NUON Chea (cont'd)

The NUON Chea Defence examines its client in relation to the historical background of the CPK. The Co-Prosecutor objects to the questions put before the Accused, as they should focus on events that proceed April 1975. The Chamber reminds the Accused not to respond to questions that are irrelevant to the historical background of the Democratic Kampuchea.

Observation that documents will be presented to the Chamber

The Co-Lawyers for the Civil Parties informed the Chamber that they will also present documents during Monday's hearing (13 February 2012).

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
E3/1	D366/7.1.559	00699264-00699277-00000364-00000377-00645509-00645519	មេរៀនសង្ខេបស្តីអំពីប្រវត្តិនៃចលនាបដិវត្តកម្ពុជាដែលដឹកនាំដោយបក្សកុម្មុយនីស្តកម្ពុជា Abbreviated Lesson on the History of the Kampuchean Revolutionary Movement Led by the Communist Party of Kampuchea Cours abrégé sur l'histoire du mouvement révolutionnaire cambodgien sous la direction du parti communiste cambodgien	P			
E3/19	D199/26.2.128	00586668-00586668-00555704-00555704	ប្រវត្តិរូបរបស់លោក អៀង សារី Biographie de M. IENG SARY. Biographie de M. IENG SARY.	P	00586668	00555704	00391415

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
		00391415- 00391415					
E3/95	C19	00153375- 00153382 00153389- 00153395 00153401- 00153407	កំណត់ហេតុពិភាក្សាដេញដោល អៀង សារី Written record of adversarial hearing of IENG Sary Procès Verbal de débat contradictoire de IENG Sary	P	00153377	00153391	00153403
E3/44	D200 /5	00287710- 00287719 00295159- 00295167 00353124- 00353134	កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី DÈNG Chiv ផែង ជីវ Written Record of interview of PHAN Sovānhan ផាន សុវណ្ណហាន Procès verbal d'audition de témoin PHAN Sovānhan ផាន សុវណ្ណហាន	P	00287712	00295161	00353125
E3/16	D213. 2	00380221- 00380560 00498220- 00498306 00643822- 00643913	ខៀវ សំផន " ពិចារណាអំពីប្រវត្តិសាស្ត្រកម្ពុជាពីដើម រហូតដល់សម័យកម្ពុជាប្រជាធិបតេយ្យ " រាហូ 10-2007 KHIEU Samphan, "Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea", Reahu, 10-2007 "Considerations on the History of Cambodia From Early Stage to the Period of Democratic Kampuchea", extrait du livre de KHIEU Samphan, Éd. Reahu, Octobre 2007	P	00380364- 00380365, 00380376, 00380378- 00380379	00498230, 00498235- 00498236, 00498237	00643833, 00643839, 00643841
E3/10	D243 /2.1.7	00063059- 00063115 00450501- 00450548	ទង់បដិវត្ត លេខ ពិសេស កញ្ញា-តុលា 1976	P	00063064- 00063065	00450506	00491872

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
		00491868- 00491913	CPK Magazine entitled: " The Revolutionary Flag", Special Issue, September - October 1976 (FULL) CPK Magazine entitled: " The Revolutionary Flag", Special Issue, September - October 1976 (FULL)				
E3/50	D366 /7.1.6 1	00442207- 00442250 00636008- 00636043 00623782- 00623816	ខួបឆ្នាំទី៣ នៃការចាត់តាំងសហករនីកសិករ The 3rd anniversary of the farmer collective organizing The 3rd anniversary of the farmer collective organizing	P	00442210	00636010	00623784
E3/94	D366 /7.1.6 56	00578892- 00578900 00342500- 00342504 00601999- 00602002	បទសម្ភាសន៍របស់លោក អៀង សារី ដោយលោកស្រី Elizabeth Becker Interview of IENG Sary by Elizabeth Becker Interview of IENG Sary by Elizabeth Becker	P	00578892	00342500	00601999
E3/2	D366 /7.1.7	00679877- 00679883 00444348- 00444354 00657347- 00657351	ប្រវត្តិសង្ខេបរបស់គណបក្សកុម្មុយនីស្តខ្មែរ Brief History of the Khmer Communist Party Brève histoire du parti communiste Khmer	P			
E3/92	D38	00152279- 00152283 00153311- 00153314 00153325- 00153328	កំណត់ហេតុចូលខ្លួនដំបូង អៀង សារី Written Record of Initial appearance of IENG Sary Procès verbal de premiere comparution de IENG Sary	P			
E3/15	D90/ II/1	00234069- 00234087 00251371- 00251389	ចម្លើយរបស់ខុចចំពោះសំណួរសរសេរទាំង១៣របស់សហចៅក្រមស៊ើបអង្កេត Answers of DUCH to the 13 written	P	00234070	00251372	00234089

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
		00234088-00234107	questions of the CIJ Réponse de DUCH aux 13 questions écrites des CJJ				
E3/24	D91/10	00204066-00204075-00223578-00223588-00503917-00503929	កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី ភី ភួន ថ្ងៃទី០៥ ១២ ២០០៧ Written Record of Interview of PHY Phuong [Corrigée 1] Procès verbal d'audition de PHY Phuong	P	00204067	00223580	00503919
E3/13	13.34	00052402-00052416-00183982-00183994-00334972-00334984	កំណត់ហេតុនៃការប្រជុំលេខា, អនុលេខា និង ររសេនាធំ អំពីសភាពការណ៍ ការការពារប្រទេស និង វិធានការ ការការពារប្រទេស Note of Secretary meeting, vice secretary, and regiment about Situation to defense the country and the measure to defense the country Le procès-verbal de la réunion des secrétaires et des sous secrétaires et du régiment indépendant, à propos de la situation de défense du pays et les mesures de défense de notre pays	P	00052402	00183982	00334972
E3/3	20.28	00078183-00078207-00184652-00184679-00596175-00596202	សម្ភាសន៍លោកនួនជា ស្តីពីសេចក្តីថ្លែងការណ៍មួយមានចំណងជើងថា "ប្រវត្តិនៃការតស៊ូនិងចលនារបស់អ្នកស្រុកស្រែជនជាតិខ្មែររបស់យើងចាប់ពី ១៩៥៤ដល់១៩៧០" ជាភាសាខ្មែរគ្មានចុះកាលបរិច្ឆេទដោយលោកខ្លុងខែម	P	00078192, 00078196, 00224443	00184662, 00184667, 00078610	00596185, 00596189, 00347376-00347377

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			<p>National Suspect Statement entitled "History of the Struggle and Movement of Our Cambodian peasants from 1954 to 1970." by NUON Chea</p> <p>National Suspect Statement entitled "History of the Struggle and Movement of Our Cambodian peasants from 1954 to 1970." by NUON Chea</p>				
E3/20	4.1	00231987- 00232710 00237694- 00238316- 00638281- 00638721	<p>សៀវភៅនិពន្ធដោយ Elizabeth Becker មានចំណងជើងថា៖ "នៅពេលដែលសង្គ្រាមរលត់ទៅ" Book by Elizabeth Becker entitled "When the war was over" Livre écrit par Elizabeth Becker intitulé "Les Larmes du Cambodge"</p>	P	00232072- 00232073, 00272185	00237762, 00237844	00638334- 00638335, 00638410
E3/18	4.23	00103802- 00103899 00103717- 00103801 00595365- 00595529	<p>ប្រវត្តិសាស្ត្រថ្មីរបស់ប្រទេសកម្ពុជា Cambodian's Recent History L'histoire récente du Cambodge et mes prises de position</p>	P	00103815- 00103816	00103729	00595388
E3/12	6.3	00003136- 00003142 00182809- 00182814 00224363- 00224367	<p>សេចក្តីសម្រេចរបស់គណៈមជ្ឈឹមអំពីបញ្ហាផ្សេងៗមួយចំនួន Decision of central committee on a number of problems Decision of central committee on a number of problems</p>	P	00003137	00182810	00224364
E3/94	D366 /7.1.6 56	00578892- 00578900 00342500- 00342504 00601999- 00602002	<p>បទសម្ភាសន៍របស់លោក អៀង សារី ដោយលោកស្រី Elizabeth Becker Interview of IENG Sary by Elizabeth Becker</p>	P	00578895	00342501- 00342502	00602000

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			Interview of IENG Sary by Elizabeth Becker				
E3/86	20.3	00224429- 00224437 00081213- 00081222 00614092- 00614101	សៀវភៅនិយាយអំពីកក្កាពិតស្តីពីរបប ផ្តាច់ការរបស់ប៉ុលពត ពីឆ្នាំ១៩៧៥ដល់១៩៧៩ ចុះថ្ងៃទី០៨កញ្ញា១៩៩៦ដោយលោក អៀងសារី The true facts about Pol Pot dictatorial regime 1975 - 1979 The true facts about Pol Pot dictatorial regime 1975 - 1979	P	00224430	00081215	00614094
E3/190	20.7	00172247- 00172248 00081571- 00081572 00607965- 00607965	លោកស្ទីវហេដឌឺរ បានធ្វើការពិភាក្សាជាមួយលោកអៀង សារី ជាភាសាអង់គ្លេសចុះថ្ងៃទី០៤មករា១៩ ៩៩ Steve Heder, A Discussion with Ieng Sary, 4 January 1999 Steve Heder, A Discussion with Ieng Sary, 4 January 1999	P	00172247	00081571	00607965
E3/147	D262. 26	00679782- 00679802 00168433- 00168478 00757848- 00757848	[Partial T.] ឧបសម្ព័ន្ធ 00026: ឯកសារស្តីពីសកម្មភាពដំណើរទស្សន កិច្ចរបស់គណប្រតិភូគុយបា Annex 00026: Foreign Broadcast Information Service collection of reports for January 1977 [Partial T.] Annexe 00026: Mesures Sanitaires au Srok Damber	P	00679792- 00679802 (in particular 00679796)	00168465- 00168470 (in particular 00168466- 00168467)	00698444- 00698450 (in particular 00698446)
E3/191	D248 /6.1.1 4	S 00004073- 00004076	Nuon Chea 's speech at Army Anniversary meeting	P			
E3/192	D56- Doc.	S 00662004-	ព័ត៌មានអន្តរជាតិស្តីពី ប៉ុល ពត	P	S 00662004	S 0003883- 0003884	S 00632833

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	060	00662004 S 00003883- 00003884 S 00632833- 00632835	សុំច្បាប់ឈឺមិនចូលរួមកិច្ចសម្ភោធ International Media Report on Pol Pot's temporary Sick Leave from Premiership International Media Report on Pol Pot's temporary Sick Leave from Premiership				
E3/25	D243 /2.1.9	00063000- 00063058 00491394- 00491438 00504014- 00504066	ទង់បដិវត្ត លេខ ពិសេស ធ្នូ-មករា 1976- 77 CPK Magazine entitled: " The Revolutionary Flag", Special Issue, December 1976 -January 1977 (FULL) CPK Magazine entitled: " The Revolutionary Flag", Special Issue, December 1976 -January 1977 (FULL)	P	00063021, 00063036, 00063044	00491411, 00491422, 00491427	00504032, 00504046, 00504054
E3/193	D189. 2	00062946- 00062980 00399221- 00399248 00611825- 00611853	ឧបសម្ព័ន្ធ ខ: ទង់បដិវត្ត លេខ ៨ ខែសីហា ឆ្នាំ១៩៧៧ Annex B: August 1977 Revolutionary Flag, No 8 Annex B: August 1977 Revolutionary Flag, No 8	P	00062952- 00062953	00399226- 00399227	00611830
E3/194	D313 /1.2.3 8	00709522- 00709533 00412832- 00412842 00726582- 00726589	សេចក្តីសង្ខេបសារព័ត៌មាន EA កាលពីថ្ងៃទី ១០ ខែកក្កដា July 10 EA Press Summary Revue de press asie de l'est 10 juillet	P	00709524	00412834	00726584
E3/195	D313 /1.2.3 2	00740836- 00740841 00412701-	[Partial T.] សារជាអត្ថបទស្តីពី៖ របាយការណ៍ជាភាសាខ្មែរ ថ្ងៃទី៩	P	00740837	00412703	00771779

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		00412710 00771778- 00771781	ខែមេសា ឆ្នាំ១៩៧៤ Message Text entitled "Khmer report - April 9, 1974" [Partial T.] Rapport khmer : 9 avril 1974				
E3/196	20.30	00224457- 00224481 00762391- 00762408 00280665- 00280679	សេចក្តីថ្លែងការណ៍របស់បក្សកុម្មុយនិស្តកម្ពុជា ជូនចំពោះបក្សកុម្មុយនិស្តកម្ពុករដៃណាម៉ាក ខែកក្កដា ១៩៧៨ [Corrected 1] Statement of the Communist Party of Kampuchea to the Communist Worker's Party of Denemak, July 1978 Statement of the Communist Party of Kampuchea to the Communist Worker's Party of Denemak, July 1978	P	00280675	00762402	00224474
E3/197	13.9	00000744- 00000748 00182638- 00182642 00334961- 00334963	កំណត់ហេតុនៃអង្គប្រជុំគណៈអចិន្ត្រៃយ៍រណសិរ្សថ្ងៃទី ១១ មីនា ៧៦ Minutes of meeting of permanent committee Front on 11/3/76 Procès-verbal de la rénuion du Comité Permanent du Front le 11 mars 1976	P	00000745, 00000748	00182638, 00182641	00334961, 00334963
E3/99	6.2	00072400- 00072407 00244274- 00244278 00611566- 00611570	ពិនិត្យការក្តាប់ និងអនុវត្តមាតិកានយោបាយ ប្រមូលកម្លាំងរណសិរ្ស ប្រជាជាតិប្រជាធិបតេយ្យរបស់បក្ស (ឯកសារទី៦) About governing and carryngout the policy of gathering force of Democratic National Front of party (6th document) About governing and carryngout the policy of gathering force of Democratic National Front of party (6th document)	P	00072403	00244275	00611568

Oral Orders/Decisions:

- Motion to waive presence granted as to IENG Sary.
- Motion to waive presence denied as to NUON Chea.

- NUON Chea motion for additional time for questioning granted.
- Order to bring the Accused IENG Sary to the holding cell in order to follow the proceedings via audio-visual equipment.
- Order to bring the three Accused back to the detention facility and to return the three Accused to the courtroom for the hearing on 13 February 2012 at 9:00am.


Orders for Adjournment of Hearing


The hearing will resume on 13 February 2012 at 9:00am.


Phnom Penh, 9 February 2012

Greffier

Greffier


DUCH Phary


The seal is circular with a central emblem featuring a traditional Khmer design. The text around the emblem includes 'ROYAUME DU CAMBODGE' at the top, 'E.C.C.C' and 'CHAMBRE DE PREMIERE INSTANCE' at the bottom, and 'TRIBUNAL CHAMBER' on the left and 'CHAMBRE DE PREMIERE INSTANCE' on the right.


Roger PHILLIPS