



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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception): ២១ / ០៤ / ២០១២
ម៉ោង (Time/Heure) : 14 : 00
មន្ត្រីទទួលបន្ទុកសំណុំរឿង /Case File Officer/L'agent chargé du dossier:..... <i>SANN RANA</i>

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

3 April 2012

Substantive Hearing on evidence - Day 46

Prepared by:
DUCH Phary and Roger PHILLIPS

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge YOU Ottara.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Mr. Roger PHILLIPS, Mr. DAV Ansan, Mr. DUCH Phary.
OCP: Mr. William SMITH, Mr. SENG Bunkheang, Mr. Dale LYSAK
Accused: Mr. KHIEU Samphan, Mr. NUON Chea, Mr. IENG Sary.
Defence for the Accused: Mr. SON Arun, Mr. Michiel PESTMAN, Mr. Jasper PAUW, Mr. KONG Sam Onn, Mr. Arthur VERCKEN, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
Civil Parties: Mr. PICH Ang, Ms. Elisabeth SIMONNEAU-FORT, Ms. MOCH Sovannary, Mr. HONG Kimsuon, Mr. VEN Pov, Ms. CHET Vanly, Mr. Barnabé NEKUIE, Ms. Marie GUIRAUD, Ms. Lyma NGUYEN.
Witness: KAING Guek Eav alias DUCH.
Others: Ms. Zuzana KOVALOVA. <i>ZP</i>
General court times

Day	Start time: 09:05	Finish time: 16:00
Recess am	Start time: 10:35	Finish time: 11:10
Recess	Start time: 12:05	Finish time: 13:40
Recess pm	Start time: 14:30	Finish time: 14:50
	Total Court Time:	4 hours 25 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Testimony of KAING Guek Eav	Civil Party Lead Co-Lawyers	09:05	10:35
	Trial Chamber	11:15	14:30
	NUON Chea Defence	15:00	16:00
Request for additional time	Civil Party Lead Co-Lawyers Trial Chamber	09:55	09:55
Clarification as to the use of the Witness' prior statements and transcripts from Case 001	Co-Prosecutors	10:10	11:20
	NUON Chea Defence	14:55	15:00
	IENG Sary Defence		
	KHIEU Samphan Defence		
	Civil Party Lead Co-Lawyers Trial Chamber		
Waiver of the Accused's right to be present in the courtroom	IENG Sary Defence	10:31	10:32
	NUON Chea Defence	12:02	12:03
NUON Chea's request to respond to the testimony of the Witness	NUON Chea Defence	15:00	15:00
Right of the Witness to refrain from answering self-incriminating questions	NUON Chea Defence	15:15	15:35
	IENG Sary Defence		
	Co-Prosecutors		
	Trial Chamber		

Summary of Proceedings

Testimony of KAING Guek Eav

The Civil-Party Lead Co-Lawyers concluded their questioning of the Witness. Subsequently Judge Lavergne and the President put additional questions to the Witness. The NUON Chea Defence commenced their questioning of the Witness.

Request for additional time

The Trial Chamber granted the Civil Party Lead Co-Lawyers twelve additional minutes to question the Witness.

Clarification as to the use of the Witness' prior statements and transcripts from Case 001

The Chamber clarified that all written records of interviews of KAING Guek Eav made by the Co-Investigating judges during the investigation in Case 002, or during the investigation in Case 001 and which had been placed on case file 002, are considered put

before the Chamber. With regard to transcripts from Case 001, the parties may put before the Chamber relevant portions of transcripts but must clearly identify those portions that they intend to use as the basis for questions. The Chamber finally reiterated its decision in paragraph 4 of its memorandum E172/5, concerning the documents attached to the written records of interviews of witnesses or Civil Parties.

Waiver of the Accused's right to be present in the courtroom

The Accused IENG Sary and NUON Chea waived their right to be present in the courtroom.

NUON Chea's request to respond to the testimony of the Witness

NUON Chea asked for five minutes at the beginning of the following day's session in order to briefly respond to the Witness' testimony.

Right of the Witness to refrain from answering self-incriminating questions

Following the Co-Prosecutors' objection to the questions put to the Witness by the NUON Chea Defence, the President ruled that the Witness had the right to remain silent and not to respond to any questions that could incriminate him. The President further clarified that the Witness had the right to decide whether he would answer questions concerning the facts that had already been adjudicated. *RP*

Record of Rule 87(3) Proceedings							
TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
E3/1556	D229.1	00285361-00285393	របាយការណ៍សរុបរបស់មន្ទីរ ស២១ ផែនការចុងក្រោយរបស់ ស២១	P			
E3/527	D288 /6.5/ 2.29	00238901-00238909, 00069031-00069057 00314947-00314973	The last joint plan Le dernier plan conjoint	P			
N/A	E1/51.1	00791903-00791975 00792960-00793045 00793046-00793136	ប្រតិចារឹកសវនាការលើអង្គសេចក្តីនៃសំណុំរឿង ០០២ - ថ្ងៃទី២០ ខែមីនា ឆ្នាំ២០១២ Transcript of hearing on the substance in Case 002 - 20 March 2012 Transcript of hearing on the substance in Case 002 - 20 March 2012	P		00792996, 00792965	00793084, 00793052

E3/189	D108 /43/3	00323157- 00323163 00179652- 00179655 00186604- 00186609	[លិខិតបញ្ជាក់ការជំនួសឯកសារ] ឧបសម្ព័ន្ធព្រះវិចិត្រចុះថ្ងៃទី២០ ខែមីនា ឆ្នាំ១៩៧៥ ព័ត៌មានអំពីស្រុករបស់ចិនប្រចាំអង្គការ សហប្រជាជាតិ ជូនចំពោះអគ្គលេខាធិការ [Surrogate Sheet] Annex 3: Letter dated 20 March 1975 from the Permanent Representative of China to the United Nations addressed to the Secretary-General dated 20 March 1975 [Feuille remplacée] Annex 3: Letter dated 20 March 1975 from the Permanent Representative of China to the United Nations addressed to the Secretary-General, en date du 20 mars 1975	P			00186607, 00186608
E3/833	14.3	00077661- 00078056 00242259- 00242263, 00184579- 00184618 00282468- 00282547, 00373110- 00373115	កំណត់ហេតុរបស់ចាន់ជាភាសាខ្មែរចុះថ្ងៃទី ១៧ ធ្នូ ១៩៧៧ S-21 Notebook by MAM Nai alias Chan [Corrigé 1] S-21 Livre de Mam Nai alias Chan	P	00077896	00184608	
E3/1557	D366 /7.1.9 6	00076349- 00076373 00768111- 00768131 00782159- 00782176	ស២១ ចំលើយសារភាពរបស់ ឡាច រ៉ារី ហៅ ណាន (ក្មួយស្រីរបស់ នួន ជា, អនុប្រធានរបស់ ធីរិទ្ធី) S-21 Confession of LACH Vary alias Nan (Nuon Chea's niece, Thirith's deputy) Aveux de LACH Vary alias NAN (nièce de NUON CHEA, assistante de Thirith)	P			
E3/12	6.3	00003136- 00003142, 00000758- 00000764 00182809- 00182814 00224363- 00224367	សេចក្តីសម្រេចរបស់គណៈមជ្ឈឹមអំពីបញ្ហា ផ្សេងៗមួយចំនួន Decision of central committee on a number of problems Decision of central committee on a number of problems	P			

Oral Orders/Decisions:

- Order to bring the Accused IENG Sary (10:32) and NUON Chea (12:03) to the holding cell (waivers of the Accused are attached to this written record).
- Ruling that all written records of interviews of Kaing Guek Eav made by the Co-Investigating judges during the investigation in case 002, or during the investigation in case 001 and which have been placed on case file 002, are considered put before the Chamber. Regardless of whether these written records of

interviews have been discussed in court, all of these documents are considered put before the Chamber in their entirety and may serve as a basis for questioning the witness. With regard to transcripts from Case 001, the parties may put before the Chamber relevant portions of transcripts but must clearly identify those portions that they intend to use as the basis for questions.

- Ruling that a witness has the right to remain silent to any questions that are self-incriminating. However, concerning the facts that ha[ve] been already adjudicated against the Witness, the Witness may answer[...] the question.
- Order to return the Witness to the detention facility and to bring him to the courtroom for the hearing on 4 April 2012.
- Order to bring the three Accused to the detention facility and to return them to the courtroom for the hearing on 4 April 2012.

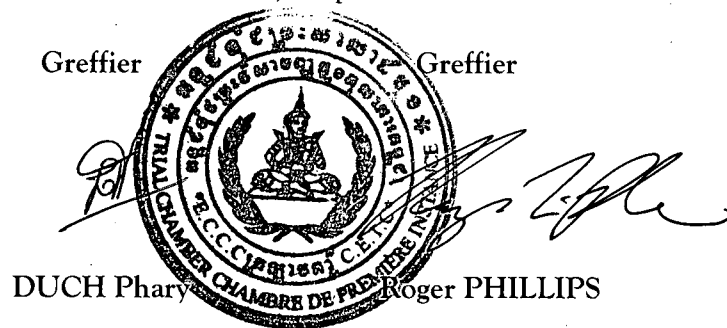
Orders for Adjournment of Hearing

The hearing will resume on 4 April 2012 at 9:00am. *RP*

Phnom Penh, 3 April 2012

Greffier

Greffier



DUCH Phary

Roger PHILLIPS