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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):
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ម៉ោង (Time/Heure) :..... ១០ : ០០

មន្ត្រីទទួលបន្ទុកសំណុំរឿង /Case File Officer
ឈ្មោះ dossier:..... UCH A.C.U.

E1/123

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
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

6 September 2012

Substantive Hearing on evidence - Day 110

Prepared by:

Natacha WEXELS-RISER and SE Kolvuthy

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge Jean-Marc LAVERGNE, Judge YA Sokhan, Judge YOU Ottara, Judge Silvia CARTWRIGHT.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Ms. Natacha WEXELS-RISER, Ms. SE Kolvuthy, Mr DUCH Phary.
OCP: Mr. VENG Huot, Mr. CHAN Dararasme, Mr Tarik ABDULHAK, Mr Vincent DE WILDE D'ESTMAEL.
Accused: Mr. KHIEU Samphan, Mr. NUON Chea, Mr. IENG Sary (from the holding cell)
Defence for the Accused: Mr. SON Arun, Mr. Andrew IANUZZI, Mr. KONG Sam Onn, Mr. Arthur VERCKEN, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
Civil Parties: Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Mr. LOR Chunthy, Mr. HONG Kimsuon, Ms. TY Srinna, Ms. Christine MARTINEAU, Mr. VEN Pov.
Witness: Mr. NORNG Sophang (TCW-480).
Others: Mr. Arun UCH, Ms. Eleanor DOYLE-MARKWICK.

General court times		
Day	Start time: 9:00	Finish time: 15:30
Recess am	Start time: 10:30	Finish time: 11:05
Recess	Start time: 12:10	Finish time: 13:30
Recess pm	Start time: 14:25	Finish time: 14:45
	Total Court Time:	4 hours 15 minutes

Proceedings			
Type of Issue	Raised By	Start time	Finish time
Waiver of the Accused's right to be present in the courtroom	IENG Sary Defence	9:03	9:05
	NUON Chea Defence	12:09	12:10
Testimony of Witness NORNG Sophang (TCW-480)	NUON Chea Defence	9:12	10:01
	IENG Sary Defence	10:02	15:28
Ruling on whether defence counsel can pose questions regarding judicial investigation	Trial Chamber (Judge Lavergne)	10:19	10:21
	Trial Chamber (Judge Cartwright)	11:06	11:10

Summary of Proceedings

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 for the whole day and the afternoon session respectively.

Testimony of Witness Mr. NORNG Sophang (TCW-480)

The NUON Chea Defence and IENG Sary Defence questioned the Witness, bringing his testimony to a close.

Record of Rule 87(3) Proceedings

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
E3/513	D200 /3.2	00017027-00017027	[លិខិតបញ្ជាក់ការជំនួសឯកសារ] ទូរលេខ កម្ពុជាប្រជាធិបតេយ្យ មានចំណងជើងថា	P			
		00296220-00296220	"ទូរលេខ លេខ 54"				
		00531910-00531910	[Surrogate Sheet] DK Telegram entitled "Telegram No 54"				
		00531910-00531910	[Feuille remplacée] [Corrigé 1] DK Telegram entitled "Telegram No 54"				

E3/67	D200 /9	00294534- 00294550 00483963- 00483976 00374931- 00374944	<p>[លិខិតបញ្ជាក់ការជំនួសឯកសារ] កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី NORNG Sophang និង សុផង់/ NORNG Sengchim និង សេងជីម ចុះថ្ងៃទី 28-03-2009 [Surrogate Sheet] Written Record of interview of NORNG Sophang និង សុផង់/ NORNG Sengchim និង សេងជីម dated 28- 03-2009 [Feuille remplacée] Procès verbal d'audition de témoin NORNG Sophang និង សុផង់/ NORNG Sengchim និង សេងជីម en date du 28-03-2009</p>	P	00294542, 00294546, 00294543- 44, 00294546- 49	00483970, 00483974, 00483972, 00483974- 76	00374937- 38, 00374941, 00374939- 40, 00374941- 43
		E3/64	D200 /3	00328022- 00328048 00334042- 00334064 00411692- 00411715	<p>[លិខិតបញ្ជាក់ការជំនួសឯកសារ] កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី NORNG Sophang និង សុផង់/ NORNG Sengchim និង សេងជីម ចុះថ្ងៃទី 18-02-2009 [Surrogate Sheet] Written Record of interview of NORNG Sophang និង សុផង់/ NORNG Sengchim និង សេងជីម dated 18- 02-2009 [Feuille remplacée] Procès verbal d'audition de témoin NORNG Sophang និង សុផង់/ NORNG Sengchim និង សេងជីម en date du 18-02-2009</p>	P	00328022- 23, 00328035- 37, 00328028- 29, 00328039- 40
E3/1740	D200 /9.13			00837642- 00837645 00838744- 00838746 00843075- 00843078	<p>ផ្នែកមួយនៃប្រតិចារឹកបទសម្ភាសន៍ដោយ អ្នកស៊ើបអង្កេតជាមួយលោក និង សុផង់ ថ្ងៃទី២៨ ខែមីនា ឆ្នាំ២០០៩ Partial transcript of recorded interview by investigator with NORNG Sophang dated 28 March 2009 Transcription d'audition du témoin NORNG Sophang, en date du 28 mars 2009</p>	P	00837642

Oral Orders/Decisions:

- Order to bring the Accused NUON Chea to the holding cell (waivers of the Accused IENG Sary (full day) and NUON Chea (afternoon) are attached to this written record).
- Order to return the Witness NORNG Sophang (TCW-480) to his residence.
- Order to arrange for Witness TCW-307 to return to his residence and return to the Courtroom on the morning of Wednesday 12 September 2012.

- Order to bring the Accused back to the detention facility and to return the Accused NUON Chea, KHIEU Samphan and IENG Sary to the courtroom for the hearing on Wednesday 12 September 2012.

Ruling on whether Defence counsel can pose questions regarding judicial investigation

Both the NUON Chea and IENG Sary Defence sought to question the witness about the propriety of the investigation process. The President reiterated his reference to Internal Rule 76(7) which provides that, subject to any appeal, the Closing Order cures any procedural defects in the judicial investigation and that no issues concerning such procedural defects may be raised before the Trial or Supreme Court Chambers. The Chamber further re-affirmed the general rule that there is a legal presumption of integrity of any investigation. Concerns about the methods used during the investigation must be raised during the investigation stage. At trial, the investigation is treated as the starting point; it can be rebutted only in exceptional instances. Such rebuttal cannot relate to technical, but only substantive, issues. In raising an exception, counsel must satisfy the Chamber that there are well-grounded concerns about the reliability of any part of the investigation. However, most concerns can be alleviated by simply asking the witness.

Orders for Adjournment of Hearing

The hearing will resume on 12 September 2012 at 9:00 a.m. ១២

Phnom Penh, 6 September 2012

Greffier

N.W.

Natacha WEXELS-RIS



Greffier

SE Kolvuthy

SE Kolvuthy