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ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
..... 17 / 03 / 2016

ម៉ោង (Time/Heure): 16:35

មន្ត្រីទទួលខុសត្រូវសំណុំរឿង/Case File Officer/Agent chargé
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E327/4/3

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:** 17 March 2016

FROM: NIL Nonn, President of the Trial Chamber 

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

SUBJECT: Decision on Co-Prosecutors' Request to Obtain a Copy of 11 April 1977 Standing Committee Minutes



1. The Trial Chamber has admitted into evidence an excerpt of purported minutes taken at an 11 April 1977 meeting of the Standing Committee of the Party Central Committee (“Minutes”), sourced from *Genocide in Cambodia: Documents from the Trial of Pol Pot and Ieng Sary* (John B. Quigley, Howard De Nike and Kenneth J. Robinson, eds., University of Pennsylvania Press, 2000) (“*Genocide in Cambodia*”) (E305/17.3; E3/7328). The Chamber remains seized of a request by the Co-Prosecutors to contact the editors of *Genocide in Cambodia* in order to obtain a more complete copy of the Minutes (E327/4, paras 9, 10). The Co-Prosecutors submit that since all other Standing Committee minutes on the Case File are dated 1975 or 1976, the Minutes are a potentially unique record of the Standing Committee’s decisions during nationwide internal purges (E327/4, para. 9).

2. The Trial Chamber has made several efforts to obtain a complete copy of the Minutes. First, noting that the preface to *Genocide in Cambodia* states that a “document database [for the 1979 People’s Revolutionary Tribunal] is [...] available for interrogation and access as part of the Cambodian Genocide Data Bases [...], following the establishment of the Cambodian Genocide Program (CGP) at Yale University” (p. xviii), the Trial Chamber contacted the librarian for Southeast Asian Studies at Yale University, where the CGP database is currently maintained (<http://www.yale.edu/cgp/databases.html>). The librarian informed the Chamber that Yale does not maintain copies of each document listed on the CGP database. However, he provided the Chamber with a photocopy of an excerpt of the Minutes, which appears to be a French-language version of the excerpt admitted as E3/7328, received from Professor Ben Kiernan. In an e-mail to the librarian, Prof. Kiernan explained that he spent a significant amount of time searching for a complete copy of the Minutes years ago without success. The correspondence between the Yale University librarian and the Trial Chamber greffier is attached to this decision (E327/4/3.1).

3. The Trial Chamber later contacted Professor John Quigley, one of the editors of *Genocide in Cambodia*. Prof. Quigley clarified that all pertinent documents from his

personal collection of documents from the 1979 People's Revolutionary Tribunal were reproduced in *Genocide in Cambodia*. He forwarded to the Chamber his copy of the excerpted Minutes, which includes some information not contained in the version on the Case File (*see* E327/4/3.2).

4. The Trial Chamber also made enquiries of the Documentation Center of Cambodia, the University of New South Wales and the National Library of Australia – all of which at one time held CGP resources – but did not find a complete version of the Minutes (*see* E327/4/3.3, E327/4/3.4, E327/4/3.5).

5. The Trial Chamber enquired whether the International Co-Investigating Judge (ICIJ) had a complete copy of the Minutes as a result of his investigations. The Chamber was informed that the ICIJ had requested the Minutes from the Government of Vietnam but received no response (*see* D292, p. 21; D292/1; D292/2; D292/3; D427, paras 833-835). Nonetheless, the ICIJ believes that the Minutes are kept in a military archive in Vietnam. The Trial Chamber requested additional information on OCIJ's search for the Minutes and for information which led the ICIJ to this conclusion (E327/4/2) but to date has received no formal response. The Chamber also contacted Philip Short and Professor Christopher Goscha of the University of Quebec, both of whom indicated that any complete copy of the Minutes would most likely be archived at the People's Army Library in Hanoi, Vietnam (*see* E327/4/3.6, E327/4/3.7). Based on this information, the Trial Chamber will make a formal request to the Government of Vietnam for assistance in obtaining the Minutes.

6. The excerpted copies of the Minutes received from Prof. Kiernan and Prof. Quigley are both substantially similar to the contents of E3/7328, but include additional information showing E3/7328's origin as a court document from the 1979 People's Revolutionary Tribunal and noting that the excerpts are from a document originally in Khmer. The Trial Chamber finds them to be relevant and reliable. In accordance with Internal Rules 87(3) and 87(4), the Chamber, on its own initiative, admits into evidence the excerpts of the Minutes received from Prof. Kiernan and Prof. Quigley as E3/9732 and E3/9733, respectively.

7. This constitutes the Trial Chamber's official response to the Co-Prosecutors' request to obtain a more complete copy of the Minutes in E327/4.