



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

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):

09 / 08 / 2012

ម៉ោង (Time/Heure): 11:15

មន្ត្រីទទួលបន្ទុកឯកសារ/Case File Officer/L'agent chargé du dossier: SANN RADA

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de première instance

WRITTEN RECORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

18 July 2012

Substantive Hearing on evidence - Day 79

Prepared by:

Andrew McINTYRE and DUCH Phary

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge Jean-Marc LAVERGNE, Judge YA Sokhan, Judge YOU Ottara.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Mr. Andrew McINTYRE, Mr. DUCH Phary, Mr. DAV Ansan.
OCP: Mr. CHAN Dararasmey, Ms. SONG Chorvoin, Mr. Tarik ABDULHAK, Mr. Salim NAKHJAVANI.
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. Jasper PAUW, Mr. KONG Sam Onn, Mr. Arthur VERCKEN, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
Civil Parties: Mr. PICH Ang, Mr. SAM Sokong, Ms. Elisabeth SIMONNEAU-FORT, Mr. LOR Chunthy, Mr. VEN Pov, Ms. TY Srina, Ms. Christine MARTINEAU, Mr. Olivier BAHOUGNE, Ms. Beini YE.
Witness: Mr. David CHANDLER (TCE-11).
Others: Ms. Julia LEMETAYER, Mr. Simon MEISENBERG.

General court times		
Day	Start time: 09:10	Finish time: 16:15
Recess am	Start time: 10:30	Finish time: 10:50

Recess	Start time: 12:10	Finish time: 13:30
Recess pm	Start time: 14:45	Finish time: 15:10
	Total Court Time:	5 hours.

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	09:08	09:11
	NUON Chea Defence	12:06	12:06
Request for recognition of international civil party lawyer Ms. Beini YE	CPLCL	09:14	09:15
Rulings on OCP and NUON Chea Defence motions	TC	09:15	09:25
Testimony of Expert Witness David CHANDLER (TCE-11)	TC	09:29	11:10
	OCP	11:10	16:00
Request not to hold a hearing on Friday 20 July 2012	IENG Sary Defence	16:04	16:09

Summary of Proceedings

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

The Accused Mr. IENG Sary and Mr. NUON Chea waived their right to be present in the courtroom (Mr. IENG Sary for the whole day and Mr. NUON Chea for the afternoon session).

Recognition of Ms. Beini YE, international civil party lawyer

The Chamber recognized Ms. Beini YE as an international civil party lawyer with the same rights and privileges as her national counterpart.

Rulings on OCP and NUON Chea Defence motions

The Chamber ruled on the Co-Prosecutors' motion E216 to put two documents before the Chamber and to be allowed to use these documents during the questioning of witness TCW-694. The Chamber granted the motion in part, and indicated that further directions would follow in due course.

The Chamber also granted in part and rejected in part the NUON Chea Defence's request E172/27/1 to put 20 documents before the Chamber and to be afforded the opportunity to use this material during the examination of TCE-11.

Testimony of Expert Witness David CHANDLER (TCE-11)

The expert witness answered preliminary questions regarding his identity and took an oath before the Chamber. He was then questioned on matters of substance by the Chamber and the Co-Prosecutors.

Request not to hold a hearing on Friday 20 July 2012

The IENG Sary Defence asked the Chamber not to hold a hearing on Friday 20 July 2012 because of a prior commitment on the part of international counsel for IENG Sary. The Chamber decided to hold the hearing on Friday, 20 July 2012.

Record of Rule 87(3) Proceedings

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French		
E3/1683	D108 /50/1 .75	00823678-00823691, 00825418-00825422, 00820987-00820997, 00701668-00701679	[Partial T.] ឧបសម្ព័ន្ធ ៧៥៖ សៀវភៅមានចំណងជើងថា សោកនាដកម្មជាប្រវត្តិសាស្ត្រនៃប្រទេសកម្ពុជា	P					
		00193067-00193488	Annex 75: Book entitled "The Tragedy of Cambodian History"						
		00726657-00726663, 00825423-00825430, 00824485-00824491	[Partial T.] Annexe 75: Livre de David P. Chandler "The Tragedy of Cambodian History, Politics, War and Revolution since 1945"- Extraits						
		00823448-00823451, 00823693-00823704, 00075816-00075926	កំណត់ហេតុ នៃអង្គប្រជុំគណៈអចិន្ត្រៃយ៍ ស្តីអំពីគំរោងផែនការ ៤ឆ្នាំ កសាងសង្គមនិយមគ្រប់ផ្នែក ឆ្នាំ១៩៧៧-១៩៨០ ពីថ្ងៃ ២១ ខែ៧ ដល់ថ្ងៃ ២ ខែ៨ ឆ្នាំ១៩៧៦						
		00103989-00104170	[Corrected 2] Minutes of the Meeting of the Standing Committee on the Party's Draft of a		00823693-00823704	00103994-00103998, 00104057			
		00822843-00822853, 00824870-00824877, 00301195-00301304, 00824058-00824059	Four-Year Plan for the Construction of Socialism in all Domains, 1977-1980 dated 21 July to 2 August 1976						
					00301195-00301304, 00824058-00824059	[Partial T.] Procès-verbal de la réunion du Comité Permanent au sujet de la planification des plans quadriennaux de la construction du socialisme dans tous les domaines, 1977-1980, du 21 juillet jusqu'au 2 août 1976			

E3/8	4.4	00823448- 00823451, 00823693- 00823704, 00075816- 00075926 00103989- 00104170 00822843- 00822853, 00301195- 00301304, 00824870- 00824877, 00824058- 00824059	កំណត់ហេតុ នៃអង្គប្រជុំគណៈអចិន្ត្រៃយ៍ ស្តីអំពីគំរោងផែនការ ៤ឆ្នាំ កសាងសង្គមនិយមគ្រប់ផ្នែក ឆ្នាំ១៩៧៧- ១៩៨០ ពីថ្ងៃ ២១ ខែ៧ ដល់ថ្ងៃ ២ ខែ៨ ឆ្នាំ១៩៧៦ [Corrected 1] Minutes of the Meeting of the Standing Committee on the Party's Draft of a p Four-Year Plan for the Construction of Socialism in all Domains, 1977-1980 dated 21 July to 2 August 1976 [Partial T.] Procès-verbal de la réunion du Comité Permanent au sujet de la planification des plans quadriennaux de la construction du socialisme dans tous les domaines, 1977-1980, du 21 juillet jusqu'au 2 août 1976		
E3/735	18.23	00823448- 00823451, 00823693- 00823704, 00075816- 00075926 00103989- 00104170 00301195- 00301304, 00824058- 00824059, 00824870- 00824877, 00822843- 00822853	កំណត់ហេតុ នៃអង្គប្រជុំគណៈអចិន្ត្រៃយ៍ ស្តីអំពីគំរោងផែនការ ៤ឆ្នាំ កសាងសង្គមនិយមគ្រប់ផ្នែក ឆ្នាំ១៩៧៧- ១៩៨០ ពីថ្ងៃ ២១ ខែ៧ ដល់ថ្ងៃ ២ ខែ៨ ឆ្នាំ១៩៧៦ [Corrected 1] Minutes of the Meeting of the Standing Committee on the Party's Draft of a p Four-Year Plan for the Construction of Socialism in all Domains, 1977-1980 dated 21 July to 2 August 1976 [Partial T.] Procès-verbal de la réunion du Comité Permanent au sujet de la planification des plans quadriennaux de la construction du socialisme dans tous les domaines, 1977-1980, du 21 juillet jusqu'au 2 août 1976		
E3/17	D222 /1.3	00392897- 00393174	[Surrogate Sheet] CHANDLER David, Brother Number One	P	
E3/1684	D108 /50/1 4.6	00286568- 00286575, 00191816- 00192089 00182365- 00182395, 00192667- 00192932 00357247- 00357451	[កែតម្រូវ ១]សំឡេងពីមន្ទីរ ស-២១៖ លិខិតច្បាប់ដើមរបស់ លោកទុំ ជួនអង្គការ Book by DAVID Chandler entitle: "Voices from S-21 - Terror and History in Pol Pot's Secret Prison" Livre écrit par DAVID Chandler intitulé:"Pol Pot, Anatomie d'un cauchemar"	P	00191900, 00192742, 00357337, 00191833, 00192684, 00357267, 00191846 00192694 00357278
E3/1685	4.6	00105839- 00106011	សៀវភៅនិពន្ធដោយ David Chandler មាន ចំណងជើងថា "សម្លេងពីមន្ទីរ ស-២១"	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	00003136- 3140	00182809- 814	00224363- 4367
E3/130	D366 /7.1.1 87	00442251- 00442281 00184022- 00184047 00292914- 00292934	[លិខិតបញ្ជាក់ការជំនួសឯកសារ] លក្ខន្តិកៈ បក្សកុម្មុយនិស្តកម្ពុជា [Surrogate Sheet] The CPK statute [Feuille remplacée] Status du Parti Communiste du Kampuchea	P	Art 27-28, 00442253, 00442255, 00442262, 00442268, 00442264- 66, 00442269, 00442277	Art 27-28, 00184024, 00184025, 00184032, 00184037, 00184034- 36, 00184038, 00184045	Art 27-28, 00292916, 00292917, 00292922, 00292926, 00292923- 25, 00292926- 27, 00292932
E3/54	D20	00148740- 00148744 00148814- 00148818 00148918- 00148921	[លិខិតបញ្ជាក់ការជំនួសឯកសារ] កំណត់ហេតុចូលខ្លួនតំបូង [Surrogate Sheet] Written Record of Initial appearance of Nuon Chea [Feuille remplacée] Procès verbal de premiere comparution de Nuon Chea	P	00148742- 744	00148817	00148920- 00148921
E3/217	13.10	00000736- 00000743 00182635- 00182637 00334964- 00334966	កំណត់ហេតុអង្គប្រជុំគណៈអចិន្ត្រៃយ៍ថ្ងៃទី ១១ មីនា ១៩៧៦ Minutes of permanent committee meeting on 11/3/76 Procès-verbal de la réunion du Comité Permanent du 11 mars 1976	P	00000736- 743	00182635- 637	00334964- 966
E3/229	13.5	00000713- 00000720 00182625- 00182627 00334958- 00334960	កំណត់អង្គប្រជុំគណៈអចិន្ត្រៃយ៍យប់ថ្ងៃទី ២២ កុម្ភៈ ១៩៧៦ Minutes of permanent committee meeting on 22 February 1976 at night Procès-verbal de la réunion du Comité Permanent, la nuit du 22 février 1976	P			
E3/221	13.18	00000810- 00000826 00182693- 00182705 00386175- 00386191	ពិនិត្យអំពីប្រតិកម្មរៀនណាមក្នុងអង្គប្រជុំ លើកទី៥ថ្ងៃទី១៤ ឧសភា ១៩៧៦ Observing the Vietnamese reaction in the 5th meeting on 14/5/76 Observing the Vietnamese reaction in the 5th meeting on 14/5/76	P			

គំណត់ហេតុនៃការប្រជុំគណៈអធិប្រតិបត្តិ
ទី ២៦-០៣-១៩៧៦៖

	00000751-	លទ្ធផលនៃការចរចាជាមួយវៀតណាម	
	00000757	ស្តីពីបញ្ហាព្រំដែនខាងកើត	
E3/218	13.12	00182651- Report of meeting Permanent Committee on P	00182657
		00182657 26-03-1976.: The result of negotiation with	
		00334967- Viet Nam about the east border.	
		00334971 Rapport de la réunion du Comité Permanent	
		le 26 mars 76: Les résultats des négociations	
		avec les Vietnamiens au sujet des problèmes	
		frontiers de l'Est	

Oral Orders/Decisions:

- Ruling that the two documents proposed to be put before the Chamber by the Co-Prosecutors, D154.2 and D154.3, had been used by the Co-Investigating Judges during their interviews with TCW-694 and therefore formed part of the prior statements of TCW-694. As the Chamber had previously held in its decisions E142/3 and E96/7 that all prior statements of a witness who is heard at trial may be put before the Chamber, the Co-Prosecutors were permitted to put the documents before the Chamber on this basis, subject to their conformity with the criteria in Internal Rule 87(3).
- Ruling that one of the documents proposed to be put before the Chamber by the NUON Chea Defence had been identified on another party's document list, and that the NUON Chea Defence could put the document before the Chamber on this basis. The remaining documents proposed to be put before the Chamber by the NUON Chea Defence were not identified on any other party's document list, (in most cases) were not available in Khmer or French, and were publications authored by, or containing interviews with, TCE-11 between 1979 and March 2012; given that TCE-11's testimony was scheduled on 25 May 2012, the NUON Chea Defence's request could not be considered as timely in accordance with the Trial Chamber's decision in E199. Moreover, the NUON Chea Chea Defence had not explained with sufficient detail when and by which means it discovered the documents, therefore preventing any analysis of whether efforts to discover the documents could have been made at an earlier juncture. The NUON Chea Defence had therefore not satisfied the requirements of Rule 87(4) in respect of these documents.
- Order to bring the Accused NUON Chea (12:06) to the holding cell (waivers of the Accused IENG Sary (full day) and NUON Chea (afternoon) are attached to this written record).
- 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 19 July 2012. Upon receiving his waiver, the Chamber will decide if Ieng Sary may follow the hearing from the detention cell.
- Order to bring the Expert Witness David CHANDLER (TCE-11) to his accommodation and to return him to the courtroom for the hearing on 19 July 2012 before 9:00am.

Orders for Adjournment of Hearing

The hearing will resume on 19 July 2012 at 9:00 a.m.

Phnom Penh, 18 July 2012

Greffier



Andrew McINTYRE



Greffier



DUCH Phary