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ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
31 / 05 / 2013

ម៉ោង (Time/Heure): 11:00

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

E1/168

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 REORD OF PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

31 January 2013

Substantive Hearing on evidence - Day 155

Prepared by:

Matteo CRIPPA and SE Kolvuthy

<u>Attendance Record</u>
Before: Judge NIL Nonn (President), Judge YA Sokhan, Judge YOU Ottara, Judge Silvia CARTWRIGHT, Judge Jean-Marc LAVERGNE.
Reserve Judges: Judge THOU Mony, Judge Claudia FENZ.
Greffiers: Ms. SE Kolvuthy, Mr. Matteo CRIPPA.
OCP: Mr. VENG Huot, Mr. Tarik ABDULHAK, Mr. Keith RAYNOR.
Accused: Mr. KHIEU Samphan (present in his holding cell), Mr. NUON Chea, Mr. IENG Sary (present in his holding cell).
Defence for the Accused: Mr. SON Arun, Mr. Victor KOPPE, Mr. KONG Sam Onn, Ms. Anta GUISSSE, Mr. ANG Udom.
Civil Parties: Ms. Elisabeth SIMONNEAU-FORT, Mr. PICH Ang, Mr. LOR Chunthy, Mr. VEN Pov, Ms. Christine MARTINEAU.
Witness: N/A
Others: Ms. Elburg VAN BOETZELAER, Mr. UCH Arun, Ms. SOUR Sotheary.

Handwritten initials

<u>General court times</u>		
Day	Start time: 9.30	Finish time: 16.05
Recess am	Start time: 10.40	Finish time: 11.05
Recess	Start time: 12.00	Finish time: 13.35
Recess pm	Start time: 14.45	Finish time: 15.10
	Total Court Time:	4 hours and 10 minutes

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Waiver of NUON Chea's right to be present in the Courtroom	TC	09.28	09.28
IENG Sary's and KHIEU Samphan's request for authorisation to participate remotely to the proceedings	TC	09.28 13.36	09.28 13.36
Ruling of the Chamber regarding objection of KHIEU Samphan against certain documents proposed by Co-Prosecutors	TC	09.29	09.32
Health of the Accused NUON Chea	NC Defence TC	09.32	09.41
Co-Prosecutor continues presentation of key documents	OCP	09.41 11.05 13.37 15.15	10.41 12.02 14.45 15.48
Health of the Accused NUON Chea and court schedule next week	TC NC Defence	15.56	16.02

Summary of Proceedings

Waiver of NUON Chea's right to be present in the courtroom

The Accused NUON Chea is still admitted to the Khmer Soviet Friendship hospital and waived his right to be present in the courtroom for the entire day.

IENG Sary's and KHIEU Samphan's request for authorisation to participate remotely to the proceedings and Waiver of IENG Sary's and KHIEU Samphan's right to be present in the courtroom

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The Accused IENG Sary and KHIEU Samphan are present in their holding cell due to their health. The Trial Chamber granted IENG Sary's and KHIEU Samphan's request to participate remotely to the proceedings from their holding cell for the whole day.

Ruling of the Chamber regarding objection of KHIEU Samphan against certain documents proposed by Co-Prosecutors

The ruling can be found under 'Oral Orders/Decisions' of this written record of the proceedings.

Health of the Accused NUON Chea

The NUON Chea defence team states that the health of Accused NUON Chea is improving, however, the medical reports show discrepancy. The Trial Chamber indicates that only information from the appointed medical experts will be taken into account in assessing any progress on the health of the Accused.

Co-Prosecutors continue presentation of key documents

The Co-Prosecutors continue reading documents into the record regarding the role of the Accused KHIEU Samphan.

Health of the Accused NUON Chea and court schedule for next week

The Chamber received a medical report regarding the health of the Accused NUON Chea, stipulating that the Accused will not be able to attend any hearings in the upcoming two weeks. The Chamber requests the NUON Chea Defence to inform the court over the weekend regarding any waiver of the accused NUON Chea to be present for next week's scheduled hearings.

Record of Rule 87(3) Proceedings

TC Ref Number	OCIJ Ref Number	Name/Description	Party/TC	Remarks (ERN)
E3/273		Text of Deputy Prime Minister Khieu Samphan's Report on the new draft constitution delivered at 14 December 1975, Third National Congress on Phnom Penh Recorded	OCP	00657438 (KH) 00725796 (FR) 00167811 (EN) 00657443 (KH) 00725798 (FR) 00167813 (EN) 00657445 (KH) 00725799 (FR) 00167814 (EN) 00757450 (KH)

				00725802 (FR) 00167816 (EN)
E3/259		DK government legal documents entitled Consitution of Democratic Kampuchea	OCP	
E3/232		Photo album containing photos used in presentation	OCP	00017118 (KH) 00323933 (FR) 00182630 (EN)
E3/1173		CPK document entitled Advice of 870 no 02-76 about bomb drop of American imperialist into Siem Reap province on 25/2/76	OCP	
E3/1625		S21 confession of SOEU Vasi alias Doeun	OCP	
E3/2795			OCP	
E3/135		Revolutionary Flag the internal party magazine published monthly, issue 6 June 1977	OCP	
E3/2470			OCP	
E3/3702			OCP	
E3/1754		S21 confession of PA Phall alias Sot	OCP	
E3/197		Minutes of meeting of permanent committee front on 11/3/76	OCP	00000747 (KH) 00334963 (FR) 00182640 (EN) 00000748 (KH) 00182641 (EN) 00334963 (FR)
	D232/110.1.1.6 2R	Video recording October 1975	OCP	
E3/275		Annex 00017: foreign broadcast information service collection of reports for April 1976	OCP	00167605 (EN) 00167631 (EN) 00167632 (EN) 00167636 (EN)
E3/165		General Assembly first session of representative assembly of Kampuchea people 11-13/4/76	OCP	00053610 (KH) 00301338 (FR) 00184052 (EN)

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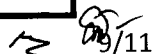
				00053614- 00053615 (KH) 00301341- 00301342 (FR) 00184054- 00184055 (EN) 00053633 (KH) 00301353 (FR) 00184067 (EN)
E3/260		KMAN, on the determination of the People's Representative Assembly of Kampuchea and the Standing Committee of the People's Representative Assembly of Kampuchea, in Khmer, by Khieu Samphan, dated 2 May 1972	OCP	
E3/273		Annex 00014: Ieng Sary hosts reception for diplomats	OCP	00725804 (FR) 00167844 (EN)
	D299.1.42R	Video fragment	OCP	
	D108/32.2R	Video fragment	OCP	
E3/118		Annex 00005 foreign broadcast information service collection of reports for April 1975	OCP	00166994- 00166996 (EN)
Document 10.18		Handwritten note to KHIEU Samphan	OCP	
E3/549		Speech of the chairman of State Presidium of Democratic Kampuchea in the summit conference of the non-alliaged countries in Kolombia, Srey Laingka	OCP	00065900 (KH) 00644938- 00644939 (EN)
E3/608		Khieu Samphan interviewed on executions, National problems	OCP	00635928 (KH) 00632566 (FR) 00419841 (EN) 00635931 (KH) 00632567 (FR)

				00419843 (EN)
	D295/2/2.56R	Video fragment	OCP	
E3/201		Khieu Samphan's speech at anniversary meeting	OCP	00292804- 00292805 (KH) 00612166 (FR) 00004165 (EN) 00292807 (KH) 00612167 (FR) 00419512 (EN) 00419513 (EN) 00419514 (EN) 00419516 (EN) 00419517 (EN) 00292811 (KH) 00612170 (FR)
	D108/28.123	Annex 123: foreign broadcast information service (Cambodian radio transcript_ 3 January 1978, p. H1-H8	OCP	00229017 (KH) 00345466 (FR) 00166065 (EN) 00229020 (KH) 00345468 (FR) 00166067 (EN)
E3/169 E3/562		Annex 143: National public statement by Khieu Samphan	OCP	S00704515 (KH) S00004802 (FR) 00280389 (EN) S00704517 (KH) S00004803 (FR) 0280391 (EN) S00704519 (KH) S00004804 (FR) 00280392 (EN) S00704522 (KH) S00004806 (FR) 00280395 (EN) S00704525 (KH) S00004807 (FR) 00280397 (EN)

E3/562		Annex 240: Internaitonal media report "Phnom Penh rally marks 17 th April anniversary"	OCP	00249989 (KH) 00280379 (FR) 00010563 (EN)
E3/12		Decision of central committee on a number of problems	OCP	
	D84/2.5	Copy of a letter of the Secretary General of Amnesty International Martin Ennals addressed to Khieu Samphan dated 28 February 1977	OCP	
E3/961		Annex 2: Name list of traitors have been sent by Thai to Cambodia	OCP	
	D288/4.28.1	Transcript 8 June 2009	OCP	00338771- 00338774 (KH) 00338661- 00338665 (FR) 00338548- 00338551 (EN)
E3/3311			OCP	
	D84-annex A-01	The Amnesty International reports 1975-1976: Democratic of Kampuchea	OCP	00597825 (KH) 00607934 (FR) 00004213 (EN)
E3/3316	D313/1.2.352	Amnesty International urges Cambodia to respond to allegations of summary executions	OCP	
E190.1.3 92		14 July 1978	OCP	
E3/182		Permanent's meeting of committee on 9 October 1975	OCP	
E3/233		Minutes of permanent committee meeting of 13/3/76	OCP	
E3/220		Minutes of permanent committee meeting on 7/5/76	OCP	
E3/1618 E3/3513		To respected and beloved brother Hem: Report about the visit of Yougoslav	OCP	00002846 (KH) 00665471 (FR) 00680478 (EN)

		Technician Group		
E3/1637		Comment on the request to purchase tractors' spare parts from Yugoslavia	OCP	
E3/3461			OCP	
E3/3455			OCP	
E3/312		DK Government telegram entitled "Using the credit line of 140 million Yuans up to 15 May 1978"	OCP	00072692 (KH) 0066510 (FR) 00685468 (EN)
E3/2515			OCP	00278318 (KH) 00760043 (FR) 00748405 (EN)
E3/1640		Embassy of the Socialist Federal Republic of Yugoslavia	OCP	
E3/3533			OCP	
E3/323		DK Government telegram entitled "110-HK/77-Transporting Oil and Grease to Kampuchea"	OCP	
E3/334		DK government telegram sent to Sok regarding the purchase of DDT, Acid and other goods	OCP	
21.98		3 March 1978	OCP	
	D161/1.47	To Ren Fung Company, Hong Kong	OCP	
	D161/1.4	To Ren Fung Company, Hong Kong	OCP	
	D161/1.46	To Ren Fung Company, Hong Kong	OCP	
	D161/1.43	To Ren Fung Company, Hong Kong	OCP	
E3/1902			OCP	
E3/1907			OCP	
E3/1771			OCP	
E3/1779			OCP	
E3/875		Telegram from commerce committee entitled "Attention to Comrade	OCP	

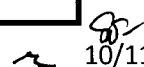
		Krin and Comrade Nath”		
E3/1532		Biography of prisoner, ING Sok, Trade chief in Hong Kong	OCP	
E3/1533		Prisoner biography of PHAN Va, committee member of commercial state in Hong Kong	OCP	
E3/628		International media article by TIME Magazine entitled “A plea for international support”	OCP	00709453 (KH) 00740913 (FR)
E3/203		Transcript of recorded interview with Khieu Samphan on 4-8-1980	OCP	00385409 (KH) 00434231 (FR) 00424013 (EN) 00385413 (KH) 00434326 (FR) 00424015 (EN)
E3/687		International media article entitled “3 unlikely Cambodian allies map war on Vietnam”, New York Times, 9 July 1982	OCP	00651187 (KH) 006225450 (FR) 00122280 (EN)
	D232/110.1.1.6 R	Video Fragment	OCP	
E3/703		What are the truth and justice about the accusations of the mass killings against the Democratic of Kampuchea during 1975-1979	OCP	00700550 (KH) 00004001 (EN) 00693794 (FR) 00700551- 00700552 (KH) 00004002 (EN) 00693796- 00693797 (FR) 00700556 (KH) 00693798- 00693799 (FR) 00004004 (EN)
	D366/7.172		OCP	00002735 (KH) 00710202 (FR) 00716438 (EN)



				00002738- 00002739 (KH) 00710204 (FR) 00716442 (EN)
E3/198		SOAS/HRW suspect interview of Khieu Samphan alias Haem	OCP	
E109/2. 3R		Pol Pot and Khieu Samphan facing genocide	OCP	
E3/16		Khieu Samphan, "Consideration on the history of Cambodia from early stage to the period of Democratic Kampuchea", Reahu, 10-2007	OCP	00380351 (KH) 00643824 (FR) 00498222 (EN) 00380444 (KH) 00643877 (FR) 00498272 (EN) 00380454 (KH) 00643883 (FR) 00498277 (EN) 00380457 (KH) 00498279 (FR) 00643885 (EN)

Oral Orders/Decisions:

- Order allowing the Accused IENG Sary and KHIEU Samphan to participate from the holding cell during the entire day (waiver of the Accused is attached to this written record).
- Ruling of the Chamber regarding objection of KHIEU Samphan defence against certain documents proposed by Co-Prosecutors: "The Trial Chamber notes the objection of the KHIEU Samphan Defence that certain documents identified by the Co-Prosecutors should not be put before the Chamber pursuant to the Chamber's earlier decision on the written statements of witnesses who will not appear to testify (E96/7). The Chamber has set forth the legal framework for the consideration of written statements in E96/7 and will consider any such statement in light of these legal considerations. The Chamber notes that all documents which were objected to by the KHIEU Samphan Defence, concern individuals who are now deceased, and the Chamber finds them to be sufficiently relevant and reliable to be put before it. Any probative value to these statements will be evaluated based on all of the circumstances and the legal standards set forth in E96/7. However, the document E190.1.72 consists of an interview by an individual who is due to testify before this Court in the near

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future. Therefore, the Co-Prosecutor will be allowed to introduce the document during the testimony of this individual. Any objection to the document can be presented at that juncture.”

- Order to the security personnel to bring the accused KHIEU Samphan and IENG Sary to the detention facility and have KHIEU Samphan returned to the courtroom by 9 a.m. on Tuesday 5 February 2013. Security personnel are instructed to have IENG Sary returned to his holding cell by 9 a.m. on Tuesday 5 February 2013.

Orders for Adjournment of Hearing

The hearing will resume on Tuesday 5 February 2013 at 09.00 a.m. *ar*

Phnom Penh, 31 January 2013

Greffier



Matteo CRIPPA



Greffier



SE Kolvuthy