

E170



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ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):
 09 / 02 / 2012

ម៉ោង (Time/Heure) : 15:10

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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

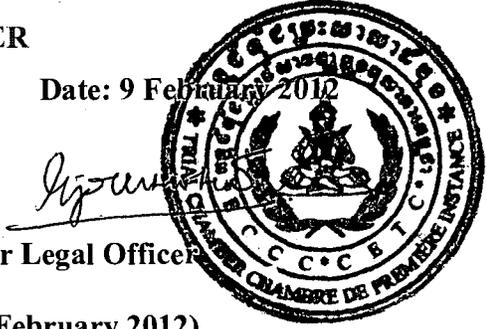
អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

MEMORANDUM – TRIAL CHAMBER

TO: All parties, Case 002
FROM: Judge NIL Nonn, President, Trial Chamber
CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer

Date: 9 February 2012



SUBJECT: Scheduling of oral hearing on documents (13-16 February 2012)

1. Following informal notification provided to the parties by the Trial Chamber Senior Legal Officer on 2 February 2012 (E167.1), and based on the information since received from the parties, the Trial Chamber provides the following information in advance of the documentary hearings scheduled during the week of 13-16 February 2012:

Hearing 1: opportunity to provide indication of documents considered to be of particular relevance in relation to the historical background trial segment [13-15 February 2012]

2. As previously indicated, the Chamber intends to grant to the parties an opportunity to present before it a limited number of documents considered to be particularly relevant to the historical background segment of Case 002/01. The purpose of this hearing is to ensure a greater measure of public accessibility to the documentary aspect of the trial, and to provide an opportunity (to those parties who seek it) to highlight for the Chamber key documents considered to be particularly important to the historical background segment of Case 002/01 from their perspective. Whenever a document is presented by any party as part of this hearing, the Accused will also be permitted to comment on this document, if they so choose.

3. As the purpose of this hearing is distinct from the ongoing process of putting documents before the Chamber pursuant to Internal Rule 87(3), parties may refer either to documents already before the Chamber (*i.e.* with an existing E3 designation), or to documents previously identified by the parties as relevant to Case 002/01. The parties are requested to select only a limited number of key documents relevant to the historical background segment of the trial for presentation, to circulate a list of documents for presentation to all parties and the Chamber in advance of the hearing, and to avoid repetition by not selecting documents which have already been discussed in detail in proceedings to date.

4. The Trial Chamber allocates for this purpose two and a half days (Monday 13 February 2012, Tuesday 14 February 2012 and the morning of Wednesday 15 February 2012) to the Co-Prosecutors and the Lead Co-Lawyers, on an allocation to be agreed between them, and

the afternoon of Wednesday 15 February 2012 to the NUON Chea Defence. As this hearing does not concern the admissibility of any documents proposed to be put before the Chamber, time has not been allocated for responses by the other parties to these presentations.

Hearing 2: Documents to be put before the Chamber pursuant to IR 87(3) in advance of next trial segment (communication and administrative structures) [Thursday 16 February 2012]

5. In order to lay the foundation for the next trial segment, the Chamber will then provide opportunity for adversarial argument in relation to all documents referenced in the footnotes of the paragraphs in the Closing Order identified by the Chamber as relevant to administrative and communications structures (Closing Order paragraphs 33-112, 869-872, 880-892, 1001-1015, 1131-1144 and 1147-1150; *see* Memorandum E155 of 19 December 2011, as amended on 8 February 2012). Excepted from consideration are documents in the above category that have already been proposed to be put before the Chamber (Annexes A1 – A5 of the Co-Prosecutors' document list of 19 April 2011 (E9/31) insofar as indicated to be relevant to the first trial (E109/4)) and written statements, which will form the subject of a pending decision before the Chamber. On 6 February 2012, the Co-Prosecutors circulated, as guidance to all parties, a table showing the limited number of documents that are therefore intended for adversarial argument during this hearing (since amended by the Chamber to take account of documents cited in the additional paragraphs added today to memorandum E155).

6. The Chamber recalls its oral decision of 26 January 2012, in which it accorded a presumption of relevance and reliability to documents cited in the Closing Order. This hearing therefore grants those parties who wish to avail themselves of it the opportunity to rebut this presumption by providing reasoned argument in relation to specified document alleged not to meet the criteria contained in Internal Rule 87(3). This opportunity to object orally to these documents is provided as an alternative to the filing of written submissions.

7. The Chamber has allocated Thursday 16 February 2012 for this purpose. To facilitate planning, the Chamber requests all parties to advise its Senior Legal Officer, by Wednesday 15 February 2012 at the latest, a) whether they intend to challenge any of the documents referenced in paragraph 5 and b) if so, the amount of time sought by each party for this purpose. The Chamber will then in due course indicate time allocations for these objections, as well as responses.

8. Should time permit, the Chamber shall then proceed to discuss the following categories of documents proposed to be placed before the Chamber pursuant to Internal Rule 87(3). In this case, time allocations for each party will later be provided orally by the Chamber:

A8 – Tram Kak district records: all documents in E9/31.8 listed as relevant in E109/4.8 (57 documents);

A17 – International communication documents: all documents in E9/31.17 listed as relevant in E109/4.17 (158 documents).

9. The Trial Chamber wishes to clarify that contrary to what is alleged by the KHIEU Samphan Defence in its motion E167 of 6 February 2012, the email of the Trial Chamber Senior Legal Officer of 2 February 2012 (E167.1) provided the parties advance notice of next week's hearing, and solicited information from them in advance of issuing the present memorandum. This memorandum accordingly constitutes the official schedule for next week's hearings, as well as the Chamber's official response to Motion E167.