



**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 King

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber

Chambre de première instance

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

07 / 06 / 2012

ម៉ោង (Time/Heure): 15:30

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

**WRITTEN RECORD OF PROCEEDINGS**

**PUBLIC**

Case File N° 002/19-09-2007-ECCC/TC

2 May 2012

Substantive Hearing on evidence – Day 59

Prepared by:

DUCH Phary and Faiza ZOUAKRI

<b><u>Attendance Record</u></b>
<b>Before:</b> Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge Jean-Marc LAVERGNE, Judge YA Sokhan, Judge YOU Ottara.
<b>Reserve Judges:</b> Judge THOU Mony, Judge Claudia FENZ.
<b>Greffiers:</b> Mr. Andrew MCINTYRE, Mr. DUCH Phary, Ms. SE Kolvuthy, Ms. Faiza ZOUAKRI.
<b>OCP:</b> Mr. HUOT Veng, Mr. Vincent de WILDE D'ESTMAEL, Mr. Tarik ABDULHAK.
<b>Accused:</b> Mr. KHIEU Samphan, Mr. NUON Chea, Mr. IENG Sary.
<b>Defence for the Accused:</b> Mr. SON Arun, Mr. Andrew IANUZZI, Mr. KONG Sam Onn, Mr. ANG Udom, Mr. Michael G. KARNAVAS.
<b>Civil Parties:</b> Ms. Elisabeth SIMONNEAU-FORT, Mr. SAM Sokong, Mr. LOR Chunthy, Mr. HONG Kimsuon, Mr. Barnabé NEKUIE, Mr. VEN Pov, Ms. SIN Soworn.
<b>Witnesses:</b> SALOTH Ban (TCW-586), PEAN Khean (TCW-504).
<b>Others:</b> Mr. MAM Rithea (Counsel for the Witness), Ms. Alexandra PRASSOLOFF.

<b><u>General court times</u></b>		
Day	Start time: 09:05	Finish time: 16:00
Recess am	Start time: 10:30	Finish time: 11:20
Recess	Start time: 12:10	Finish time: 13:35
Recess pm	Start time: 14:40	Finish time: 15:00

	Total Court Time:	4 hours, 20 minutes
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<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Request regarding Judge CARTWRIGHT	NUON Chea Defence	09:10	09:20
Testimony of Witness SALOTH Ban (TCW-586)	KHIEU Samphan Defence	09:20	09:50
Defence Request under Rule 28(8) - right against self-incrimination	NUON Chea Defence	09:55	10:10
Objection to the admissibility of a document	IENG Sary Defence KHIEU Samphan Defence	10:10	10:25
Waiver of the Accused's right to be present in the courtroom	IENG Sary Defence	10:25	10:25
	NUON Chea Defence	12:10	12:10
In camera session pursuant to Rule 28(8)	Trial Chamber	11:20	12:10
Testimony of Witness PEAN Khean (TCW-504)	TC OCP	13:35	16:00

### Summary of Proceedings

#### Request concerning Judge CARTWRIGHT

The NUON Chea Defence noted that they had attempted to read Judge CARTWRIGHT'S lips during trial proceedings on 30 April 2012 and asked the Chamber to advise Judge CARTWRIGHT to refrain from what they perceived to be non-verbal expressions of bias. The Trial Chamber rejected the application as groundless.

#### Testimony of Witness SALOTH Ban (TCW-586)

The KHIEU Samphan Defence completed the questioning of Witness SALOTH Ban.

#### Defence Request under Rule 28(8) - right against self-incrimination

The NUON Chea Defence made an application for an in-camera hearing to discuss possible issues of self-incrimination relating to Witness PEAN Khean. The Chamber granted this request. The NUON Chea Defence further listed a number of documents which, read in conjunction with the Witness statement E187.1 may suggest potential issue of self-incrimination (D224.14, D224.15, D125/143, D125/144, and D125/207).

#### Objection to the admissibility of a document

The IENG Sary Defence objected to the use of document E187.1 on the ground that this document is not an interview with Witness PEAN Khean but merely a summary providing no information as to how the document was generated. The Chamber dismissed the request on the grounds that questions put to a witness appearing in court and pertaining to the reliability of an interview have always been permitted.

#### 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.

**In camera session pursuant to Rule 28(8)**

The Chamber held a closed session to discuss the application of the NUON Chea Defence under Internal Rule 28(8).

**Testimony of Witness PEAN Khean**

The Witness was questioned by the Co-Prosecutors.

**Record of Rule 87.3 Proceedings**

TC No	OCIJ No	ERN	Title	Class	Note in Khmer	Note in English	Note in French
E3/446	D369/36	00492957- 00492972 00503160- 00503172 00529506- 00529520	កំណត់ហេតុនៃការស្តាប់ចម្លើយសាក្សី LOT Nitya ឡូតី នីត្យា/SALOT Ban សាឡូត បាន/ SO Hong សូង ហុង Written Record of Interview of Witness LOT Nitya ឡូតី នីត្យា/SALOT Ban សាឡូត បាន/ SO Hong សូង ហុង Procès verbal d'audition de témoin LOT Nitya ឡូតី នីត្យា/SALOT Ban សាឡូត បាន/ SO Hong សូង ហុង	p	00492962, Question and answer 40	00503164, Question and answer 40	00529510, Question and answer 40

**Oral Orders/Decisions:**

- Order to bring the Accused IENG Sary (10:25) and NUON Chea (12:10) to the holding cell (waivers of the Accused are attached to this written record).
- Order to bring the three Accused to the detention facility and to return them to the courtroom for the hearing on 3 May 2012.

**Orders for Adjournment of Hearing**

The hearing will resume on 3 May 2012 at 9:00am.

Phnom Penh, 2 May 2012

Greffier

Greffier

DUCH Phary

Faiza ZOUAKRI

