



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 04-Mar-2013, 13:17
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

4 March 2013
Trial Day 161

Before the Judges: NIL Nonn, Presiding
Silvia CARTWRIGHT
YA Sokhan
Jean-Marc LAVERGNE
YOU Ottara
THOU Mony (Reserve)
Claudia FENZ (Reserve)

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:

SON Arun
Victor KOPPE
Michael G. KARNAVAS
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Trial Chamber Greffiers/Legal Officers:

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DAV Ansan
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Simon MEISENBERG

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Élisabeth SIMONNEAU-FORT
Martine JACQUIN
MOCH Sovannary
Pascal AUBOUIN
LOR Chunthy
KIM Mengkhy
Christine MARTINEAU
SIN Soworn
HONG Kimsuon

For the Office of the Co-Prosecutors:

VENG Huot
Tarik ABDULHAK
Keith RAYNOR

For Court Management Section:

SOUR Sotheavy

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
JUDGE CARTWRIGHT	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer

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1 P R O C E E D I N G S

2 (Court opens at 0921H)

3 MR. PRESIDENT:

4 Please be seated.

5 THE KHMER-ENGLISH INTERPRETER:

6 Mr. President, the message from the interpreters.

7 Mr. President, and Your Honours, and the parties to the
8 proceeding, we, the ITU staff of the ECCC, are now implementing
9 our work boycott. We won't get back to work unless our salaries
10 for the months of December 2012, January, and February of 2013
11 are fully paid to us.

12 Thank you, Mr. President.

13 (Judges deliberate)

14 [09.26.30]

15 MR. PRESIDENT:

16 (No interpretation)

17 (Judges deliberate)

18 JUDGE CARTWRIGHT:

19 Thank you, President.

20 The President has just indicated in Khmer, but for the benefit of
21 the English and other international parties present, the
22 President is indicating that the Judges will retire and consider
23 the situation.

24 We ask the parties to remain in Court and we will resume as soon
25 as possible with an indication of the proceedings from this

1 point.

2 Thank you very much.

3 (Court recesses from 0926H to 1020H)

4 MR. PRESIDENT:

5 Please be seated. The Court is now back in session.

6 For this week, the Trial Chamber actually scheduled to hear the
7 evidentiary documents in Case 002, as informed by an email of the
8 Senior Legal Officer of the Trial Chamber on the 21st February
9 2013 and through our memo dated 26th February 2013, document
10 E261/1, and memorandum dated 8 March 2013 (sic), document E236/4,
11 that this week the Trial Chamber will continue to hear the debate
12 on the testimony of Phillip Short for four days, starting from
13 Monday the 4th till the 7th of March 2013, and the time has been
14 allocated appropriately to the Prosecution, the Lead Co-Lawyers,
15 and the defence lawyers.

16 [10.22.37]

17 We also would like to remind you of our instruction, document
18 E236/4, that the expert Phillip Short shall be questioned on his
19 knowledge within the scope mentioned in the Closing Order for
20 Case 002 - that is document E174/24 - although parties are
21 encouraged to put questions within the scope, as indicated by the
22 Trial Chamber. However, the scope is opened for the whole Case
23 002.

24 Dav Ansan, could you report the attendance of the parties and
25 individuals to the proceeding?

1 THE GREFFIER:

2 Mr. President, in today's proceeding – that is, the 4th of March
3 2013 – all parties are present, except the accused Ieng Sary, who
4 is absent as he is being hospitalised this morning and as
5 notified by the ECCC Detention Facility.

6 Nuon Chea is present in the holding cell downstairs.

7 The national counsel for Ieng Sary, Mr. Ang Udom, is absent as he
8 is now on the way to meet his client in the hospital.

9 [10.24.20]

10 Based on the memorandum of the Trial Chamber – that is, document
11 E261/1 – we are planning to hear the testimony of the expert, who
12 is ready to be called by the Trial Chamber.

13 The witness also indicated that to his knowledge, he has no
14 relationship by blood or by law to any of the three Accused or
15 any of the civil parties who have been recognised in this case.

16 The expert will take an oath before the Trial Chamber.

17 Thank you, Mr. President.

18 MR. PRESIDENT:

19 Thank you.

20 Before we commence, I'd like to inquire from the Interpretation
21 Unit whether the interpreters can assist the Chamber in
22 interpreting.

23 THE FRENCH-ENGLISH INTERPRETER:

24 Mr. President, the Interpreters are present in the courtroom for
25 precisely half an hour – in other words, for the next 20 minutes.

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1 After that, it is not technically feasible to continue.

2 Thank you.

3 [10.25.58]

4 MR. PRESIDENT:

5 I'd like to now give the floor to Judge Cartwright to clarify
6 about the situation of the absence of Mr. Ieng Sary, who has been
7 sent to the Khmer-Soviet Friendship Hospital this morning.

8 Judge Cartwright, please take the floor.

9 JUDGE CARTWRIGHT:

10 Thank you, President.

11 Just to confirm the current situation, the Administration has
12 provided the Chamber with temporary interpretation in English and
13 Khmer only. Therefore, French speakers will have to confer with
14 their colleagues. And this interpretation, as indicated, is for a
15 very brief period.

16 [10.26.52]

17 In relation to the accused Ieng Sary, the Chamber and his counsel
18 were notified earlier this morning that he has been admitted to
19 the Khmer-Soviet Friendship Hospital. The Chamber has a
20 communication from his counsel to the effect that they are as yet
21 unable to consult with him as to whether he waives his right to
22 be present during the hearing of the expert, Phillip Short, and
23 therefore must indicate that they have no instructions to waive
24 his presence.

25 Therefore, the Trial Chamber is unable to proceed to examine the

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1 expert, Phillip Short, and the Chamber asks counsel for Mr. Ieng
2 Sary to notify it as soon as it has formal instructions in this
3 regard.

4 There is one other matter now requiring to be dealt with, and
5 that is Nuon Chea's personal application to the Chamber to be
6 excused from participation.

7 And I think, President, you have the information concerning that.

8 Thank you.

9 (Judges deliberate)

10 [10.28.47]

11 MR. PRESIDENT:

12 As for the accused Nuon Chea, he made his personal application to
13 the Trial Chamber on the 1st of March 2013 that he wishes to
14 participate in all proceedings in the hearing. However, on the
15 first day of March, his health was not getting better due to
16 frequent dizziness and that he could not concentrate and he had
17 difficulty with relieving himself. For that reason, he made a
18 request not to participate in the proceeding on Monday - that is,
19 today. And that - his participation is of course contributing to
20 ascertaining the truth, and he requests to the Trial Chamber to
21 defer the hearing until he is able to participate in the
22 proceedings.

23 The Trial Chamber also received a medical report of the accused
24 Nuon Chea this morning, at 7.30 a.m. The physician examined the -
25 the accused Nuon Chea. That - he has problems with his bowel

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1 system, he is dizzy, and he feels like vomiting from time to
2 time. For that reason, it concludes that the general health
3 condition of the Accused is not that great, but he is able to
4 participate remotely, from the holding cell downstairs.

5 [10.31.02]

6 Regarding the health issue of Ieng Sary, which is a major factor
7 for the proceeding today, that he is not able to participate due
8 to his health reason and that he has to be sent for treatment at
9 the hospital this morning, and as confirmed by Judge Cartwright,
10 Ieng Sary and his defence team have not yet consulted on whether
11 he is willing to waive his right in hearing the witness (sic) of
12 the expert as scheduled by the Chamber. And we actually informed
13 Nuon Chea's (sic) defence to communicate with Ieng Sary during
14 this interim so that they can inform the Chamber on his position
15 and that we are able to arrange the scheduling of hearing the
16 testimony or it shall be reschedule base on the situation.
17 For that reason, we cannot hear the testimony of the expert as
18 scheduled. We will adjourn the proceeding today and we cannot set
19 a definite time to resume the hearing. We shall notify all
20 parties in due course on the scheduling date and the commencement
21 of the hearing.

22 [10.32.52]

23 As for the expert, Phillip Short, we instruct WESU to arrange for
24 his return to his accommodation and have him returned to the
25 courtroom based on the schedule that the Chamber will inform in

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1 due course.

2 Security guards, you are instructed to take the accused Khieu
3 Samphan and Nuon Chea to the detention facility.

4 The Court is now adjourned.

5 (Court adjourns at 1033H)

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