



*Lon Nol (center) is seen in a still from a video clip presented by the OCP at the ECCC. Many of the documents presented on Wednesday focused on the “seven traitors,” which allegedly included Lon Nol.*

### **Population Movements Focus of OCP’s Continued Document Presentation**

By Edward Gough, Associate Consultant, Destination Justice<sup>1</sup>

The Trial Chamber in the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued to hear document presentations in Case 002/1 by the Office of the Co-Prosecutors (OCP) relating to the forced transfer of persons in during the Democratic Kampuchea (DK) period.<sup>2</sup> The OCP produced a series of documents in relation to the dying stages of the war, the entry of Khmer Rouge forces into Phnom Penh and the subsequent evacuation of the city, from the perspective of a number of international journalists present in the city on April 17, 1975. Telegrams to and from the French Embassy to the Ministry of Foreign Affairs in Paris were also presented, giving an inside look into the desperate circumstances of the evacuation of patients in Calmette Hospital, the fate of Prince Sirik Matak, and the chaos that reigned in the city directly preceding and following the Khmer Rouge forces taking control of Phnom Penh.

The tone for the day’s hearing was set by an efficient and orderly procession of documents, intersected by eerie video footage that slowly cast light on the early stages of the Khmer Rouge occupation.

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<sup>1</sup> Cambodia Tribunal Monitor’s daily blog posts on the ECCC are written according to the personal observations of the writer and do not constitute a transcript of the proceedings. Official court transcripts for the ECCC’s hearings may be accessed at <http://www.eccc.gov.kh/en/case/topic/2>.

<sup>2</sup> Cambodia Tribunal Monitor’s daily blog post on the first and second day of the latest documents hearing may be accessed at: <http://www.cambodiatribunal.org/blog/2013/01/parties-engage-clash-over-admissibility-documents>; and <http://www.cambodiatribunal.org/blog/2013/01/document-hearing-slowed-confusion-and-conflict-over-purpose-and-procedure-respectively>.

### ***Opening of the Morning Session***

The day's hearing began slightly late as the judges took their seats at 9:05am precisely. President Nil Nonn swiftly opened the proceedings and indicated the intention to continue hearing documents by the Prosecution.

The President handed over to Greffier Duch Phary, who reported on the housekeeping matters of the court, stating that all parties were present except for Ieng Sary who would view the proceedings from the holding cell for reasons of comfort due to his health, and Khieu Samphan and Nuon Chea who are still under observation in the hospital and have waived their right to be present in the courtroom for the document presentations.<sup>3</sup>

Approximately 150 villagers from Kandal Steung District (Kandal Province) and 200 villagers from Krokor District (Pursat Province), seen excitedly milling about before the hearing, were invited to watch the morning session from the public gallery. French historian Henri Locard, set to give evidence later in the trial, was present in the media room.

### ***Setting the Agenda***

International Senior Co-Prosecutor Keith Raynor, before launching into his document list, firstly clarified the OCP's position on their ability to present documents in relation to the Joint Criminal Enterprise (JCE) argument next Wednesday and Thursday. After being asked by the court to slow his diction to allow for the translators to keep up, Mr. Raynor continued his submission regarding time allocation, pointing out the "twin-track" considerations that are currently occupying the OCP preparations for next week. He stated, "JCE is something that should take place towards the end of the evidence hearings; in an attempt to avoid repetition it would be best digested after all the evidence has been heard on the matter."

Mr. Raynor handed the floor to his colleague National Deputy Co-Prosecutor Veng Huot to state the OCP's agenda for the day in relation to the presentation of documents. Mr. Huot in a very neat and concise manner summarized the topics of the documents to be presented during the day:

1. The period immediately before April 1975 and the situation in Phnom Penh at that time;
2. The attack on Phnom Penh by the Khmer Rouge;
3. The arrival in Phnom Penh of the Khmer Rouge in April 1975;
4. The evacuation of city dwellers;
5. The evacuation of people to the cooperatives;
6. The identification process, the separation, and execution of former civil servants and soldiers of the Khmer Republic regime, and in particular events at the Tuol Po Chrey site; and
7. The number of people to be evacuated in the second phase of forced transfer and the consequences on the people.

The sources for the above topics were set out as such:

1. Reports from the Foreign Broadcast Information Service (FBIS) of the United States;

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<sup>3</sup> Document Numbers E258/2 and E223/4 respectively.

2. Documents from the U.S. archives;
3. A summary from various broadcasters by Khmer Rouge representatives;
4. Reports from international media;
5. Telegrams sent and received from French embassy in Phnom Penh; and
6. Various publications from the Communist Party of Kampuchea (CPK), including records of standing committee members visits to the Northwest Zone.

In this part of the hearing the prosecutor advised that the OCP will not explore topics on the role of the accused in relation to JCE. He then ceded the floor to Mr. Raynor who began to present documents relating to the first phase of the movement of the population in April 1975. Mr. Raynor proceeded through the documents in a chronological manner, starting in April 1975, going towards evidence of the desperate need for food rations towards the latter stages of 1970-75 war, and evidence of the intention of the Khmer Rouge to kill the “seven traitors.”<sup>4</sup>

#### ***Documents from February to April 16, 1975***

Mr. Raynor began the presentation with a document from the archive of the U.S. State Department, which gave monthly running reports on the situation in Cambodia. The particular report<sup>5</sup> presented to the court stated, “In-country clandestine radio reports that on February 24 to 25, Khieu Samphan chaired the second national congress in liberated territory attended by GRUNK,<sup>6</sup> 273 representatives of Front Associations and the army. It is absolutely necessary to kill the seven traitors – Lon Nol, Sirik Matak, In Tam, Long Boreth, Sosthene Fernandez, and Son Ngoc Thanh, and Cheng Heng.”

The prosecutor produced a second State Department document<sup>7</sup> dated February 28, 1975, and starting from the heading of “Indochina,” read, “Inaugural flights of U.S. rice airlift with three planes making 10 Phnom Penh trips without mishap. Rebel rockets hit near the airport as the rice lift begins. ... While most people in Phnom Penh have enough to eat, relief agencies report thousands of refugees starving.” Continuing on this tack, Mr. Raynor presented another State Department document,<sup>8</sup> which read as follows:

Aid has now been authorized to begin a rice program. Up to 20,000 metric tons of rice stored in Vietnam has now been deployed. This will enable Red Cross to greatly increase their feeding programs for refugees. One hundred and fifty tons of rice a day is currently being airlifted. On March 2, 1975, rice stocks totaled 8,693 metric tons or a 16-day supply at the official distribution rate. ... The airlift from Saigon began on February 27 with the number of flights increasing from seven to 14 in a matter of days.

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<sup>4</sup> The seven traitors were the seven key political personnel of the Khmer Republic regime from 1970 – 1975, marked out for execution by the Khmer Rouge once they came to power.

<sup>5</sup> This has the document number E3/344, and the relevant ERNs are 0070867-8 (in Khmer), 00413053 (in English), and 00751935 (in French).

<sup>6</sup> GRUNK is the commonly known French acronym for the Royal Government of National Union of Kampuchea.

<sup>7</sup> This has the document number E3/3551, and the relevant ERNs are 00725702-4 (in Khmer), 00413033 (in English), and 00763934 (in French).

<sup>8</sup> This has the document number E3/3334, and the relevant ERNs are 00740868 (in Khmer), 00413054 (in English), and 00751931 (in French).

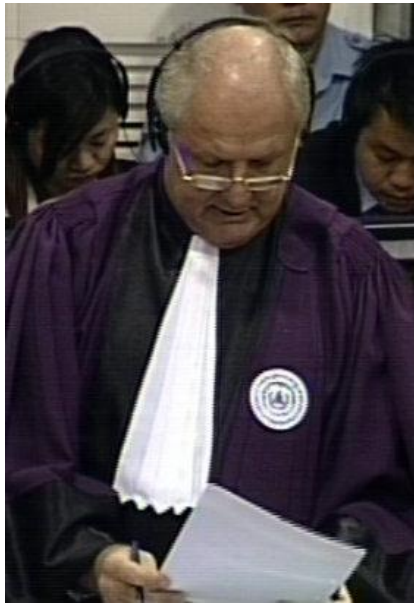
Mr. Raynor continued reading,<sup>9</sup> “Black market prices of US rice rose five percent and Battambang rice nine percent. The fall of Pret Leung has given the gunners better rocket coverage of downtown Phnom Penh and put them in mortar range of the naval base.” He continued from another page,<sup>10</sup> “Between February 25 and March 3, 47 rockets exploded killing 19 people, 119 additional rounds landed in the Pochentong area killing nine, with incoming rounds doubling since the last count.”

Mr. Raynor then produced the first in what was to be a long line of documents from the FBIS reports. The opening report<sup>11</sup> was dated March 9, 1975 and entitled “The French Press Agency reports the evacuation of more personnel”; it stated that “15 people were killed and 23 others wounded when Khmer Rouge insurgents blasted Phnom Penh with rocket-fire.”

Reading from a new document, a U.S. State Department report dated March 11, 1975,<sup>12</sup> Mr. Raynor picked up on the theme of the willingness of the Lon Nol regime to hand over power in order for peace and the intransigence of the Khmer Rouge to give clemency to the seven traitors:

On the economic front planning goes forward for implementation of the new rice program for Cambodia. ... President Lon Nol’s reported remark to a congressional delegation that he would be willing to resign in the course of peace predictably became a prime topic. ... Long Boreth said Lon Nol himself and members of the Government are all prepared to resign should that bring peace.

Moving further down the document, the prosecutor read from an interview with King Sihanouk to *Le Monde* newspaper<sup>13</sup> regarding the GRUNK national congress and its decision to grant



amnesty to all except the seven traitors, who must be killed. The interview stated, “King Sihanouk denied there would be a bloodbath if the Khmer Rouge took control of the country.” The article suggested, “The theme that only the seven traitors must die is being stressed repeatedly in Khmer Rouge broadcasts, to appeal to wavering elements and rebut the rumors of potential massacres.”

Under the sub-title of “Economic” in the same document, the prosecutor continued, “Rice is being moved to a specially designated warehouse, the first distribution is on March 7, 1975. Estimates of rice for the needy totals 3,600 tons per month.<sup>14</sup> Market activity seems to be ‘off’ due to sporadic rocket attacks.” From the section titled “Military,” Mr. Raynor read, “The city of Phnom Penh received incoming rocket fire, but the greatest number of rounds fell at Pochentong airfield.

<sup>9</sup> This has the relevant ERN’s, 0074689 (in Khmer), 00413056 (in English), and 00751932 (in French).

<sup>10</sup> The relevant ERNs are 00740871 (in Khmer), (00413057)in English), and 00751933 (in French).

<sup>11</sup> No doc number was provided.

<sup>12</sup> This has the document number E3/336, and the relevant ERNs are 00635044-45 (in Khmer), 00413126 (in English), and 0059974-55 (in French).

<sup>13</sup> The relevant ERNs are 00599762 (in Khmer), 00413132 (in English)

<sup>14</sup> Continuing onto the next page, 00635051 (in Khmer), 00599765 (in French), and 00413134 (in English).

### ***FBIS Reports on the Intensified Struggle for Phnom Penh and Rice Shortages***

Mr. Raynor produced a number of extracts from FBIS reports that went towards evidence of the desperate conditions of Phnom Penh before its fall to the Khmer Rouge and the impending purges that were threatened in the immediate aftermath of the war's end. The reports were produced chronologically and took the remainder of the first session to detail. They were presented as follows:

1. A FBIS report<sup>15</sup> from March 18, 1975, recording a written transcript of a live radio interview in Paris with King Sihanouk on the Cambodian situation. The report read, "The situation is daily getting a little worse in Cambodia. The American air bridge providing aid had to be suspended due to the Khmer Rouge shelling. In Washington, President Ford is pressing Congress to provide urgent assistance to Cambodian refugees."<sup>16</sup> Further down the document in an interview with Chao Seng, Politburo member the National United Front of Kampuchea (FUNK), the following exchange took place:

[President] Ford claims to fear a bloodbath after the collapse of the regime, what will happen? [Answer:] The bloodbath is happening now since 1970. Apart from the seven traitors who organized the coup and who brought Cambodia into the war, all other members can join the Front when they stop their collaboration with the current regime. It is welcoming of anyone regardless of the past, excepting the seven traitors.

Further down the document<sup>17</sup> it was stated, "A work session held under the chairmanship of the Refugees Construction and community development minister to discuss the distribution of rice and the facilitation of US aid. [The need is] 150 grams to 300 grams per day per person."<sup>18</sup> The same document on a different page also contained a call to arms from defendant Khieu Samphan. Reading from an article entitled "Khieu Samphan appeals for intensified struggle – March 15"<sup>19</sup> the prosecutor relayed the substance of the passage, "Khieu Samphan broadcast an appeal to monks and countrymen under temporary control on 15 March 1975 saying, 'You are asked to intensify your struggle against the traitors by attacking them from the inside.'"

2. Another FBIS report from March 18, 1975,<sup>20</sup> read aloud by the prosecutor, detailed that the rice airlift had brought in over 700 tons daily since March 15. Further down the page<sup>21</sup> the report also stated that Prince Sirik Matak had accepted his fate if the Khmer Rouge took power and come to terms with the fact the seven brothers had been sentenced to death.<sup>22</sup> The document also reported that on March 15, 1975, Khieu Samphan had

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<sup>15</sup> This has the document number E3/120, and the relevant ERNs are 00166810 (in English).

<sup>16</sup> Continuing further down the same document, English ERN 00166821

<sup>17</sup> English ERN 00166830

<sup>18</sup> English ERN 00166831

<sup>19</sup> English ERN 00166828

<sup>20</sup> This has the document number E3/3341, and the relevant ERNs are (in Khmer), 00413194 (in English), and 00606713 (in French).

<sup>21</sup> French ERN 00606715

<sup>22</sup> The relevant ERNs are 00631509 (in Khmer), 00413198 (in English), and 00606718 (in French).

broadcast an appeal for intensified struggle against the Khmer Republic regime and described the government forces as being in “a state of collapse.” Under the subtitle of “Economic,”<sup>23</sup> the report detailed how the frequency of the rice airlift saw a substantial increase in the preceding days, with the overall price level of rice rising slightly.<sup>24</sup>

3. A FBIS report from March 20, 1975,<sup>25</sup> entitled “Rockets hit Long Boreth’s home and just miss the U.S. embassy” gave details of how shells that hit the home of twenty insurgent members killed four and wounded 15 others. Long Boreth however remained unharmed.
4. A FBIS report dated April 1, 1975,<sup>26</sup> relayed a radio broadcast by the voice of the National United Front for Kampuchea in a clandestine recording. “Today the National Liberation Armed forces completely liberated Neak Leung base giving them complete control of the Mekong and South Vietnam border.”

### ***A Video Interlude Followed by Continuance of FBIS Reports***

At this point Mr. Raynor asked the IT Unit for assistance in replaying a video of an extract cut from a documentary *Pol Pot: The Killing Embrace*.<sup>27</sup> As some of the video commentary posed the risk of biased and therefore inadmissible inferences, the video was duly played by the AV Unit without an audio track. Mr. Raynor interrupted the video and asked that on this occasion it be rewound to the beginning and played with the relevant audio. Complying with the prosecutor’s request, the AV Unit replayed the video and a somewhat dramatized English commentary coupled with atmospheric music filled the previously sleepy courtroom. The video showed various clips of Khmer Rouge cadre discharging their rifles and mortars and several scenes of panic on countryside lanes and town streets.

Returning to the substance of the FBIS reports, Mr. Raynor presented the following:

5. A FBIS report dated April 6, 1975<sup>28</sup> detailed how Reuters had reported that Long Boreth had arrived in Bangkok on his way back from Cambodia, talking of a peaceful transition of power. “No military victories, only negotiations. If the Khmer Rouge cannot conclude a peaceful transition of power it will be held responsible for any lives lost. Full democratic elections are necessary.”
6. A FBIS report from April 9, 1975<sup>29</sup> transcribed a broadcast from the voice of the National United Front of Kampuchea (FUNK) entitled “Khieu Samphan Denial.” “Western sources say the contemptible Long Boreth said that there were negotiations with the puppet Thai Foreign Minister. On behalf of the entire Cambodia FUNK and the Royal Government National Union for Cambodia firmly refute this deceitful maneuver; they will never negotiate with the traitorous clique.”

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<sup>23</sup> The relevant ERNs are 00631510 (in Khmer), 00413199 (in English), and 00606719 (in French)

<sup>24</sup> The relevant ERNs are 00631511 (in Khmer), 00413199 (in English), and 00606719 (in French)

<sup>25</sup> English ERN 0016685

<sup>26</sup> This document has the number E3/118 and the relevant ERNs are 00166901 (in English).

<sup>27</sup> Item 988 within the exhibit.

<sup>28</sup> English ERN 00166921

<sup>29</sup> Khmer ERN 00700274-75; English ERN 00166927

7. A FBIS report<sup>30</sup> regarding a broadcast from the voice of FUNK on April 10, 1975, that encouraged Cambodians to annihilate the “arch-rotten traitors.”
8. A FBIS report<sup>31</sup> entitled “Lon Boreth addresses the nation after Sau Khum Khoy flight,” stating, “After the fleeing of Sau Khum Koy and after deliberations the following decision has been made: Sau Khum Koy is no longer the acting President. Power is hereby transferred to the armed forces temporarily and the Supreme Commission of the Khmer Republic.”

Mr. Raynor then produced the first in a series of communications from French journalist and historian Jean-Jacques Cazaux, who resided in Phnom Penh during April 1975 and witnessed firsthand the entry of Khmer Rouge forces into the city. These communications were still part of the reports from the U.S. Department of State archives, so the Co-Prosecutor continued reading from the same document but further down the page:

9. A FBIS report from April 15, 1975,<sup>32</sup> entitled, “The French Press agency reports deteriorating military situation.” In this excerpt of the report historian Jean-Jacques Cazaux reported, “Government forces had abandoned three key defensive positions.” Further down but on the same page, FUNK radio broadcasts report that Pochentong airport is “completed liberated.”
10. A report dated April 16 from the same document<sup>33</sup> detailed the evacuation of the U.S. Ambassador and the “government appeals for doctors to treat casualties.” The document told of how Major Ong Song Seun appealed to fourth year medical students to report to the clearing center, so that they could tend to the wounded.
11. A report with an unspecified date<sup>34</sup> provided details of how Prince Sirik Matak chastised the U.S. abandonment of Cambodia and sent a telegram to President Ford, telling him, “All present and future Cambodian deaths are on the conscience of US people.” In a telegram to the U.S. ambassador,<sup>35</sup> Prince Matak expresses his disbelief about his evacuation from Cambodia, “I cannot believe you would leave in such a cowardly fashion – you are leaving; if I die here it is only because I made a mistake – I believed in you.”

A memorandum was then presented<sup>36</sup> on White House letterhead, recording a cabinet meeting discussing the above chastisement in which Prince Matak’s comments about the cowardice of the U.S. ambassador were reiterated.<sup>37</sup>

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<sup>30</sup> English ERN 0066937

<sup>31</sup> English ERN 00166939-40

<sup>32</sup> English ERN 0016693958

<sup>33</sup> English ERN 0016693966

<sup>34</sup> English ERN 0016693966

<sup>35</sup> English ERN 0016693969

<sup>36</sup> This has the document number e3/3445, and the relevant ERNs are 00738432 (in Khmer), 00443342 (in English), and 00777633 (in French).

<sup>37</sup> The relevant ERNs are 00738435 (in Khmer), 00777636 (in English), and 00443344 (in French).

Approaching the scheduled end of the morning session and wary of the time, Mr. Raynor in an attempt to maintain his momentum, requested for latitude to finish his current presentation on documents relating to the 16<sup>th</sup> of April.

Coming to the last document in relation to the rejection of calls for ceasefire by the Khmer Republic regime, he read from an article entitled, “Sihanouk rejects offer,” which briefly summarized events relating to Long Boreth’s call for a ceasefire with a view to a peaceful transfer of power and ultimately King Sihanouk’s rejection of those calls.

Having concluded his presentation of documents relating to April 16, 1975, the prosecutor asked whether this would be an appropriate time to take the mid-morning break, to which the President concurred and brought the first morning session to a close.

### ***Doctor’s Determination on Ieng Sary’s Ability to Follow Proceedings***

Upon resumption of the morning session, noticing the International Counsel for Ieng Sary was on his feet, President Nil Nonn handed the floor to Michael Karnavas. Explaining his absence in the courtroom in the first morning session, Mr.

Karnavas said that he had been in the holding cell with his client and the attending doctor. Noting the court’s decision that the doctor’s determination on the health of Mr. Sary will dictate whether he stays in the courtroom or not, he informed the court that Mr. Sary’s “vital signs are ok; everything else is not.” Mr. Karnavas argued that in the doctor’s opinion, if the patient’s vital signs are ok, then he can follow the proceedings, yet it is the Ieng Sary Defense Team’s opinion that he cannot actually follow the proceedings. In the respect of the court’s official rules Ieng Sary is effectively acquiescing to the continuance of the current proceedings, Mr. Karnavas noted, but he stressed Mr. Sary’s difficulty in following that proceedings and that all his client wants to do is sleep, though adding that this “not out of boredom.”



Given the opportunity to respond to these comments by President Nonn, Mr. Raynor reiterated the OCP’s position that they need medically sufficient information in this regard. Without further comment, the prosecutor was promptly allowed to continue his document.

### ***Continuation of Production of FBIS Reports***

The prosecutor switched the focus of his document presentation to events directly preceding and following the capture of Phnom Penh by the Khmer Rouge on April 17 and 18, 1975. Dealing with events chronologically rather than thematically, Mr. Raynor began with documents from 17 April 1975, producing:



1. A FBIS report<sup>38</sup> dated April 17 about a communication received at 7 a.m., detailing further information on the liberation of Phnom Penh and the general staff headquarters.
2. An article from the same report<sup>39</sup> detailing how patriarchs from various religious orders requested for peace and a reprieve from the gunfire.
3. A broadcast by the voice of FUNK in the same report,<sup>40</sup> claiming that they have “completely liberated Phnom Penh.”
4. Another broadcast from the Khmer Republic in the same report<sup>41</sup> in response to the call for a ceasefire by the religious patriarchs, reading, “In view of the appeal of the patriarchs and in view of the General of the Khmer Republic armed forces, we have ordered the three armed services to stop shooting and fighting and invite the representatives of [FUNK] to enter the city and begin negotiations for transfer of power.”
5. An announcement seven minutes following the broadcast from the Voice of FUNK, stating, “I hereby inform that we are not coming here for negotiations, we entering the capital through force of arms.”

### *Mapping out Events of April 17, 1975*

Mr. Raynor left the FBIS reports to turn his attention to a communiqué<sup>42</sup> sent to Bangkok, reporting the observation of Jean-Jacques Cazaux on regular hourly updates on events on April 17, 1975, and subsequent days. Mr. Cazaux’s reports described the arrival of the first Khmer Rouge elements in the north of the city. In particular he described how he encountered an “arrogant, pistol-wielding” young cadre named Hem Ket Dara, who was the son of a minister of the Khmer Republic and misrepresented himself as a key part of the Khmer Rouge takeover.

Describing events from 2 p.m. on April 17, 1975,<sup>43</sup> Mr. Cazaux reported as follows:

The mood in Phnom Penh changed, with more Khmer Rouge cadre beginning to take control of the city. At intervalled time periods the evacuation of foreigners begins and other foreign nationals and journalists take refuge at the French Embassy. Prince Sirik Matak is offered asylum at the French Embassy. At 6 p.m.,<sup>44</sup> utter chaos reigns. The gardens of the French Embassy are overrun by the crowd. FUNK soldiers armed with bazookas and AK-47s arrive from the north of the city. The evacuees walk on the right hand side of the boulevard, whereas the Khmer Rouge walk on the opposite side. Complete silence all around the city, no one says a word.

Mr. Raynor requested the AV Unit to play the second video in the scheduled catalog.<sup>45</sup> Returning to the issue of whether audio should be played, he explained that there would be no sound to the video as the commentary from “journalists are interpreting events in their own way and putting a

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<sup>38</sup> This has the document number e3/118, and the relevant ERNs are 00166972 (in English).

<sup>39</sup> English ERN 00166973

<sup>40</sup> The relevant ERNs are 00846158 (in Khmer), 00166974 (in English).

<sup>41</sup> English ERN 00166975

<sup>42</sup> This has the document number e3/2864, and the relevant ERNs are 00712054 (in Khmer), 00710311 (in English), and 00391422 (in French).

<sup>43</sup> This has the document number e3/2864, and the relevant ERNs are 00712054 (in Khmer), 00710312 (in English), and 00391422 (in French).

<sup>44</sup> English ERN 00710313

<sup>45</sup> Document Number: d108/32.2 r, Item 988

certain spin on the events.” For those reasons, Mr. Raynor conceded, these videos would be played without audio.

The video showed a number of harrowing images including: dead bodies; children crying; footage of residents walking on the side of the road with possessions in hand; eerily empty streets in the center of Phnom Penh; and a deserted Psar Thmei.<sup>46</sup>

Turning to another recurring source of documents on the events relating to the Khmer Rouge occupation of Phnom Penh, Mr. Raynor produced the first in a series of telegrams to and from the French embassy in Phnom Penh.

The first telegram<sup>47</sup> from the French Embassy to the Ministry of Foreign Affairs in Paris, regarded a communication from Sirik Matak, who had been requesting asylum, and told of the inability to give him refuge alongside others who may have been making the same request, including Om Bunhor.

Turning somewhat circuitously back to the issue of Hem Khet Dara, Mr. Raynor presented a *Times* Article by John Swain<sup>48</sup> who was situated in Phnom Penh on April 17, 1975. Mr. Swain recorded a log at 11 a.m. on April 17 detailing his encounter with Hem Khet Dara. Mr. Swain called him an “arrogant playboy waving his pistol ... too neat and friendly to be genuine Khmer Rouge ... an opportunist who had misjudged the true mettle of the Khmer Rouge.”

The prosecutor asked the AV unit to play an excerpt from the documentary *Cambodia Year Zero Thirteen*.<sup>49</sup> The clip showed tanks rolling down the center of Phnom Penh and a man waving a pistol in the air whom the prosecutor identified as Hem Khet Dara.

Noting that the Defense Counsel for Khieu Samphan was on her feet President Nonn handed the floor to Anta Guissé. Ms. Guissé, in consideration of the time spent going through these clips, asked the prosecutor to indicate the timing of the excerpts for ease of future reference. Mr. Raynor indicated that he would indeed put the cutting timings on a document sent to all parties later this afternoon, and with no further comment by Ms. Guissé, he continued reading out extracts from the same article from the *Times* newspaper.

Further down the document,<sup>50</sup> from an extract that has the time log of 3:30pm, Mr. Swain’s article resumed as follows:

I went to a news conference at the Ministry of Information where there was a very different scene from the morning. Hem Khet Dara was a semi-prisoner and looked tired and uneasy. Prisoners were lined up against the wall. Lon Non, Lon Nol’s younger

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<sup>46</sup> The Central Market, the main trading place in the center of Phnom Penh.

<sup>47</sup> This has the document number e3/2687, and the relevant ERNs are 00490992 (in Khmer), and 00391430 (in French).

<sup>48</sup> The relevant ERNs are 00644702-703 (in Khmer), 00003277 (in English), and 00597831 – 32 (in French).

<sup>49</sup> Document number: d108/32.2 r. Item: 1011

<sup>50</sup> The relevant ERNs are 00644709 (in Khmer), 00003278 (in English), and 00597835 (in French).

brother and the director of the cabinet, [was present], but the Prime Minister was absent – they were not captives but surrendered people.

To flesh out details of the events in Phnom Penh from the perspective of those trapped inside the French Embassy in the days following April 17, 1975, the prosecutor turned to a series of telegrams from the French Embassy in Phnom Penh to the Ministry of Foreign Affairs in Paris:

1. A telegram<sup>51</sup> from the French ambassador to French Ministry of Foreign Affairs in Paris – “FUNK troops have tried to enter the compound three times – we are very fearful for security of compatriots.”
2. A telegram regarding the “Situation in Phnom Penh”<sup>52</sup> – FUNK have ordered the evacuation of Phnom Penh immediately due to the risk of bombing. Chaos has ensued – people are scrambling to get into the embassy compound.
3. A telegram<sup>53</sup> to the Ministry that was intended to be forwarded to the *Le Monde* Newspaper – “There are very few cadres, but there is obvious organization and planning - the atmosphere in the city has changed with the decision of the evacuation.”

### ***Documents on the Evacuation of Calmette Hospital***

Mr. Raynor began to narrow his focus to the topic of the evacuation of Calmette Hospital and spent the remaining minutes before lunch presenting the following documents:

1. Jean-Jacques Cazaux’s chronology<sup>54</sup> of events – “The evacuees continue their silent march towards the north, the houses are open and cleared out, many houses are set ablaze with incendiary grenades. 1 p.m. - French doctors at Calmette Hospital are ordered to evacuate. All Khmer nationals are asked to leave the embassy.”
2. A telegram<sup>55</sup> from the French Embassy in Phnom Penh to the Ministry of Foreign Affairs in Paris about the situation at 2 p.m. hours on April 18 – “A delegation from GRUNK came and informed the French Embassy about the evacuation, saying that the French did not need to evacuate Phnom Penh. GRUNK and the National Liberation Army expressed concern whether the wounded in Calmette numbered wounded soldiers from the former regime, and requested a list of those present in the embassy and those present in Calmette Hospital.”
3. A telegram<sup>56</sup> from the French Embassy in Phnom Penh to the Ministry of Foreign Affairs in Paris regarding political asylum – “Following an ultimatum I am compelled to include in a list of persons present Prince Matak and two of his officers, barring express orders from the department to grant asylum.”
4. Another telegram from the French Embassy in Phnom Penh to the Ministry of Foreign Affairs in Paris<sup>57</sup> stating that “patients were leaving Calmette in their beds.”

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<sup>51</sup> English ERN 00486884

<sup>52</sup> This has the document number e3/2688, and the relevant ERNs are 00490993 (in Khmer).

<sup>53</sup> This has the document number e3/2696, and the relevant ERNs are 00491277 (in Khmer).

<sup>54</sup> This has the document number e3/2684, and the relevant ERNs are 00391243 (in Khmer).

<sup>55</sup> This has the document number E3/2693, and the relevant ERNs are 00490998 (in Khmer).

<sup>56</sup> This has the document number e3/2694, and the relevant ERNs are 00491363-164 (in Khmer).

<sup>57</sup> This has the document number e3/2691, and the relevant ERNs are 00490996 (in Khmer).

5. A compilation of extracts from the *Times* newspaper<sup>58</sup> referring to the evacuation of the Calmette Hospital entitled “A Great Caravan of Human Misery.” – The article read, “Tipping out patients like garbage in the streets. ... Few of the 20,000 will survive; one can only conclude they [the Khmer Rouge] have no humanitarian instincts. The old, the sick, the hungry, the orphans discarded without exception.”

Interrupting the flow of documents, Mr. Raynor asked for the court’s leave to show a video excerpt from *Cambodia Year Zero Fifteen*.<sup>59</sup> The AV Unit played the video, showing a number of harrowing images relating to the hospital. After the video had ceased the Co-Prosecutor resumed presentation of documents relating to Calmette Hospital:

6. A FBIS report<sup>60</sup> detailing a piece of journalism from Hong Kong via Bangkok, stating, “Red Khmer soldiers entered Calmette and called on all doctors and patients to leave within the hour.”
7. An article<sup>61</sup> from the *Los Angeles Times* dated from May 1975, stating, “The Khmer Rouge ordered all the city’s hospitals vacated, even the very sick and dying.”

Having concluded the part of his presentation relating to April 18, 1975, Mr. Raynor, with a glance at his watch, enquired whether this would be an appropriate time to convene for lunch. The judges huddled in deliberation, with Judge Cartwright and President Nil Nonn particularly animated.

Breaking from the discussion, Judge Cartwright took the opportunity to rule on Mr. Karnavas’s earlier submissions at the start of the second session about his client’s ill health. The judge began by noting the implied waiver that Ieng Sary has given to continued proceedings in his absence and then went on to assure the lawyer for Ieng Sary that doctors are to provide an updated medical report by 1:15 p.m. today. (This report was not publicly updated in the afternoon session, however.)

President Nil Nonn indicated that having dealt with that matter it was now an appropriate time to adjourn for the lunch break.

#### ***Documents relating to April 19, 1975***

President Nil Nonn promptly recommenced proceedings after the recess by immediately handing the floor to Mr. Raynor to continue his presentation of documents.

Thanking the President, the prosecutor indicated his desire to move on to documents setting out the events of April 19, 1975, which he presented in the following order:

1. An extract of an article from the *Chicago Tribune* on April 19, 1975<sup>62</sup>, entitled, “Beheadings reported” – The article stated, “A Khmer Rouge radio broadcast monitored

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<sup>58</sup> This has the document number e3/51, and the relevant ERNs are 00003279 (in English), and 00597837 (in French).

<sup>59</sup> Document number: d108/32.2r, Item: 0102

<sup>60</sup> This has the document number e3/118, and the relevant ERNs are 00166983 (in English).

<sup>61</sup> The relevant ERNs are 0664010 (in Khmer), 0045203 (in English), and 00664007 (in French).

in Bangkok announced that most of the former leaders of the Phnom Penh Government have been beheaded.”

2. A FBIS report<sup>63</sup> on broadcasts from the voice of FUNK<sup>64</sup> regarding the liberation of all the provincial capitals.
3. An excerpt from *Times* catalog of news articles<sup>65</sup> entitled “Champagne, but only rice to eat,” which recorded the events of Saturday, April 19, 1975 – “The [French] Consul began to list all the people within the compound [of the French Embassy]. An hour later, Khmer Rouge authorities refused a wounded Cambodian permission to use Calmette Hospital.”
4. Another excerpt from the *Times* articles,<sup>66</sup> recounting how the French staff arrived with more accounts of “cruelty and madness” in relation to Calmette Hospital, including doctors tending to wounded Khmer Rouge cadre while “looking down the barrel of guns” and other cadre smashing in medicine cabinets at Calmette with rifle butts.
5. Another FBIS report<sup>67</sup> entitled, “Long Boreth in Phnom Penh,” detailing how General Long Boreth was left behind by an evacuation helicopter and captured by Khmer Rouge soldiers, after a last-minute decision to flee did not go to plan when ranking generals were killed by Khmer Rouge in front of the Defense Ministry.
6. A telegram from the French ambassador to French Ministry of Foreign Affairs in Paris,<sup>68</sup> stating, “No one can leave the Embassy premises without FUNK pre-authorization. We are beginning to run out of supplies. The situation is critical.”
7. A communiqué from Jean-Jacques Cazaux<sup>69</sup> stating that water supplies had been cut off.

Continuing to follow his chronological pattern, Mr. Raynor proceeded to bring before the court documents relating to the April 20, 1975, including the following:

1. A telegram from the French ambassador to French Ministry of Foreign Affairs in Paris<sup>70</sup> with the subject “Request for immediate evacuation” – The telegram read, “There is an entirely empty capital. We are without supplies, medicine, and the hygiene situation is becoming critical. I am certain that our presence serves no further purpose. We are merely embarrassing witnesses.”
2. A telegram from the French ambassador to French Ministry of Foreign Affairs in Paris<sup>71</sup> entitled “Departure of refugees” – The telegram read, “Prince Sirik Matak reported to an unidentified committee from FUNK, and other Cambodian nationals intend to give themselves up as prisoners tomorrow morning.”

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<sup>62</sup> This has the document number e3/3367, and the relevant ERNs are 00444890 (in English).

<sup>63</sup> This has the document number e3/118, and the relevant ERNs are 00166988 (in English).

<sup>64</sup> English ERN 00166989

<sup>65</sup> This has the document number e3/51, and the relevant ERNs are 00644720 (in Khmer), 00003280 (in English), and 00597841 (in French).

<sup>66</sup> The relevant ERNs are 00644722 (in Khmer), 00003280 (in English), and 00597842 (in French).

<sup>67</sup> This has the document number e3/118, and the relevant ERNs are 00166992 (in English).

<sup>68</sup> This has the document number e3/2698, and the relevant ERNs are 00810736 (in Khmer).

<sup>69</sup> This has the document number e3/264, and the relevant ERNs are 00710314 (in English).

<sup>70</sup> This has the document number e3/2701, and the relevant ERNs are 00492868 (in Khmer).

<sup>71</sup> This has the document number e3/2702, and the relevant ERNs are 00492870 (in Khmer).

Wishing to show video number 11 entitled *Cambodia: A History of Genocide*, illustrating events at the French Embassy and a sighting of Prince Matak, the prosecutor asked for the Court's leave to do so. However, in an incongruous mix up, the video clip scheduled to be shown could not be found by the AV Unit. The AV unit began to play a different video but it was pointed out that this was incorrect by the Prosecutor, who then asked for leave to play the clip later.

Continuing the presentation in relation to April 20, Mr. Raynor presented an excerpt<sup>72</sup> from the account of events at the embassy by Jean-Jacques Cazaux dated Sunday, April 20, 1975, first pointing out a mistake in the English translation, in which the date was stated as April 28. The excerpt reads, "Cambodians are overcome with fear. Prince Matak identifies himself to authorities and leaves in a Jeep. They are denying water unless Cambodians leave. Some beg for euthanasia by the Calmette doctors."

Mr. Raynor asked for leave to play videos numbered 7 and 8<sup>73</sup>, which were seemingly untitled. Video 7 showed a ghostly abandoned panoramic shot of Phnom Penh streets. Video 8 showed a catalog of images of the remnants of possessions that had been left behind from the evacuation. Both videos conveyed a sense of eeriness.

Swiftly moving on to documentary evidence relating to April 21 onwards and covering a variety of topics, the prosecutor presented the following documents:

1. A telegram from a woman named Loreen, a cryptographer in the Embassy, to the French Ministry of Foreign Affairs in Paris,<sup>74</sup> stating, "Those who have accepted their fate leave the Embassy. ... The separation of Cambodians and their French partners is cruel – this situation seems to be impossible. A boy was born at the Embassy, and his mother had to leave so I adopted him."
2. A telegram from the French Embassy to French Ministry of Foreign Affairs in Paris<sup>75</sup> dated April 22, which states, "Empty buildings set on fire, destroying all vestiges of a consumer society; streets are strewn with TVs and Hifis."
3. A telegram from the French Embassy to French Ministry of Foreign Affairs in Paris<sup>76</sup>, stating, "The [French] Embassy is sheltering a number of foreign nationals - the Khmer Rouge are separating Khmer wives and husbands and have taken away the domestic staff of the embassy."
4. A FBIS document<sup>77</sup> dated April 26, 1975, detailing a report from the French Press Agency entitled "Khmer rouge executions have begun." The report states, "The Red Khmer have been hunting down religious fanatics and rich people. A wave of executions has started."<sup>78</sup> Inhabitants were screened by Khmer Rouge commissioners for supporters of Lon Nol. Rich merchants and Buddhist monks considered too influential were arrested. There have been more than 100 executions in Battambang alone. Four monks were shot

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<sup>72</sup> This has the document number e3/2684, and the relevant ERNs are 00710319 (in English), and 00391426 (in French).

<sup>73</sup> No number given.

<sup>74</sup> This has the document number e3/2707, and the relevant ERNs are 00492871 (in Khmer).

<sup>75</sup> This has the document number e3/2714, and the relevant ERNs are 00555739 (in Khmer).

<sup>76</sup> This has the document number e3/2715, and the relevant ERNs are 00813074 (in Khmer).

<sup>77</sup> This has the document number e3/118, and the relevant ERNs are 00167019 (in English).

<sup>78</sup> English ERN 00167020

down on the pagoda steps in Poipet for refusing to leave the pagoda. The Cham community were amongst the first victims of the anti-religious purge, reported survivors of a column of refugees that crossed the border on Thursday, 30 members of which were mowed down with machine guns in front of Thai nationals.

5. An article published in the *Times*<sup>79</sup>, stating, “Admitting the futility of further resistance, Khmer Republic officers surrendered to officers of Khmer Rouge.” Further down, the same document read,<sup>80</sup> “A soft spoken Marxist Khieu Samphan told of his desire to usher in a highly politicized and regimented life, stating that peasants were herded into communes and the state has taken over private activities.”
6. An excerpt from<sup>81</sup> Mr. Swain’s *Times* article on May 1, 1975, stating, “We are lost and confused;<sup>82</sup> we have come to the startling realization that every other town, village, and province who resisted the revolution has also been emptied out. Kampong Chnnang town was emptied of its 500,000 population. Male nurses from the hospital there said all patients from the hospital had been dumped 18 miles into the forest without food or water.”
7. An article by John-Jacques Cazaux<sup>83</sup> in the *LA Times* dated May 8, 1975, describing the same trip from the Embassy to the border, detailing, “The same empty roads, deserted villages ... everywhere there were ransacked huts, scattered papers and bony, frightened dogs. The same silence passing through the cities. Water and electricity cut off. The streets were empty except sometimes for drifts of bank notes”.

To illustrate the last point, the Prosecutor asked for leave to show video number 9 to the courtroom. The clip showed money raining from the rooftops collecting in large piles on the ground. Video number 6 was shown immediately after documenting the deserted streets of Cambodian cities and children aimlessly playing in the dirt.

### ***The Testimony of Sor Bun***

Turning to a telegram from the French Foreign Embassy in Thailand to the Ministry of Foreign Affairs in Paris<sup>84</sup> dated June 23, 1975, the court heard documentary evidence on the testimony of Sor Bun, a former general of the Cambodian Army, given to Thai officials after escaping the clutches of the Khmer Rouge. Sor Bun, having managed to elude the Khmer Rouge and find refuge in Thailand on May 27 after walking 39 days from Phnom Penh to Cambodia’s northern border,<sup>85</sup> told Thai officials of the deportation of the population, executions, and the nature of political organizations.<sup>86</sup>

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<sup>79</sup> This has the document number e190.1.302, and the relevant ERNs are 00858667 (in Khmer), 00002603 (in English), and 00777553 (in French).

<sup>80</sup> ERN number was not given

<sup>81</sup> This has the document number e3/51, and the relevant ERNs are 00644734 (in English).

<sup>82</sup> Khmer ERN 00644735

<sup>83</sup> This has the document number e3/3366, and the relevant ERNs are 00631524 (in Khmer), 00445201 (in English), and 00606727 (in French).

<sup>84</sup> This has the document number e3/2666, and the relevant ERNs are 00499661 (in Khmer), 00517763 (in English), and 00386856 (in French).

<sup>85</sup> Khmer ERN 00499662

<sup>86</sup> Khmer ERN 00499663

Firstly Sor Bun confirmed the “large scale deportation of population” regardless of the size of the area or population. He testified that those who challenged evacuation orders, even passively, were gunned down after two warnings. All population centers on National Road 6 were also evacuated including numerous villages.<sup>87</sup> Monks did not receive any kind of preferential treatment; they were also being deported. Pagodas were secularized and turned into government warehouses.

Before continuing with the written testimony of Sor Bun, the prosecutor showed the court Video number 5, which contained clips of a half-mile stretch of road just outside of Phnom Penh with no people in sight, homes looking empty, buildings left abandoned, money on the floor and statues effaced.

Continuing the testimony of Sor Bun, the prosecutor read further down the statement:

There is expiatory deportation. The aim of evacuation is to punish urban dwellers that were late in coming to the revolution instead of pushing them to the agrarian activities. Nothing has been prepared in relation to farm-work, no tilling, seeds or any equipment is set up. There are dreadful living conditions; people must feed themselves with grass broth and banana gruel.

Under the subtitle “Executions,”<sup>88</sup> Mr. Raynor read, Sor Bun stated that there were three categories of execution:

1. Spur of the moment executions – These were numerous. All those refusing to leave their homes were gunned down, as were those who were unwilling or unable to keep up with the moving columns of people. Soldiers fleeing with families were easily identified at Khmer Rouge checkpoints, forced to take off their shoes and jackets, and then shot on the spot. Communist girls aged 15-20 years armed with rifles carried out this task.
2. Systematic – All officers not shot on the spot were gathered into camps – one near Kompong Thom and one in Siem Reap. At the Tang Krassang camp, executions occurred almost daily – groups of three to five officers are taken out and shot close to the camp. The bodies are simply left where they fall and not buried.
3. Executions by slow death - All officers are sentenced to forced agricultural labor although this is not clearly defined. This was performed under the worst conditions and under the unwavering guard of very young armed people. In a camp close to Siem Reap for non-commissioned officers, men were hitched to carts – six to eight per cart under the guard of Khmer Rouge cadre aged 10 to 15 years. These officers were fed very little, maybe 300 grams of rice for 10 people. The death rate was “very high.” The entire officer corporation “will have been eliminated.”

After Sor Bun’s testimony was summed up in the telegram, the French diplomat provided an assessment on the reliability of his testimony,<sup>89</sup> stating, “He is of pure Khmer ethnicity and is a

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<sup>87</sup> Khmer ERN 00499664

<sup>88</sup> The relevant ERNs are 00499665-6 (in Khmer), 00517767 (in English), and (00386861 in French).

<sup>89</sup> The relevant ERNs are 0000499662 (in Khmer), 0051774 (in English), and 00386857 (in French).



level-headed man who takes care to talk about only what he has seen, avoiding inferences and generalizations”.

Aware of the time, Mr. Raynor informed the court that he had finished his presentation on documents relating to the first phase of forced movement of the population, but still had documents on the Tuol Po Chrey site and the second phase of forced movement yet to present. When asked whether this would therefore be a convenient time to break the President responded that it would and told the Court to reconvene at 3:05 p.m.

### ***Another Attempt at Screening Videos 10 and 11***

Upon recommencing the proceedings, the President granted the Co-Prosecutor leave to proceed with his documentation presentation. Mr. Raynor informed the court that he had spent some time with the AV Unit and had resolved the issue about the incorrect numbering of the videos and that the blame for the mix-up lay on his shoulders. He told the court that the OCP was now in a position to show the videos that failed to be screened earlier, numbered 10 and 11, and duly requested that the AV Unit screen the requested clips to the courtroom.

Video number 10, a very short excerpt from the documentary *Cambodia Year Zero Fifteen* was projected and offered the court a brief glimpse of the evacuation of Phnom Penh and incidents of the movement of mass roads in the countryside.



*Evacuation of Phnom Penh as seen in a video clip shown by the prosecution.*

Video number 11, which Mr. Raynor had explained earlier, was a clip from *Cambodia: A History of Genocide*, showed scenes from the French Embassy during the occupation of Phnom Penh by the Khmer Rouge but more poignantly showed Prince Sirik Matak among those scenes. The video showed intersecting clips of the route from Phnom Penh to the border that the occupants of the Embassy took. Many visibly upset people populated the clip.

### ***OCP's Documents on Toul Po Chrey***

Having concluded the OCP's presentation of documents on the first phase of the population movement, Mr. Raynor turned his attention to documents on the Toul Po Chrey execution site. He explained that he would read extracts from two documents and then play a long video with accompanying explanatory remarks. The documents he put forward were:

1. An extract from an article in the *Washington Post* dated June 4, 1975,<sup>90</sup> stating, “There have also been reports, including some intercepted messages, that the Communists are executing the entire families of former military officers and high civilian officials.”
2. An Amnesty International news release dated March 30, 1978<sup>91</sup> entitled “Amnesty International urges Cambodia to respond to allegations of summary executions.” The article stated, “Amnesty has been referred by refugee accounts that the situation in Democratic Kampuchea since the change of Government has been characterized by large-scale killings. Refugees reported that many officers and soldiers of the defeated Republic army had been executed in the months following the Khmer Rouge accession to power. Many refugees spoke of the summary execution of former military officers and reports of mass graves containing corpses with army clothing.”

Moving on, the prosecutor asked to show footage from a documentary entitled *One day at Po Chrey* (Video number 12).<sup>92</sup> He informed the court that the film had been cut heavily and that the cut times, along with all the other cut times on the videos shown today, had been sent to all parties. As the President requested that the AV Unit play the clip, Mr. Raynor interjected to add that the video was by Thet Sambath, who has other material on the case file.

After the AV Unit tried to play the clip without sound, Mr. Raynor interjected once more to advise that the clip was in Khmer with English subtitles so it can be played with sound so members of the public can hear the Khmer translation. President Nonn instructed the AV Unit to grant the prosecutor’s request.

The video showed several interviews with Cambodians recounting the re-education of former soldiers at the Po Chrey site. One villager said that he “could hear the sound of the decomposing bodies” coming from the site and when asked what he meant he elaborated that the noises were the gasses escaping a body when someone is dead. In another interview, a villager used a piece of rope to demonstrate how people were tied together with their hands bound, explaining that there were “maybe 20 bodies tied to each piece of rope.” Detailing how they were told about an attack on Toul Po Chrey, villagers recounted that a commander by the name of Klem announced the plan on a loudspeaker, stating, “If anyone would escape, our unit must take all preventative measures necessary” to stop them; otherwise, “the mission would fail”.

Talking about the relaxed atmosphere in the trucks on the way to the site, one villager said the people to be killed were told, “You will be meeting Angkar and you will meet the prince,” but instead they were killed one after another and their “brains scattered everywhere”.

A former guard described how killings took place by the side of the lake so that the victims could not see the bodies when they exited the truck. He recalled how he saw his uncle who was taken to be killed but ran from him because he did not want his uncle to call out for him, due to fear that he himself may be implicated if his uncle asked for help; his uncle and his daughter were then killed. “When the pond was full they stacked the bodies in the field,” the interviewee

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<sup>90</sup>This has the document number e3/3372, and the relevant ERNs are 00831549 (in Khmer) , 00445435 (in English)

<sup>91</sup> This has the document number e3/3316, and the relevant ERNs are 00591055 (in Khmer), 00419920 (in English), and 00607928-29 (in French).

<sup>92</sup> The video reference number was not provided.

explained. He recounted that when the people arrived at the killing site, they asked them to kneel and then shot them in the head, explaining, “The smell of blood was too strong so I moved away upwind.” When the interviewer asked how many bodies he saw, he responded, “There were many. It fills the field. I cannot say how many, but when I asked my commander Bol he replied that there could be between 9,000 to 10,000 ... at least 8,000”.

Talking to a double amputee, the interviewer asked about the Prince, to which he replied, “The soldiers wanted to see the Prince because they wanted to get a promotion; these were soldiers who bought their rank from the market, the insignia.”

Another interviewee described how “the bodies were buried by bulldozers. ... They cut off the heads from the bodies. They put one head on the north gate and one on the south gate.” He told the interviewer that two people by the names of Mr. Run and Mr. Pel were the two people that were mounted on a pole with the spear through the throat. When asked how many females were killed he replied, “Just three – they were naked,” and then added, “maybe they were raped”

### ***Second Phase of the Forced Population Movement***

Concluding the Toul Po Chrey section of the OCP’s document presentation, Mr. Raynor, with a quick glance at his watch, began in earnest the presentation of the documents relating to the second phase of the forced movement in late 1975 and early 1976.

The first document of two documents adduced in the limited time the Prosecution had left was a record of the Standing Committee’s visit to the Northwest Zone dated from August 20, 1975, onwards.<sup>93</sup> The document was entitled “Report on the general situation in the base” and was split into several sections, the first of which was labelled, “People situation.” The selected passage from the first section of the report noted that the “new people” were experiencing shortages of food and medication. In a section entitled “Situation of economy and crops diversification,”<sup>94</sup> the document reported, “Planting rice has been finished in most places in Battambang. ... The water problem had been brought under mastery.” Turning to a different page,<sup>95</sup> Mr. Raynor cited a key passage that purportedly explained the rationale for the movement of people from one zone to another. The passage stated:

The key problem [in] resolving the political situation of the people is the expansion of the cooperatives – employing the strengths of the cooperatives as the core ... making them the hard-core for the absorption of the new people. The function of cooperatives since total liberation, is to absorb all the new people coming out of all the cities and towns especially Phnom Penh and in the northwest, Battambang. Every type of horrible element exists amongst those new people, but the cooperatives have absorbed them completely, supplying them with food and deploying their strength to work. Therefore the cooperatives must be further strengthened.

Mr. Raynor explained that the Northwest Zone was seen as illustrative of the way cooperatives and transfer between cooperatives was to work, reading:

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<sup>93</sup> This has the document number e3/216, and the relevant ERNs are 00008485 (in Khmer), 00850973 (in English)

<sup>94</sup> The relevant ERNs are 00008487 (in Khmer), 00850974 (in English), and 00343375 (in French).

<sup>95</sup> The relevant ERNs are 00008489 (in Khmer), 00850975 (in English), and 00343376 (in French).

Now we are bogged down a bit. The Northwest Zone characteristics of terrain are favorable. The base people are happy and the new people are happy. In [region] 104 it is not like this, they have little hope.<sup>96</sup> The direction of the party is to diversify crops and divide up the country. The Northwest has the [best] qualities in terms of the geography of paddy land, which is good, and there is a lot of surplus. ... They must receive more people. ... We are carrying out shock assaults to diversify agricultural and industrial production. If we send workers to places of low productivity we waste *flute and drum*<sup>97</sup> in so doing. ... [It is] easy for us to organise the workforce; existing workforce has experience.

As a further illustration that the Khmer Rouge organization was attempting to marshal human resources to zones that were productive, Mr. Raynor read from a section of the report that covered the numbers of workers needed to be transferred:<sup>98</sup> “[In the Northwest Zone] they talk of human strength being insignificant, 300,000 or 400,000 more will not be enough. The current strength of 1 million people can only cover 50 percent of the work. It is imperative to add 400,000 or 500,000 more.”

The prosecutor turned to a Communist Party of Kampuchea document<sup>99</sup> dated September 1975 and entitled “Examination of control and implementation of the policy line on restoring the economy and preparation to build the country in every sector.” The document related to the control of the absorption of new personnel to the cooperatives and the preparatory steps needed to organize the cooperatives in an efficient fashion. Reading directly from the document, Mr Raynor relayed a number of statements about the need for fervour in the modernisation efforts, including the sentence, “We must quickly prepare to transform from backward agriculture to modern agriculture in 10 to 15 years. This is the objective.” On the next page of the document,<sup>100</sup> the author stressed, “This matter demands the preparation of forces in every sector to be organized. Furthermore we have cooperatives that are the property of the collective. ... It is easy to organize because we only have cooperative and state ownership.” The document then referred to the Chinese experience of setting up cooperatives and their problem with rice-field dykes. On the next page,<sup>101</sup> the document stated that the absorption of this population movement needs to be “stronger than before the coup.” It also alluded to a situation of shortages “in all aspects of life,” including food and medicine, but stressed that the “movement is strong,” leading to the conclusion that the problem of the livelihood of the people could be solved and commanding that “all the new people, new and old, work vigorously without hesitation.”

Noting that he had eight more pages of the document to go through and a further video to show, Mr. Raynor asked the bench whether this was an appropriate time to convene the day’s proceedings.

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<sup>96</sup>Continuing on a new page under a section entitled “economy and crop diversification” The relevant ERNs are 00008491-92 (in Khmer), 00850977 (in English), and 00343378-79 (in French).

<sup>97</sup> Meaning “Time” and “Effort”

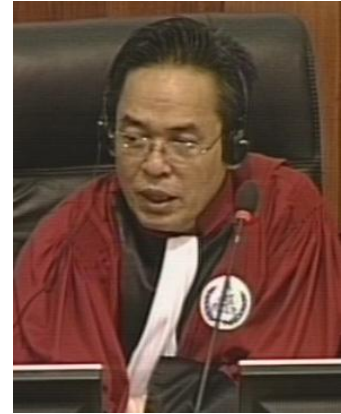
<sup>98</sup> The relevant ERNs are 00008492 (in Khmer), 00850978 (in English), and 00343379 (in French).

<sup>99</sup> This has the document number E3/781, and the relevant ERNs are 00072367 (in Khmer), 00523569 (in English), and 00543745 (in French).

<sup>100</sup> English ERN 00523570

<sup>101</sup> English ERN 00523571

The President said that it was indeed time to adjourn and indicated the intention of the chamber to give the prosecution the floor on the next hearing day to continue the production of documents on the second phase of the forced movement of the population. The President then notified the Lead Co-Lawyers for the civil parties that, once the Prosecution had finished, they had the opportunity to present supplementary document evidence, after the Defense Teams could comment or express their objections to those documents.



Before the President was given a chance to finish proceedings, the National Lead Co-Lawyer for the Civil Parties Pich Ang stood and was given permission to speak. Indicating that the civil party lawyers had not yet prepared all of their documents, he inquired whether the chamber would instead grant them an opportunity in the future to present their documents. The judges gathered around President Nonn to discuss the submission for a few minutes, with Judge Cartwright gesticulating and nodding her head. President Nonn broke the discussion and addressed Mr. Ang, advising that as various parties, most notably the Prosecution, had given their best efforts to adjust to the rescheduling, the Co-Lawyers should try their best to do the same. However, he conceded, in the case of “absolute necessity,” they may be able to present their documents at a later stage in proceedings. The President then concluded proceedings and instructed security guard to take defendant Ieng Sary from the holding cell back to the detention center.

Hearings in Case 002/1 will continue on Monday, January 28, 2013.