



Late King Father Norodom Sihanouk as seen in a video clip presented by the OCP.

Presentation on Khieu Samphan’s Role Features the Late King Father Norodom Sihanouk

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Khieu Samphan’s role during the Democratic Kampuchea (DK) period was the focus of the January 31, 2013 “document hearing” in the Extraordinary Chambers in the Courts of Cambodia (ECCC). During today’s hearing, the Office of the Co-Prosecutors (OCP) — which is frequently one of the only parties to take up the opportunity to present documents at such hearings — put forward a wide range of documents concerning Mr. Samphan.

In a continuation of a presentation it had begun on January 30, the OCP, through a series of documents including historical videos, media articles, Ministry of Commerce articles and Mr. Samphan’s own writing, sought to paint a picture of Mr. Samphan as a senior leader of the Khmer Rouge aware of CPK policies.

During the DK, Mr. Samphan was alleged to have been the principal contact with the recently late King Father Norodom Sihanouk. In explaining this role, the OCP today showed several videos featuring interviews with a charismatic and sprightly Sihanouk. These were particularly poignant given that the ECCC will now be closed for a few days while Cambodia carries out the final funerary processes for the late King Father, culminating in his cremation on Monday, February 4, 2013.

¹ 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>.

Today, accused person Nuon Chea was also released from the Khmer Soviet Friendship Hospital after being admitted on January 13, 2013. However, as his hospital treating doctors have recommended that he rest completely for at least two weeks, this has created uncertainty about the hearing schedule.

Delayed Start and Ruling Concerning Use of Statements of Deceased Persons

The morning session was delayed for nearly 30 minutes this morning, with no explanation offered and an audience of 225 students from Hun Sen Kor High School waiting expectantly in the public gallery. However, it was suggested by some ECCC staff that the delay was due to a strike by the national side of the Interpretation and Translation Unit of the Court, which was striking due to the fact that, like all national staff of the ECCC, they have not been paid for any work undertaken since December 2012.

When the hearing began, Trial Chamber Greffier Se Kolvuthy advised that both International Co-Counsel for Ieng Sary Michael Karnavas and National Lead Co-Lawyer for the civil parties Pich Ang were absent today. Additionally, both accused persons Ieng Sary and Mr. Samphan were participating in their holding cell due to health reasons.



Trial Chamber President Nil Nonn then took the floor, advising that before the documents hearing resumed, the Chamber would first rule on the objection raised by International Co-Counsel for Khieu Samphan Anta Guissé on January 30, 2013 to the OCP's intention to put before the Chamber today several statements of deceased persons.² On this issue, the Chamber ruled as follows:

The Trial Chamber notes the objection of the Khieu Samphan defense 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.³ The Chamber has set forth the legal framework for the consideration of written statements⁴ and will consider any such statement in light of these legal considerations. The Chamber notes that all documents which

² Cambodia Tribunal Monitor's daily blog post, which details Ms. Guissé's objection, may be accessed at <http://www.cambodiatribunal.org/blog/2013/01/documents-reveal-khmer-rouge-era-roles-ieng-sary-and-khieu-samphan>.

³ This decision has the document number E96/7.

⁴ This decision has the document number E96.7.

were objected to by the Khieu Samphan defense concerned individuals who are now deceased, and the Chamber finds them to be sufficiently relevant and reliable to be put before it. Any probative value of these statements will be evaluated based on all 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 future. Therefore, the Co-Prosecutors will be allowed to introduce [that] document during the testimony of this individual. Any objection to the document can be presented at that juncture.

Contested Comments from the Nuon Chea Defense Team on Their Client's Health

At this point, National Co-Counsel for Nuon Chea Son Arun advised that, following the medical report of Mr. Chea's treating doctors in hospital, Mr. Chea's team wished to put some comments before the Chamber. Permitted to do so, Mr. Arun advised that according to the medical report of January 28, 2013,⁵ signed by three doctors, including Dr. Ny Meng, who said that Mr. Chea's health was improving. However, on January 29, 2013, the treating doctors visited Mr. Chea. At that time, Mr. Chea had also invited all his family members to come to see him "in case he might die." The doctor's report seemed to have some discrepancy with this.

The defense counsel also noted that the medical report stated that Mr. Chea's health had improved significantly and he could now sit up, while at the same time stating that he needed to be medically assisted on a regular basis. In another report, the accused person was said to have a "stable" health condition. Thus, according to the reports, it could be concluded that Mr. Chea's conditions had improved.

Mr. Arun acknowledged that Mr. Chea's defense team are not medical doctors. However, both his team, and Mr. Chea's family, seemed to have a different impression regarding Mr. Chea's health condition. At this juncture, the president intervened. Noting that Mr. Arun had stated he was not a medical doctor, he said that Mr. Arun was accordingly prohibited to speak further on this matter. The medical reports were sufficient for the Chamber's purposes.

The defense counsel thanked the president for this, and requested leave to move to another point. The president stressed that Mr. Arun was not allowed to speak further on the matter of health issues. Mr. Arun then advised that his team had received a letter, sent to Prum Phalla — Mr. Chea's case manager — advising that Mr. Chea would be released from hospital at 2 p.m. today. This letter, Mr. Arun said, took his team by surprise. The president interjected that this was indeed still related to the question of Mr. Chea's health, and he was not permitted to proceed further.

Persisting, Mr. Arun presented a request on behalf of the Nuon Chea Defense Team that Mr. Chea's treating doctors be permitted to testify before the Chamber prior to Mr. Chea's being released from hospital. Ruling this request inappropriate, the president swiftly denied it.

⁵ This report has the document number D93.

Khieu Samphan's Role in the Construction of a New State

At this point, International Senior Assistant Co-Prosecutor Tarik Abdulhak took the floor to resume the OCP's presentation of documents relating to the role of Mr. Samphan. First, Mr. Abdulhak presented a report of a speech Mr. Samphan gave on December 14, 1975, recorded in a Foreign Broadcast Information Service (FBIS) transcript entitled *Text of Deputy Prime Minister Khieu Samphan's Report on the New Draft Constitution Delivered on 14 December 1975, Third National Congress in Phnom Penh, Recorded*.⁶ In this document, Mr. Abdulhak said, Mr. Samphan's role in the creation of the new state and its Constitution, and the principles underpinning it, were clearly articulated.

During his speech, Mr. Samphan discussed the second national congress, which had been held in February 1975. He stated as follows:

The second national congress was then held in February and established our domestic and foreign policy, which consists of:

1. Attacking and driving out the U.S. imperialist aggressors.
2. Condemning and punishing the seven traitors: Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret, Sosthene Fernandez. ...
3. Upholding the stand of great national solidarity.

On April 17, 1975, our Revolutionary Army, people, workers, peasants, and the entire nation achieved total victory. At that time, we faced many new tasks, including the task of protecting and preserving the gains of the victory ... and the task of solving the problems of the livelihood of the people.⁷

Moving to discuss the principles on which Mr. Samphan had commented, the prosecutor looked first at Mr. Samphan's comments on culture. In his speech, Mr. Samphan said that Cambodia opposed corrupt "reactionary cultures of the various oppressive classes and of imperialism and colonialism in Cambodia." Movies and magazines promoting this had been "completely wiped out along with the foreign imperialists." He then noted what the Lon Nol traitors had done to their followers, suggesting houses in Phnom Penh were now filled with "unthinkable things."⁸

⁶ This report has the document number E3/273.

⁷ The relevant ERNs are 00657438 (in Khmer), 00167811 (in English), and 00725796 (in French).

⁸ The relevant ERNs are 00657443 (in Khmer), 00167813 (in English), and 00725798 (in French).



With respect to the collective system in the new state, Mr. Samphan said “we practice a collective system in transport and labor ... we apply this system everywhere. We did it before liberation and we continue to do it at present throughout the country.” As for the state’s new institutions, including the judiciary, Mr. Samphan said tribunals “belong[ed] to the people,” and was elected and appointed by the People’s Representative Assembly. As for offenses as defined by the Constitution, he stated that these could be classified as those which had a “systemic and dangerous nature” and which were to be severely punished, and those of a “lesser degree” which were to be punished by reeducation.⁹

Religious rights existed in the new state, Mr. Samphan said in his speech. Cambodians could practice “any religion” or none at all. However, religion was not to be used to subvert the DK, he added, noting that the imperialists had tried to use “a religious cloak to infiltrate the country.”¹⁰ Concluding with his presentation of this speech on the new Constitution, Mr. Abdulhak noted that the Constitution itself is also on the case file.¹¹

Next, Mr. Abdulhak turned to a minute of a meeting on “base work.” While not formally recorded as a Standing Committee meeting, the attendees included Pol Pot, Mr. Chea, Mr. Samphan, Seou Vasy *alias* Doeun which took place on March 8, 1976.¹² This meeting began with a report by Mr. Samphan reported on the principles, objective, and method of the election for the People’s Representative Assembly, and the characteristics of representatives.

The minutes stressed the need not for it to be “seen that we want to oppress.” Nor were the leaders to “speak playfully” in front of the people to reveal that “in fact, our assembly is worthless,” and that “in fact, it is still the task of the Party.”¹³

The meeting also featured reports from Sectors 303, 106, and 103, which formed part of the North Zone under the control of Koy Thuon. On ‘The Situation at the Base,’ the report noted that 34 people had been arrested, as well as another group who had tried to flee to Southern Vietnam. That report requested advice from Angkar on how to deal with the second group.¹⁴ The report also mentioned an apparent investigation into an explosion in Siem Reap city, which was also discussed in an instruction document from Office 870.¹⁵

The report on Sector 103 noted that there was no enemy infiltration, but people fleeing from other sectors including 303 and 101.

Prior to concluding his discussion on the leaving this meeting minute, Mr. Abdulhak said that it was striking that all of the senior leaders who attended the meeting except for Pol Pot, Mr. Chea and Mr. Samphan, were later executed. He provided details of these senior leaders and their executions as follows:

⁹ The relevant ERNs are 00657445 (in Khmer), 00167814 (in English), and 00725799 (in French).

¹⁰ The relevant ERNs are 00657450 (in Khmer), 00167816 (in English), and 00725802 (in French).

¹¹ This constitution has the document number E3/259.

¹² These minutes have the document number E3/232.

¹³ The relevant ERNs are 00017118 (in Khmer), 00182630 (in English), and 00323933(in French).

¹⁴ The relevant ERNs are 00017118 (in Khmer), 00182630 (in English), and 00323933 (in French).

¹⁵ This instruction has the document number E3/1173.

- **Seou Vasy *alias* Doeun:** A former Standing Committee member and key figure at Office 870, Doeun's S-21 confession is dated December 19, 1977.¹⁶
- **Chor Chang *alias* Sreng:** A sector secretary, Mr. Cheng's S-21 confession on the case file is dated April 13, 1977.¹⁷
- **Bou Phat *alias* Hong:** The former Sector 103 secretary, Mr. Phat's S-21 confession is dated January 27, 1978.¹⁸
- **Pa Phal *alias* Sot:** This leader's S-21 confession is dated March 19, 1977.¹⁹
- **Pok Chhai *alias* Touch:** Sometimes recorded as the minute taker of Standing Committee meetings, Mr. Chhai's S-21 confession is dated March 30, 1977.²⁰

Role of Khieu Samphan in Relation to the Late King Father Norodom Sihanouk

Next, Mr. Abdulhak moved to a discussion of Mr. Samphan's role in connection with the recently late King Father Norodom Sihanouk, who was nominally the head of state at the beginning of the Communist Party of Kampuchea (CPK)'s reign. He began with a minute of a Standing Committee meeting dated March 11, 1976. The sole item on its agenda was Norodom Sihanouk's resignation, which Comrade Hem — that is, Mr. Samphan — reported on.²¹

Mr. Samphan said that Sihanouk's long term reason for resigning was "fundamental class conflict between him and his family and the revolution. He could only cooperate tactically." Indeed, Sihanouk had in fact resigned since 1971. When Sihanouk decided to resign for the last time, this decision was reportedly absolute. Sihanouk had "requested Angkar to take pity on him," even offering to even "crawl and show the gesture of respect" so long as he was permitted to resign. Suggested possible responses included wiring for Sihanouk's children to immediately return to Cambodia, ostensibly for the Khmer New Year, although it seems a more sinister reason was implied.²²

Mr. Samphan described Sihanouk as a "killer of the people," who was nevertheless to be kept alive. Such a magnanimous decision by the Khmer Rouge was therefore "reasonable in every way." However, if Sihanouk struggled, the situation had to be ended. There was a need to end feudalism, and ultimately the kings "existing for over 2,000 years must be clean."²³

The prosecutor then put forward an October 1975 video, just before Sihanouk's resignation, containing a brief excerpt where Sihanouk describes his position concerning remaining head of state.²⁴ The video, which was in color, was first broadcast without sound, despite the presenter appearing to speak. It was then played again, and was heard to be a French language recording. A news presenter advised that Sihanouk had decided to resign and leave Cambodia.

¹⁶ This confession has the document number E3.1625.

¹⁷ This confession has the document numbers E3.2795 and E3.135.

¹⁸ This confession has the document number E3/270.

¹⁹ This confession has the document number E3/1754.

²⁰ This confession has the document number E3.3702.

²¹ These minutes have the document number E3/197.

²² The relevant ERNs are 00000747 (in Khmer), 00182640 (in English), and 00334963 (in French).

²³ The relevant ERNs are 00000748 (in Khmer), 00182641 (in English), and 00334963 (in French).

²⁴ This video has the document number D232/110.1.1.62R.

The video then cut to a plump, angry Sihanouk, reportedly in New York. He said “when the interest of my country commands it, I have to leave. I don’t want to be kicked in my back, driven out.” Gesturing emphatically, he added that he was a fighter like Cassius Clay — perhaps better known as Muhammad Ali — and would take up any challenge to a boxing match.

An April 4, 1976 FBIS transcript which Mr. Abdulhak showed next appeared to indicate Mr. Samphan’s acceptance of Sihanouk’s resignation on behalf of what was still, then, a national unity government.²⁵ Entitled *Document on Conference of Legislature I of the People’s Representative Assembly of Kampuchea*, it contained transcript of the following speech by Mr. Samphan:

Today is a day to forever end the black era of the sorrowful oppression of the imperialists and the colonialists both old and new in all sectors — political, military, economic, cultural — over our Kampuchean people. During that era, we lost all of the soul of our nation, the true nature of our people. The views, stances, laws and customs, political, economic, social affairs, everything which is reactionary, corrupt and ruffian of the imperialist, colonialist, and other oppressor classes held down our nation tightly. ...

We clearly see the scale of the victory of the people; of the workers, peasants, and the other laborers; of our Revolutionary Army under the ...magnificent leadership of our organization. We see clearly the value of our Constitution ... therefore, our assembly was not created by a legislative trick ... propaganda or fraud, or by begging to the imperialist, colonialist or other oppressor classes.²⁶

This was relevant, Mr. Abdulhak said, since Mr. Samphan was earlier shown to have been present at a Standing Committee meeting which clearly stated the assembly was a sham. The FBIS transcript also reported a discussion of the appointment of the representatives of the People’s Representative Assembly headed by Mr. Chea, the State Presidium headed by Mr. Samphan, and the government headed by Pol Pot, with Mr. Sary as deputy prime minister. In addition, it considered and approved Sihanouk’s request to resign, and the request to retire by the entire previous government.²⁷

Next, Mr. Abdulhak briefly presented two documents. The first was a degree, or *kram*, issued by Mr. Samphan on the determination of the functioning of the People’s Representative Assembly and its Standing Committee. In particular, under Article 6, it stated that “The Kampuchean People’s Representative Assembly shall have the full right to determine major issues.”²⁸ The second document was a record of a trip taken by Norodom Sihanouk just a few months before the abolition of the government of national union, in which Mr. Samphan had accompanied him.²⁹

²⁵ This transcript has the document number E3/275, and the relevant ERN is 00167605 (in English).

²⁶ This transcript has the document number E3/165, and the relevant ERNs are 00053610 (in Khmer), 00184052 (in English), and 00301338 (in French).

²⁷ The relevant ERNs are 00053633 (in Khmer), 00184067 (in English), and 00301353 (in French).

²⁸ This *kram* has the document number E3/260.

²⁹ This record has the document number E3/273, and the relevant ERNs are 00167844 (in English), and 00725804 (in French).

These documents were followed by another video of Norodom Sihanouk, speaking in French. He advised that Pol Pot did not allow him to return to Cambodia immediately; only in September [1975] could he come as head of state. The Khmer Rouge swore to keep him as head of state for life. He toured the cooperatives and relayed his impression they were like concentration camps, with work going on “day and night” where “sleep was not allowed” and people worked even under moonlight. Regarding the diet of the people, Sihanouk said that rice was mixed with maize, beans, and even leaves, and then switching to English, commented that “The diet was very, very bad.” At this point, the video cut to images of piles of bones and skulls.



Late King Father Norodom Sihanouk as seen in a video clip presented by the OCP.

Asked why he was able to escape execution at the hands of the Khmer Rouge, Sihanouk said that he owed his life to the former Chinese chairman Mao Tse Tung and premier Zhou Enlai. These two “told the Red Khmer Leaders,” Sihanouk said, again switching to English, that “you will not kill Sihanouk, his wife, and their two children.” It was in this way, he said, that he and his family were “the sole survivors of the royal family.”³⁰

A third video was shown, appearing to be from the same time, and this time featuring Norodom Sihanouk speaking exclusively in English. It was interspersed with images of fields of bones and images of the Royal Palace in Phnom Penh. In it, Sihanouk said, strenuously, that:

I did not see the killing fields. I was practically a prisoner of the Khmer Rouge in the Royal Palace. I was completely isolated. I saw only one man — Khieu Samphan — from time to time. He came to the Royal Palace just to say “Hello, how are you?” I tried to get from Pol Pot ... for instance, on the occasion of my birthday ... to have my children, my grandchildren, but he said “No, no, no. Now they are far from Phnom Penh. They are in good health. But please don’t have a

³⁰ This video has the document number D299.1.42R.

family life anymore, because now, under our new Communism, we have to think of our homeland only. No more family life.”

Khieu Samphan’s Speeches and Position on CPK Policy

The prosecutor shifted to a presentation of a series of speeches which Mr. Samphan allegedly gave. The first, given on April 21, 1975, was only days after the fall of Phnom Penh and was recorded in a FBIS transcript. That transcript was entitled *Congratulatory Statement by Deputy Prime Minister, Minister of National Defense, and Deputy Commander in Chief Khieu Samphan to CPNLF Units and Cambodian People*, broadcast on the Phnom Penh Domestic Service that day.

This is our nation and peoples’ greatest historic victory. Our entire nation, people, and CPNLF as well as people throughout the world and in all foreign countries far and near warmly welcome this great victory. It has opened the most brilliant and righteous path which has led the Cambodian people and CPNLF in waging the powerful people’s war to fight the enemy on every field: military, political and economic ... successively smashing all enemy maneuvers, relentlessly attacking, and draining the enemy of its political, economic, and financial strength, food and rice, until it reached a point from which it could not recover. Finally, the enemy died in agony.³¹ ...

However, there will certainly be many obstacles in carrying out our task of national defense and construction which lies ahead. Therefore, we must unite and continue to struggle courageously by constantly increasing revolutionary vigilance and continuing our firm stance of self-reliance.³²

The speech took place when evacuations were still continuing, Mr. Abdulhak noted. This speech was also relevant given Mr. Samphan’s claim to be sad when he understood what was happening.

Next, the prosecutor presented a handwritten note from Norodom Sihanouk. This one page document was written in Beijing on March 28, 2007, and read as follows:

On April 17, 1975, from Beijing, [People’s Republic of China], I sent to His Excellency Khieu Samphan a message of congratulations and admiration on the occasion of the very great victory. Of our hero and “glorious” AFNLC [or Armed Forces of National Liberation of Cambodia], in Phnom Penh, and expressed, to the Khmer Rouge, who are in State power from now on, my desire to return without delay to our country in order to be able to live among the Khmer nation and people. Now it is our people that the Khmer Rouge wanted and wants at any price to break from me and the Monarchy.

I received from His Excellency Khieu Samphan an official response in which there was a fatal “epidemic” in Phnom Penh that obliged the Khmer Rouge to

³¹ This transcript has the document number E3/118, and the relevant ERN is 00166994 to 96 (in English).

³² The relevant ERN is 00166995 (in English).

evacuate people from the capital to the countryside and asked me to report later about my return to the country.³³

Mr. Abdulhak then moved to an April 17, 1976 speech delivered by Mr. Samphan on the first anniversary of the fall of Phnom Penh, extracted from a FBIS transcript. In this speech, Mr. Samphan endorsed the victory and said:

It was also the day the dark era which had overcast our beloved Cambodia ended. It was the day when all sorts of suffering and misery of our workers and peasants, who had lived for a long time in filth and misery under the oppression of the imperialists, colonialists and all stripes of reactionaries, ended.

Our people, workers, peasants, and Revolutionary Army, under the clear-sighted leadership of our revolutionary organization, not only have won a great victory and totally liberated the Cambodian fatherland, but have also put an end to the dark era that had hung over them for thousands of years and liberated themselves from the oppressive yoke of imperialism, old and new colonialism, and that of all other reactionary oppressive forces.³⁴

After the mid-morning break, Mr. Abdulhak drew the Chamber's attention to Mr. Samphan's endorsement, in the speech, of CPK policies. The accused person had stated as follows:

At present, our people, workers, peasants, and Revolutionary Army themselves determine their own destiny entirely independently. No imperialist, colonialist, or oppressor reactionary classes can determine the destiny of our people, workers, peasants, and Revolutionary Army. Our entire nation has clearly and forever written with its own fresh blood a new history for our new race and for coming generations ... The dark past can never return.³⁵ ... The victory that our people ... have scored over the most fervent and inhumane U.S. imperialists is even more brilliant and splendid than the Angkor temple.

As for the future, Mr. Samphan said that:

Following the liberation, that is, from April 17, 1975 to the present, our advance was made with an equally incredible speed. In just one year, we achieved in all aspects as much as one would in 10 years. Our advance is of course rapid, but we still have so much to do and our road is still long. For example, we still have the task of implementing our Cambodian constitution correctly, thoroughly, perfectly, and steadily. The task [is one] of always maintaining the spirit of revolutionary vigilance to protect and preserve our country as a whole.³⁶

³³ This note has the document number 10.18.

³⁴ This transcript has the document number E3/275, and the relevant ERN is 00167631 (in English).

³⁵ The relevant ERN is 00167632 (in English).

³⁶ The relevant ERN is 00167636 (in English).

In an August 1976 speech at the Fifth Summit Conference of the Non-Aligned Countries in Colombo, Sri Lanka, from August 16 to 19, Mr. Samphan again endorsed the policies of the CPK, stating that:

The enemy still carried on its attacks to destroy the results of the victory of our people ... In spite of that, we have overcome all our obstacles, undertaking actively our production work based mainly on the principle of self-reliance. Since liberation, we have succeeded in solving the living conditions of our people. Particularly, we have solved the problem of food. ... Nevertheless, we constantly have to strengthen our revolutionary vigilance, for our innumerable experience has taught us that the enemy will never give up their dark schemes to destroy our revolution.³⁷

Next, Mr. Abdulhak presented an interview which Mr. Samphan gave at that conference which was published in an article entitled 'Khieu Samphan Interview on Executions, National Problems' in an Italian publication *Famiglia Christiana* published some time later on September 26, 1976.³⁸ Responding to allegations of mass crimes being committed in Cambodia, Mr. Samphan said:

Democratic Cambodia is facing one of the most difficult periods of its history. The present situation derives from the fact that ours is a small country that has had to go through a five year war with an enemy whose strength is far greater ... Everyone must work if the country's problems are to be resolved ... as soon as they are able to do so. ...

Cambodians who lost their lives during the war number more than one million. The story of massacres which is being publicized by sections of the Western press at regular intervals is a disgraceful slander spread by traitors who have fled Democratic Cambodia. Now, many of those Cambodians who had fled to France returned to their country willingly. ...

Why must we always talk about these things? The criminals had committed such crimes against Democratic Cambodia that they deserved the most vigorous abhorrence. After all, this is what the people wanted. I wish to be very emphatic about this: the revolutionaries are no assassins. ... Those traitors who remained in Democratic Cambodia have been executed.³⁹

"The present population of Democratic Cambodia is five million," Mr. Samphan went on. Noting the population was previously seven million, the reporter asked what happened to the remaining one million people. Mr. Samphan responded, "It's incredible how you Westerners care what happened to war criminals. In any case, if you want an accurate account, you must consider the Cambodians" who left the country.

³⁷ This speech has the document number E3/549, and the relevant ERNs are 00065900 (in Khmer), and 00644938 to 39 (in English).

³⁸ This interview has the document number E3/608.

³⁹ The relevant ERNs are 00655928 (in Khmer), and 00419841 (in English).

Next, when asked how the Cambodian people willingly accepted a collectivist system, Mr. Samphan explained that:

We have just emerged from a war that destroyed three quarters of the country, a war that was provoked by capitalist imperialists. In such a situation, the question of individualism would be an inconceivable luxury. ...

The new Constitution respects freedom of religion as it respects all other beliefs. Of course, this does not imply respect also for some old privileges enjoyed by the religious class or by others. Just like everyone else, even Buddhist monks have the duty and obligation to work.⁴⁰

Duties as the Head of State in 1977

At this point, the prosecutor moved to show documents which illustrated Mr. Samphan's role as the head of state. He began with a video which recorded a visit to the DK by then-Laotian President Souphanouvong, and appearing to show Mr. Chea, Mr. Sary, Mr. Samphan and Vorn Vet.⁴¹ This silent video included the following scenes:

- Men in suits were seen walking, standing and saluting, while a small plane was taxiing. Senior Khmer Rouge leaders were then depicted waving at the plane, including Mr. Samphan, Mr. Chea, and Mr. Sary. Upon the Laotian president's arrival, he engaged in vigorous handshakes, embraces and kisses with the Khmer Rouge leaders. The group then walked across the airport tarmac past hundreds of children lined up, enthusiastically waving flags, and past a group of what appeared to be young Khmer Rouge cadres.
- A meeting then took place between the Laotian president and the senior Khmer Rouge leaders, with Mr. Samphan, Mr. Chea, and Mr. Sary shown attending the meeting along with other senior leaders. In another scene, several meeting attendees were seen applauding and listening to a speech. In another scene, the Laotian president was sitting at a long boardroom table flanked by Mr. Sary and which appeared to be set up for a meeting. Scenes from that meeting were then shown.
- The next segment opened on a shot of the ocean. It cut to young cadres waving flags, as the Laotian president and others toured an expansive area near the seaside which appeared to be a port. The group then stood near a long train laden with tankers, before walking through an unfinished warehouse site by the sea. The Laotian president shook the hand of a young boy dressed in dark clothes, who then appeared to be welding train track brackets. Next, the Laotian president took a boat ride out to sea accompanied by Mr. Samphan and Mr. Sary, the latter of whom was shown with the wind flapping through his hair, peering through binoculars.
- Next, the film cut to Angkor Wat and a close up of a pit of alligators filling up a small water pool and yapping at the surface while the Laotian president and senior Khmer Rouge leaders watched from above.

⁴⁰ The relevant ERNs are 00635931 (in Khmer), 00419843 (in English), and 00632567 (in French).

⁴¹ This video has the document number D295/2/2.65R.

This video, Mr. Abdulhak said, showed Mr. Samphan as the head of state and also travelling around the country inspecting various sites.

This prompted Mr. Abdulhak to move to his next document: Mr. Samphan's April 15, 1977 speech commemorating the anniversary of the fall of Phnom Penh. This speech addressed several topics including the need to maintain vigilance, allocation of food rations throughout the country, recognition of large labor sites, and schooling.⁴² Key passages were as follows:

Immediately after liberation, as we had suffered untold difficulties ... the enemy failed to cause us any serious trouble. Today, the enemy certainly cannot do us any harm. This is our firm belief ... however, we must carry on the task of defending our Democratic Cambodia ... and preserve the fruits of our revolution by resolutely suppressing all categories of enemies ... We must wipe out the enemy in our capacity as masters of the situation ... Everything must be done neatly and thoroughly. We must not become absentminded, careless or forgetful because of past victories. On the contrary, we must ... continue to fight and suppress all stripes of enemies at all times.⁴³ ...

In 1976, we managed to solve our problems and fulfill the production plan. As a result, we harvested a good crop for 1977. Now we can feed our people a sufficient ration allocated by the state. We even have a surplus of grain for export. ...

We can see that our countryside is undergoing tremendous changes. Each construction site of a reservoir, canal or dam, is manned by as many as 10, 20, or even 30,000 workers. For this reason, the work progresses quickly. ... We do everything by mainly relying on the strength of our people. We work completely self-reliantly. This shows the overwhelming heroism of our people ... Though bare handed, they can do everything. ...

The people's living conditions are directly related to the national defense of Democratic Cambodia ... and to our nation building efforts. Our country has a small population, making it necessary for us rapidly to strengthen ... our population, protect the existing forces ... and expand new forces. This is the political line dictated by our revolutionary organization. Therefore, we must nurture our people [with] a sufficient amount of three, two and a half or two small tin cans of rice, is allocated daily. Moreover, there is dessert. ... On average, they now eat dessert three times a month, which is sufficient to take care of their health and fatten them up.⁴⁴

Therefore, our goal is to work, serve the nation building movement and learn technical skills at the same time. Whether the dams or reservoirs we have built last

⁴² This speech has the document number E3/201.

⁴³ The relevant ERNs are 00292804 to 05 (in Khmer), 00004165 (in English), and 00612166 (in French).

⁴⁴ The relevant ERNs are 00292807 (in Khmer), and 00612167 (in French).

only five or ten years does not matter ... we shall be much more developed, richer, and more experienced [then] than we are now.⁴⁵

We should be proud of our past successes, but we should not become reckless, careless because of these achievements. We must, by contrast, become more humble, ... careful, and responsible and follow every line of our revolutionary organization more steadily. ... We must uphold our spirit of revolutionary vigilance at all times against the enemy from all quarters ... to defend Democratic Cambodia, protect the worker peasant, and preserve the fruits of our revolution resolutely.

A statement by Mr. Samphan on December 30, 1977 related to Cambodia's break of relations with the Socialist Republic of Vietnam (SRV), focusing on a discussion of all Vietnamese subversive acts in Cambodia and an attempt to stage a *coup d'état* in the country. In particular, Mr. Samphan said:

What are the causes which led the SRV armed forces to carry out this aggression ... against the innocent Cambodian people? ...

- The immediate reason is that the aggressive SRV armed forces have [done this] in order to plunder rice and livestock from the Cambodian people to solve their hunger problem.
- The basic cause is the fact that the SRV for a long time has held the strategic aim of including Cambodia as a member of the Vietnam-dominated Indochinese Federation. ... The SRV has for many years carried out many acts to exert pressure, [and] force ... to prevent Cambodia from existing in independence and sovereignty.
- The SRV has carried out many maneuvers and committed several criminal acts, including inciting a handful of Cambodian traitors to create a new party as a tool to destroy the [CPK]. ... The SRV secretly appointed a group of evil men and turned them into ... its institution on Cambodian soil ... to oppose and attack the Cambodian revolutionary state's power ... However these plans of Vietnam were successively defeated by the Cambodian people and the Cambodian Revolutionary Army from 1965 to 1975.⁴⁶

In 1975 and 1976, Vietnam continued conducting aggression and carried out criminal acts in an attempt to stage a *coup d'état* to overthrow Cambodia.⁴⁷

The prosecutor then turned to yet another anniversary speech delivered by Mr. Samphan in commemoration of the "grandiose victory" of April 17, 1975; this time, the one he gave in 1978.

⁴⁵ The relevant ERNs are 00292811 (in Khmer), and 00612170 (in French).

⁴⁶ This statement has the document number D108/28.123, and the relevant ERNs are 00229017 (in Khmer), 00166065 (in English), and 00345466 (in French).

⁴⁷ The relevant ERNs are 00229020 (in Khmer), 00166067 (in English), and 00345468 (in French).

In it, Mr. Samphan again endorsed and supported CPK policy⁴⁸ and then discussed the “grandiose victory” thus:

Now our working class peasantry and the Revolutionary Army are complete masters of their own destiny which they enjoy in all independence and sovereignty. No imperialists, no colonialists, and no class of exploiters and reactionary forces can again decide the destiny of our working class, our peasants, and the Revolutionary Army of Cambodia. ... The honor of our working class and our peasants ... has been brilliantly restored. The dark era is now a thing of the past and will never resurface again.⁴⁹

Once again, Mr. Samphan also addressed Vietnamese subversive activities, stating that:

Concerning the east border, fighting between us and Vietnam is fierce and persistent because Vietnam is devoured by the singular ambition to annex Kampuchean territory according to its plan of the “Indochinese Federation” ... This year, fighting has been fiercer than last year, the reason [is] because Vietnam’s acts to annex Cambodia, especially because its [subversive] tactics ... have all been woefully defeated.⁵⁰

We are all determined to draw inspiration from the noble and subtle revolutionary heroism of our Revolutionary Army by always raising higher and ... solidly as steel our revolutionary patriotism and our revolutionary pride in our nation, our people, our Revolutionary Army, our revolution, and our Party, by resolutely placing the interests of the nation, the class, the people, and the revolution, above personal and family interests and moving all our efforts to achieve all the tasks entrusted in each of us by the party, and continuing through our daily activities to radically eliminate from our territory all the aggressors, especially Vietnam, eager to annex our territory.⁵¹

On the importance of political education to cadres in the revolutionary movement, Mr. Samphan said:

Must we learn technology and science? Certainly, but we should specify that we do not study technology that is not embedded in nation building. Technical studies are closely linked to practice and productivity. By so doing, we intend to build an independent economy ... which we intend to construct and develop into the future. That is the way to proceed.

It is by so doing that all the masses can acquire knowledge and take control of their own state authority, which is not a state authority in the hands of a handful of

⁴⁸ This speech has the document number E3/169 and E3/562.

⁴⁹ The relevant ERNs are S00704515 (in Khmer), 00280389 (in English), and S00004802 (in French).

⁵⁰ The relevant ERNs are S00704517 (in Khmer), 00280391 (in English), and S00004803 (in French).

⁵¹ This has the document number , and the relevant ERNs are S00704519 (in Khmer), 00280392 (in English), and S00004804 (in French).

individuals ... All the people are the masters of the country, the masters of the economy, and hold the destiny of the nation in their hands and actively participate in nation building. Such power is therefore very solid. ...

Over the past year, our people's revolutionary forces have considerably developed and grown in strength. Our people have relentlessly fought to defend the country against imperialist, expansionist, annexationist, and reactionary forces of all sorts to lead the Socialist revolution and boost productivity. ...

At the same time, our people are increasingly satisfied with our Socialist collective regime. They have become increasingly aware of the power of this regime which can effectively defend and build the country by force and rapidly building the people's standard of living in all independence and sovereignty while relying on its own forces at the highest level.⁵²

The fact that we successfully defended our country by smashing the destructive actions of the American imperialists and their lackeys, the fact that we successfully shattered the destructive activities of the expansionists, annexationists, and reactionary forces of all sorts and especially the criminal acts of the aggressor which wants to grab and annex our territory and the fact that we have improved our economy in a short time span ... and speedily raised our standard of living in total independence and sovereignty while relying on our own forces at the highest level ... Led our friends from near and far ... to increasingly express their sympathy and to actively support us every day....

We have to consolidate and develop these victories and continue to forge ahead. As such, we have to relentlessly pursue the struggle to accomplish the tasks of the Party. ...

We must defend tooth and nail the country, the revolution, the power, the people, the army, the Party, and the Kampuchean race. We can only succeed if we properly implement the Party line in external as well as internal defense. All the units throughout the country must continue to increase their revolutionary vigilance.⁵³

Another related document shows resolutions adopted at this meeting. They include:

- To expel resolutely from Cambodian territory and destroy forever all the expansionists, annexationists, and Viet aggressors. ...
- To expel resolutely all agents of the expansionists, annexationists, Vietnamese aggressors from our units and from Cambodian territory forever. ...
- To expel resolutely all C.I.A. agents from our units and Cambodian territory forever. ...

⁵² The relevant ERNs are S00704522 (in Khmer), 00280395 (in English), and S00004806 (in French).

⁵³ The relevant ERNs are S00704525 (in Khmer), 00280397 (in English), and S00004807 (in French).

- To enhance the moral, physical and mental strength of each individual, each unit, and the nation as a whole, and maintain national unity in the struggle to eliminate enemies of all stripes ... in order to preserve the nation and the Cambodian race forever.⁵⁴

Amnesty International Reports and Correspondence

After the lunch break, the president advised that before handing the floor to the OCP, the Chamber wished to draw attention to the order to bring Mr. Samphan to the holding cell for the document hearing. It advised that it would require two half-days to finish the hearing on Mr. Samphan. However, as the sessions had not yet concluded, the president wished to order Mr. Samphan to remain in his holding cell until the hearing's completion.

Before a new audience of 106 villagers from Ponhea Leu district in Kandal province, many of whom appeared to have been born before the period, Mr. Abdulhak noted that all of the annual April 17 speeches Mr. Samphan made were after the March 30, 1976 decision of the Central Committee. He then moved to reports and correspondence issued by Amnesty International during that period.

The first was a letter from Martin Ennals, then-Secretary General of Amnesty International, dated February 28, 1977 and addressed to Mr. Samphan.⁵⁵ This document expressed concern over the repatriation of Cambodians to Cambodia, and in particular:

I am writing to you today concerning a matter that is causing great concern in international circles in the hope that you can provide us with your comments regarding the fate of 26 individuals of DK ... [from] Battambang province, [who] are reported to have travelled to Thailand ... it is reported that on November 23, 1976, the Thai authorities handed them over to the DK authorities at [a] border post. ...

Shortly after these people were made to return, [we have heard] reports that they may have been executed in Kampuchea ... after spending three days in Mongkol Borey. In view of the seriousness of these accusations, Amnesty International appeals to the government of the DK to launch an investigation and to provide details about the fate of these individuals. ...

[We have also heard] reports about ... citizens who are considered "enemies" ... being removed from their places of work and taken to unknown locations ... There are also reports of summary executions. ...

Amnesty International cannot comment on whether these all are true. However, our organization and other international organizations are gravely concerned about the lack of any comments by the government of Kampuchea and are quite anxious to hear your government's views.

⁵⁴ This decision has the document number E3/562, and the relevant ERNs are 00249989 (in Khmer), 00010563 (in English), and 00280379 (in French).

⁵⁵ This letter has the document number D84/2.5.

Thus, Amnesty International requested to send a delegation to Cambodia, or for another organization to be permitted to travel to Cambodia.

This prompted Mr. Abdulhak to present a report or table which was issued by the DK Revolutionary Military Committee of Northwest Zone entitled *Letter to Angkar*, with a list of 25 “traitors sent back by the Thai authorities” attached to it.⁵⁶ Comparing this list to the list in the Amnesty International letter showed that several of the names were identical. This document was also considered in the ECCC Case 001 trial June 8, 2009 against Kaing Guek Eav *alias* Duch, Mr. Abdulhak said. On that day, Duch confirmed that the document was genuine.⁵⁷

Amnesty International continued to express concerns about alleged crimes committed by the government of the DK. On May 8, 1977, they released a press release referring to Mr. Ennals’ earlier letter. This release stated that

The 26 persons, mainly farmers but including an 11 year old child, were later reported to have been executed shortly after their return to Cambodia. ... The appeal to President Khieu Samphan was contained in a letter also alleging reports of summary executions and maltreatment ... As with previous inquiries made by Amnesty International to the government of Kampuchea, the letter has remained unanswered.⁵⁸

An extract from the 1975 to 1976 Amnesty International report discussed the situation in Cambodia as follows:

During the 12 months that elapsed since ... GRUNK ... came to power, an increased number of reports from refugees have been published ... [that] allege widespread executions. Earlier reports [related to the seven] “super traitors.” ... In November 1975, Deputy Prime Minister Ieng Sary confirmed that three leaders of the former regime had been executed.⁵⁹

The prosecutor next referred to a March 30, 1978 document where Amnesty International called upon the government to respond to reports of alleged killings.⁶⁰ A subsequent letter on July 14, 1978 also noted reports of human rights violations and Amnesty International’s additional concerns about constitutional protection of basic human rights in Cambodia.⁶¹ In addition, there were two earlier letters to Mr. Samphan on the case file.⁶² However, as they were not on OCP’s Rule 80 list, Mr. Abdulhak would not discuss them in detail.

⁵⁶ This report has the document number E3/961.

⁵⁷ This transcript has the document number D288/4.28.1, and the relevant ERNs are 003387771 to 74 (in Khmer), 0033 8548 to 51 (in English), and 00338661 to 65 (in French).

⁵⁸ This press release has the document number E3/3311, and the relevant ERNs are (in Khmer), (in English), and (in French).

⁵⁹ This document has the document number D84-Annex A-01, and the relevant ERNs are 00597825 (in Khmer), 00004213 (in English), and 00607934 (in French).

⁶⁰ This statement has the document number D313/1.2.352 and E3/3316.

⁶¹ This letter has the document number E190.1.392.

⁶² These letters have the document numbers D84/2.3 and D84/2.4.

Khieu Samphan's Role Relating to the Functioning of the Ministry of Commerce

At this juncture, Mr. Abdulhak moved to a new theme of documents illustrating Mr. Samphan's role during the DK period. These related to Mr. Samphan's function at the Ministry of Commerce. By way of introduction, the prosecutor noted that at the October 9, 1975 Standing Committee meeting, Mr. Samphan was assigned responsibilities for commerce, accounting and pricing, while Koy Thuon was assigned responsibility for domestic and international commerce and Mr. Vet given responsibility for industries, railroads, and fisheries.⁶³

Mr. Abdulhak then noted that his document presentation in this regard would build on an October 10, 2012 document presentation given by one of his OCP colleagues. This presentation, by International Senior Assistant Co-Prosecutor Vincent de Wilde, concerned the structure and operations of the Ministry of Commerce.⁶⁴ Briefly presenting some documents on this subject, the prosecutor noted that, according to documents on the case file:

- Mr. Samphan was also assigned responsibility with respect to purchasing merchandise from abroad, and for banks.⁶⁵
- Doeun was assigned responsibilities in relation to commerce from May to July 1976, while Van Rith, the Minister of Commerce, was to travel to Hong Kong to initiate contacts for purchases.⁶⁶
- Reports were initially filed to Comrade Doeun from the Ministry of Commerce on various negotiations with foreign governments. From October 1976, those reports were submitted exclusively to Mr. Samphan, and there are 28 such reports on the case file submitted to Mr. Samphan from October 1976 to the end of the DK period.

Next, Mr. Abdulhak presented two sets of documents which Mr. Samphan received and which related to commercial negotiations with delegations from foreign countries. The first set of documents related to Yugoslavia and included:

- **A Ministry of Commerce report numbered 0691-77 and dated November 29, 1977.** This report related to a visit by a Yugoslav technical team to Kampong Som, attended by Minister Rith and the witness Sar Kim LaMouth.⁶⁷ It concluded with the statement, "Following your guidance, we were able to settle [questions raised about machinery]. ...

⁶³ These minutes have the document number E3/182.

⁶⁴ Cambodia Tribunal Monitor's daily blog post on this hearing may be accessed at <http://www.cambodiatribunal.org/blog/2012/10/short-speech-nuon-chea-and-long-day-document-presentation>.

⁶⁵ This document has the document number E3/233.

⁶⁶ This document has the document number E3/220.

⁶⁷ Cambodia Tribunal Monitor's four daily blog posts detailing this witness's testimony may be accessed at <http://www.cambodiatribunal.org/blog/2012/05/tension-and-drama-between-defense-and-bench-mark-wednesday%E2%80%99s-hearings-eccc> (May 30, 2012), <http://www.cambodiatribunal.org/blog/2012/05/sar-kim-lamouth-proves-amenable-witness-examination-proceeds-smoothly-0> (May 31, 2012), <http://www.cambodiatribunal.org/blog/2012/06/prosecution-and-civil-parties-conclude-their-examination-witness-sar-kim-lamouth-his> (June 4, 2012), and <http://www.cambodiatribunal.org/blog/2012/06/court-concludes-testimony-witness-sar-kim-lamouth-and-begins-examination-reserve> (June 5, 2012).

Kindly brother, serve this for your information and have comments on the various issues.” This report had been sent to Mr. Vet and Hem — that is, Mr. Samphan.⁶⁸

- **A Commerce Committee report dated November 12, 1978.** This report asked the “brother” to be informed and “give your comments and guidance.” In its top left corner, the report showed that it had been sent to Brother Hem.⁶⁹

The second set of documents Mr. Abdulhak presented on this theme was those relating to negotiations with Chinese delegations. He highlighted the following documents:

- **A report of a meeting with the Chinese delegation on April 28, 1978.**⁷⁰ This meeting was attended by Comrades Rith and Say, and the report requested guiding comments. The report was marked as having been distributed to Brother Hem, Brother Vorn, K-51, and Archives.
- **A report of negotiations with Chinese representatives on exports and imports, issued by the Ministry of Commerce and dated January 24, 1978.**⁷¹ This report was addressed to Brother Hem. The meeting was again attended by Rith and Say, and also Cheng, and requested instructions from Mr. Samphan. In addition to Mr. Samphan, other recipients of the report were Vorn, K-51 and Documents.

At this juncture, Mr. Abdulhak pointed out that according to paragraph 1190 of the Closing Order, approximately 482 individuals from the Ministry of Commerce were sent to S-21.⁷² This was an issue of relevance when considering the responsibilities, roles, and contributions of Mr. Samphan vis-à-vis the ministry, the prosecutor asserted.

In addition, Mr. Abdulhak continued, the case file contained a total of 51 tables, ledgers or records of export and import and management of a credit given to the DK by the Chinese government. Some of these included:

- **A ledger dated May 21, 1978 issued by the Commerce Committee.** This ledger was signed by Rith and sent to Hem and Vorn. It dealt with the use of credits from the Chinese government and the exportation of 14,623 tons of rice to Madagascar in 1978.⁷³
- **A ledger dated October 20, 1978 issued by the Commerce Committee.** This ledger sent to Bang Vorn and Hem. It dealt with the loan of 140 million yuan (presumably from China) and noted that rice weighing 5016 tons was exported to China.⁷⁴
- **A draft letter to the Socialist Federal Republic of Yugoslavia dated July 15, 1978.** An annotation to this letter suggested that it was submitted personally to Brother Hem for

⁶⁸ This report has the document number E3/1618, also known as E3/3513, and the relevant ERNs are 00002846 (in Khmer), 00680478 (in English), and 00665471 (in French).

⁶⁹ This report has the document number É3/1637.

⁷⁰ This report has the document number E3/3461.

⁷¹ This report has the document number E3/3455.

⁷² The Closing Order may be accessed at : <http://www.eccc.gov.kh/document/court/14888> (in Khmer),

<http://www.eccc.gov.kh/en/documents/court/closing-order> (in English), and

<http://www.eccc.gov.kh/fr/document/court/ordonnance-de-cl%C3%B4ture-dans-le-dossier-002> (in French).

⁷³ This ledger has the document number E3/312, and the relevant ERNs are 00072692 (in Khmer), 00685468 (in English), and 0066510 (in French).

⁷⁴ This ledger has the document number E3/2515, and the relevant ERNs are 00278318 (in Khmer), 00748405 (in English), and 00760043 (in French).

review before being sent out. This letter recorded the arrangement to export 5000 tons 3,240 tons of coffee beans of variety 1, and 2,610 tons of variety 2, to Yugoslavia. The letter indicated that the export could not proceed due to delay or technical difficulty. However, it also indicated that earlier in 1977, the Ministry of Commerce had arranged to export 5,000 tons of husked rice and quantities of coffee, pepper and peanuts to Yugoslavia from the Kampong Som port.⁷⁵

- **Statistics of total goods exported to China.**⁷⁶

Not only did these documents show Mr. Samphan's authority within the Ministry of Commerce, Mr. Abdulhak said, they seemed to also reflect a centralized coordination of the gathering and exportation of produce, and the Ministry of Commerce's coordination with other ministries concerning matters of import and export.

Correspondence between the Ministry of Commerce and Cadres Working in Hong Kong

At this point, the prosecutor moved to a presentation of documents relating to a Hong Kong-incorporated company called Ren Fung. Mr. Abdulhak explained that the relevance of these documents was the inclusion of Mr. Samphan on many records, although the relevance of this precise set of documents grew increasingly mysterious as Mr. Abdulhak presented further documents in the series.

The first of these Ren Fung documents, dated July 22, 1977, was a letter by the Commerce Committee to Comrade Sok, who was a manager and shareholder of the company. An annotation in red in the top left of this letter said "Sent to Bang Hem to check before sending to Hong Kong."⁷⁷ Next, Mr. Abdulhak presented a letter to Sok from the Commerce Committee dated February 3, 1978. On the first page of this document, there was also an annotation indicating the letter had been sent to Bang Hem for comments before sending out.⁷⁸

After this, Mr. Abdulhak noted that there was a long series of letters on the case file, either addressed to the Ren Fung company or to Sok personally, all of which were copied to Mr. Samphan via his revolutionary alias Hem. These letters were all sent in 1978 and dated March 3,⁷⁹ June 9,⁸⁰ July 7,⁸¹ August 3,⁸² and August 11.⁸³

At this point, the prosecutor drew attention to two documents among the correspondence concerning establishing arrangement for the return to Cambodia of Oeun Sok and his wife, and transfer of shares in the Ren Fung company to another individual:

⁷⁵ This letter has the document number E3/1640.

⁷⁶ These statistics has the document number E3/3533.

⁷⁷ This letter has the document number E3/323.

⁷⁸ This letter has the document number E3/334.

⁷⁹ This letter has the document number 21.98.

⁸⁰ This letter has the document number D161/1.47.

⁸¹ This letter has the document number D161/1.4.

⁸² This letter has the document number D161/1.46.

⁸³ This letter has the document number D161/1.43.

- **A letter from Comrade Krin, apparently reporting from Hong Kong.**⁸⁴ In this letter, Krin, who had previously been in charge of the Ports Committee in Kampong Som, said that after Hong Kong lawyers advised that they could not transfer names between Sok and Krin since the Hong Kong government would “not accept the signature and stamp of the Foreign Ministry” of Cambodia, he arranged for a Chinese person attend a visit to a lawyer and then determine to transfer shares from Comrade Sok to his wife Phal Va *alias* Nat.
- **A letter to “Lovely and Missing Comrades Krin and Nat” dated October 27, 1978.**⁸⁵ This letter discussed an apparent problem with the share transfer from Sok to Nat, which appeared to relate to Sok not being in Hong Kong. It said Nat’s shares should be sold directly to Krin, or Krin should be hired to be responsible for the company. Ultimately, Krin was to take charge of the company.

Case file records suggested Mr. Samphan was still copied in on correspondence on this matter, including on a September 1, 1978 letter from the Cambodian company Fortra.⁸⁶ Mr. Abdulhak then highlighted a September 8, 1978 letter on the case file. This letter said that Sok and Nat were to be given a new task in Cambodia, it said, and the addressees of the letter were to undertake ongoing Ren Fung company management. Krin was requested to help facilitate Nat’s return and the return of her child also.⁸⁷

At this point, Mr. Abdulhak’s detailed chronology of the correspondence concerning the Ren Fung company and Sok and his wife would become disturbingly clear, when the prosecutor explained that, having been directed to return to Cambodia on December 10, 1978, both Sok and his wife were admitted to S-21 only weeks later. Details of their S-21 documents are as follows:

- **Oeng Sok:** A prisoner sheet from S-21 described him as “Former Chairman of Land Transport and Commerce Chairman Stationed in Hong Kong.” Arrested at “State Commerce,” he was arrested on December 29, 1978.⁸⁸
- **Phal Va *alias* Nat:** A prisoner sheet from S-21 described her as “Member of the Committee of State Commerce Stationed in Hong Kong.” Also arrested at “State Commerce,” she was arrested the day after her husband December 30, 1978.⁸⁹ This document also showed several photographs of these individuals. One showed Oeng Sok in a forest, and then with a group of individuals in front of a truck. Another photo depicted Oeng Sok and Phal Va in dressed smartly and in Hong Kong, and one of Oeng Sok alone in Hong Kong. Then there were two photographs side by side: one of Phal Va in her office in Hong Kong, and then her prisoner photograph in S-21.

Statements Made By Khieu Samphan Regarding Crimes Committed during the DK Period

Moving on, the prosecutor sought to present a series of statements by Mr. Samphan regarding crimes alleged to have been committed during the DK period. The first was an article entitled ‘A

⁸⁴ This letter has the document number E3/1902.

⁸⁵ This letter has the document number E3/1907.

⁸⁶ This letter has the document numbers E3/1771 and E3/1779.

⁸⁷ This letter has the document number E3/875.

⁸⁸ This prisoner sheet has the document number E3/1532.

⁸⁹ This prisoner sheet has the document number E3/1533.

Plea for International Support' and published in *Time* magazine on March 10, 1980. In it, Mr. Samphan stated as follows:

After our war against the pro-Western Lon Nol government, we had to face many complicated problems, but we had one major achievement: we solved the food problem for our people. Of course there were some complications. ... We never engaged in mass killings. There was no reason for us to carry out the so-called genocide. Some people say we killed more than three million. That is not true ... All I can say is that the number was not more than 10,000. ... They are not correct. Very few people were against us. That is why we had succeeded in conducting our people's war against the Vietnamese invaders for the past year.⁹⁰

Next, Mr. Abdulhak presented a transcript of a taped interview with Mr. Samphan conducted by Stephen Heder conducted in 1981. In that article, Mr. Samphan offered these comments concerning allegations then emerging of CPK criminal activity during the DK period:

There were innocent people whose lives were affected ... by Yuon agents, by Khmer people who were Yuon undercover agents in our authority lines. ... As you may know, during the first Indochina War, there were Viet Ming cadres and army carrying out activities in Cambodia ... It was then that they established their agents ... They had worked undercover in our movements. In 1975, it was those people who obtained important positions. ...

[Current National Assembly President] Heng Samrin, for example, was the commander of a division that had been organized by the Yuon ... since the 1970s. I fought against him to force him to return the troops. ... It was in 1977 or in 1978 that we started fighting. ...

They were important people in charge of important positions, thus they participated in the formulation of policy. ... At that time, those people were there. They were Yuon agents ... they adapted themselves and gradually achieved more and more important positions. ... There were many ... Less than half in the Central Committee, but nearly half in the Standing Committee.

As to whether any were mistakenly identified as enemies, or intentionally to kill them, Mr. Samphan said:

The case did not occur [with] senior leaders, but it occurred [with] some cadres ... because the Yuon agents had accused them abusively. ... There was a comrade in the west. He was an old man. He was accused by the Yuon agents. They were responsible. They accused him. However, they were not successful, because we investigated the case in a timely manner.⁹¹

⁹⁰ This article has the document number E3/628, and the relevant ERNs are 00709453 (in Khmer), and 00740913 (in French).

⁹¹ The relevant ERNs are 00385413 (in Khmer), 00424015 (in English), and 00434206 (in French).

Ieng Sary Defense Team Protests Content of OCP Document Presentation

At this point, the Chamber broke for the mid-afternoon break. After it reconvened, the floor was first given to National Co-Counsel for Ieng Sary Ang Udom. He asked that the OCP refrain from presenting documents supporting the facts relevant to the crimes with which the accused was charged. This session related to documents concerning the accused's role. He thought this presentation should proceed in terms of the accused's formal titles. Presentations on the crimes were irrelevant.

Mr. Abdulhak said Mr. Udom was "quite wrong" about the Closing Order paragraphs to which the latest document hearing was addressed. In relation to Mr. Samphan he said, the Closing Order paragraphs were relevant to the matters which Mr. Abdulhak had been discussing. Mr. Udom said that he believed Mr. Abdulhak was proceeding repetitively, and Mr. Udom thought this was a waste of time.

Further Documents Relating to Crimes Allegedly Committed During the DK Period

Permitted to resume his presentation, Mr. Abdulhak presented a *New York Times* article dated July 9, 1982, which recorded Mr. Samphan's comments confirming that he had participated in the collective decision to evacuate Phnom Penh by force.⁹²

Next, the prosecutor screened a video alleged to be from 1983 and featuring an interview with Mr. Samphan.⁹³ In this video, which appeared to be filmed in the jungle, a young, handsome Khieu Samphan was asked whether he "denied all guilt" in the massacres. Mr. Samphan said:

Errors were committed, but I can reassure you that those errors were committed at the level of executions ... In all revolutions there may be excesses here and there. In the case of our revolution, we cannot see any exception to that rule. There were cases of personal vendetta; there were reprisals by people in rural areas against people coming from the towns. In ... all cases of revenge, we did our best to stop them and to limit them, but to say that systematic massacres were committed is not true, I would say no to that.

The interview said, dramatically, that Pol Pot was regarded as a "bloodsucking murderer." Asked if he disassociated himself with Pol Pot, Mr. Samphan paused thoughtfully for a moment before responding, more emphatically, that:

Like all of us, Pol Pot is a sincere patriot. He loves his people and he loves his country, as I do as well. Our people know that we committed errors; one error or the other. But they also know that we, all of us, sacrificed ourselves ... for our country.

Next, the prosecutor presented a July 15, 1987 report from the Office of the Vice President of DK in Charge of Foreign Affairs written by Mr. Samphan and entitled *What are the Truths and*

⁹² This has the document number E3/687, and the relevant ERNs are 00651187 (in Khmer), 00122280 (in English), and 006225450 (in French).

⁹³ This video has the document number D232/110.1.1.6R.

*Justices About the Accusations Against DK of Mass Killings from 1975 to 1978?*⁹⁴ Denying that the government was responsible for a large number of deaths, Mr. Samphan argued that:

People who died from illnesses and food shortages were reported to amount to “more than 20,000” and mostly being people who were from the cities and not used to life in the countryside. They were also the result of acts of the Vietnamese who carried out sabotage, including by destroying medicine, and stealing rice to take to Vietnam.⁹⁵

Vietnam’s agents were responsible for the deaths of 10,000. As for those who died from the CPK’s mistakes, there were some mistakes in the attempts to locate Vietnamese agents. Some 3,000 died due to such mistakes, although they were progressively able to prevent this. Mr. Samphan also said that the CPK had a “lenient” policy towards enemies, starting with reeducation, then being sent to work in cooperatives, and arrest for only a small number. Those who died in struggling against the enemy, “was only in dozens.”⁹⁶

These passages, Mr. Abdulhak said, showed a centralized policy to arrest enemies.

As for the loss of lives of the Kampuchean people by any means during that period, it is still small compared to other countries in the world ... Even though we had to face Vietnamese subversive acts in Kampuchea and their acts of aggression at the border, we always relied on the people to crush these subversive acts and defend our country ... because of our confidence in the people and of their support and because we were able to fully control the situation through the people and in various departments.⁹⁷

Mr. Samphan concluded that “To be fair, the number of people who died in Kampuchea from 1975 to 1978 is less than people who died by car accidents in some countries where each year, 30,000 people or more died from road accidents.” He then sought to attribute the remaining 2.5 million deaths of Cambodians to the Vietnamese.

Next, Mr. Abdulhak presented an interview with the French newspaper *Le Monde*.⁹⁸ In it, Mr. Samphan said that:

Pol Pot used to talk about enemies from without and within ... but I found that normal, because we were a young revolutionary regime which had been through so much.... From 1975 to 1979, there was no debate. The Politburo meetings I

⁹⁴ This has the document number E3/703, and the relevant ERNs are (in Khmer), (in English), and (in French).

⁹⁵ The relevant ERNs are 00700550 (in Khmer), 00004001 (in English), and 00693794 (in French).

⁹⁶ The relevant ERNs are 00700551 to 52 (in Khmer), 00004002 (in English), and 00693796 to 97 (in French).

⁹⁷ This has the document number , and the relevant ERNs are 00700556 (in Khmer), 00004004 (in English), and 00693798 to 99 (in French).

⁹⁸ This has the document number D366/7.172, and the relevant ERNs are (in Khmer), (in English), and (in French).

attended were simply Pol Pot monologues” and that Pol Pot started to lose touch with reality after 1975.⁹⁹

Mr. Samphan said he had conflicting feelings about Pol Pot, and that “Pol Pot was always forthcoming with me ... he used to liken our relationship to that between Lenin and Gorki ... [Ta Mok] never took notes in meetings.” He was never threatened by the Khmer Rouge leadership he said; “even Ta Mok liked me. I had no problems with him.”¹⁰⁰ This article, Mr. Abdulhak said, was relevant because it constituted Mr. Samphan’s admission of participation in meetings, and not feeling under any threat.

Mr. Abdulhak next presented an interview of Mr. Samphan by the School of Oriental and African Studies (SOAS).¹⁰¹ In it, Mr. Samphan mentioned he was aware of arrests in the North Zone after the arrest of its secretary, Kang Chap.

Following this, the prosecutor presented excerpts from a documentary entitled *Pol Pot and Khieu Samphan: Facing Genocide*, produced in 2007 or 2008.¹⁰² Color, showing Mr. Samphan flipping through a book he was writing, and insisting to read from his book first. In the background was a pile of books published on the DK, including Ben Kiernan’s *How Pol Pot Came to Power*, and Philip Short’s *Pol Pot: Anatomy of a Nightmare*. Speaking in French, Mr. Samphan said that many historical authors, such as Mr. Kiernan, had made mistakes, including in stating that Pol Pot allied with Ta Mok and Ke Pauk against Sao Phim. Mr. Samphan also said he thought many were killed during the Khmer Rouge, but not as many as two million which was “a bit of an exaggerated number.”

According to Mr. Samphan, he:

Didn’t exert any power. Perhaps, but if you are talking about responsibility, one cannot accuse me of anything because I didn’t know anything. Why didn’t I know anything? Why didn’t I try to find out anything? Perhaps you can blame me for that. But for me, I didn’t want to know because I respected the rules of the party. ... Afterwards, still, I felt that [Pol Pot] had reasons for [what he did]. ... I had no idea about S-21. I can’t say if Pol Pot created it. ... Of course, since he was the leader of the Party, [Pol Pot was therefore responsible for S-21]. He either tolerated it officially or unofficially. He was the leader of the Party and was responsible.

As to whether this changed Mr. Samphan’s respect for Pol Pot, he said that the situation was “complex.” Guilt could not be so simply attributed.

⁹⁹ This has the document number , and the relevant ERNs are 00002735 (in Khmer), 00716438 (in English), 00710202 and (in French).

¹⁰⁰ This has the document number , and the relevant ERNs are 00002738 to 39 (in Khmer), 00716442 (in English), and 00710204 (in French).

¹⁰¹ This has the document number E3/198, and the relevant ERNs are (in Khmer), (in English), and (in French).

¹⁰² This has the document number E109/2.5R, and the relevant ERNs are (in Khmer), (in English), and (in French).

Khieu Samphan's Personal Writings

At this point, Mr. Abdulhak turned to a presentation of Mr. Samphan's book *Considerations on the History of Cambodia from the Early Stage to the Period of DK*.¹⁰³ In this book, Mr. Samphan said:

I have faith in my own general views on the movement based on two things: first, I travelled with the movement for 30 years and passed through many twists and turns many times, sometimes at the peril of my life. Second, I personally knew many heroes unknown to others ... who sacrificed their lives for the causes of justice and the nation which they so loved and desired.¹⁰⁴

As for the arrest of a cadre named Chang Chakry, Pol Pot did not trust him for some time and spoke about Chakry in front of others, which Mr. Samphan defended as a responsible move. Here, the prosecutor noted, Mr. Samphan footnoted one of Mr. Kiernan's books.¹⁰⁵

Because of the clear interference of the Vietnamese, Mr. Samphan said; Mr. Short's evidence about the Vietnamese creation of the Khmer Rumdo movement; and other evidence; Pol Pot's attitude towards Chakry and others who cooperated with the Viet Minh was correct. Instead, Mr. Short was incorrect in his assessment that S-21 was not a center for interrogation.¹⁰⁶

Writing about Koy Thuon, Mr. Samphan said that what might have caught Pol Pot's eye in this respect was that the confession may have led Pol Pot to believe his arrest was not wrong, and he may have been an important individual in the new party¹⁰⁷

Recommendation that Nuon Chea Rests Upends Hearing Schedule

At this point, the president interrupted Mr. Abdulhak mid-sentence and asked if he could please pause. The Trial Chamber judges then huddled in conference for several minutes, with Judge Jean-Marc Lavergne occasionally leaning over to speak with Trial Chamber Greffier Matteo Crippa. After several minutes, the Trial Chamber judges took their seat, although Judge Silvia Cartwright was then seen beckoning Mr. Crippa over. He then huddled in conference with Judge Cartwright and then the president.

After this, Judge Cartwright advised that:

The president has asked me to inform the parties and the pub that we have received a med report in respect of Nuon Chea, and it recommends that he have a period of rest for two weeks, and following a request by the Chamber for clarification, this was confirmed to be that he must rest completely, that he cannot follow from the holding cells. So this means that the Chamber has to consider how it might proceed next week. The first issue is this: that the document hearing in relation to Khieu Samphan is not yet concluded and we won't proceed any

¹⁰³ This book has the document number E3/16.

¹⁰⁴ The relevant ERNs are 000380351 (in Khmer), 00498222 (in English), and 00643824 (in French).

¹⁰⁵ The relevant ERNs are 000380444 (in Khmer), 00498272 (in English), and 00643877 (in French).

¹⁰⁶ The relevant ERNs are 000380454 (in Khmer), 00498277 (in English), and 00643883 (in French).

¹⁰⁷ The relevant ERNs are 000380457 (in Khmer), 00498279 (in English), and 00643885 (in French).

further with that this afternoon, so that will be the first matter to be resumed on Tuesday.

The judge then put a few queries in respect of the Nuon Chea Defense Team. She said that she made no inquiry with respect to the first witness scheduled next week, but did wish them to make indications with respect to TCW 100, who was already part-heard. The next was TCCP 116, since it was clear that parties often did not wish to examine civil parties very closely, thus this might be a good opportunity. This person was here in Cambodia already or en route from Europe. She then addressed International Co-Counsel for Nuon Chea Victor Koppe in particular to assist the Trial Chamber as much as possible, and keep it informed over the weekend.

She also noted that the completion of the presentation of documents on Mr. Samphan also incorporated the remaining parts of the process, namely permitting the parties to comment on the documents.

After a few moments, Mr. Koppe advised the Chamber first of a practical issue. He noted that the Court was closed on Friday, 1 February, 2013 and Monday, February 5, 2013, and this could pose practical difficulties in them speaking to Mr. Chea. Additionally, with respect to possible waivers, he said that in relation to his waiver of the presence for the recent waiver Mr. Rockoff, Mr. Chea wanted it to be clear that this was an exception. With civil parties, Mr. Koppe said, he was inclined to potentially agree to the waiver of the civil party but perhaps not witness TCW 100.

Judge Cartwright agreed that the Chamber “fully understood the position” and had provided only two names, and had not suggested a waiver for any of the other people scheduled to testify soon. The Trial Chamber judges then huddled again at this point. After resuming their seats, the president adjourned the hearings for the day.

Hearings in the ECCC will resume at 9 a.m. on Tuesday, February 5, 2013 with the conclusion of the OCP presentation of key documents relating to Mr. Samphan, and would then hear objections and replies from the parties. If time remained, it would then proceed to hear either a civil party or witness, subject to the issuance of a waiver by Mr. Chea.