



National Lawyer for Khieu Samphan questions witness Norng Sophang at the ECCC on Wednesday.

Defense Teams Scrutinize Witness Interviews

By Mary Kozlovski

On Wednesday, September 5, 2012, trial proceedings in Case 002 involving the accused Nuon Chea, Ieng Sary, and Khieu Samphan, resumed at the Extraordinary Chambers in the Courts of Cambodia (ECCC).

Defense teams began their cross-examination of witness Norng Sophang, whose testimony has focused on communication under the Khmer Rouge regime. Lawyers for Khieu Samphan completed their questioning in the afternoon, and the Nuon Chea defense team took the floor.

Ieng Sary monitored proceedings from a holding cell, while Khieu Samphan was present in the courtroom. Nuon Chea was in court for the morning session, after which he retired to the holding cell citing health issues.

Trial Chamber Poses Questions to Witness

After Trial Chamber President Nil Nonn told the witness – who was experiencing high blood pressure – to inform the Chamber if he could not proceed, Trial Chamber Judge Jean-Marc Lavergne questioned Mr. Sophang about a series of telegrams.

- *Telegram – January 25, 1978; No. 16; addressed to Brother Pol; copied to Uncle Nuon, Brother Non¹; Brother Khieu; Office, Archive; signed by Chon*

¹ The identity of “Brother Non” was unclear.

Firstly, Judge Lavergne noted that the French version of the telegram listed both “Uncle” and “Office” in the plural and inquired if the Khmer version did the same and if the telegram was destined for several offices including 870. Mr. Sophang replied that “Uncle” and “Office” were in singular form in the Khmer version, with “Uncle” referring to Brother Pol and “Office” referring to Office 870. Mr. Sophang said he did not know where Office 870 was, but his decoded messages were sent to K-1. He also said he understood that “Uncle” means one copy was sent to Pol Pot and another copy would be maintained at the “Office.” In response to queries from Judge Lavergne, Mr. Sophang said he did not know Chon, though he noted that the telegram was from the East Zone and the person had the authority to report to the upper level – and previous telegrams from that zone bore the name Chon – and therefore Chon must be in the leadership of that zone. He agreed that it was possible Chon could be So Phim, as people used aliases.

Judge Lavergne read an extract from the telegram:

... The people living near the border were moved back to the rear and we are having the study meetings continuously. Moreover, cleaning the elements of the Yuon² enemy network and not allowing them to mix with good people by following them and educating them separately.

When Judge Lavergne asked Mr. Sophang if he had received such documents, Mr. Sophang said there was content about “screening” in a number of telegrams from various zones, though he did not know how the screening was conducted.

- *Telegram – No. 15; copied to Uncle Nuon; Brother Van; Brother Vorn; Office; Documentation; sent by Chon from the East Zone.*

Judge Lavergne noted that the English translation of this telegram addressed it to “respected and missed Brother Par,” while the French version read “respected and greatly loved elder brother,” and asked what the Khmer version read. Mr. Sophang said it read “to respected Brother Par,” which refers to “Brother Number One.” Mr. Sophang explained that the East Zone usually wrote the alias “Par” during the regime, while other zones generally used “Pol,” though sometimes “respected and missed brother” was used and the word “brother” alone referred to “Brother Number One.” “Nobody was above Brother Number One,” Mr. Sophang testified.

Judge Lavergne again quoted from the telegram:

We organized the people and had them all evacuate from the front. The troops were defending the front. Regarding people’s organization, we retrieved a large number of people who were herded by the Yuon enemy to be under their temporary control and those who believed to be the Yuon. Currently we have organized ourselves to have them returned to the rear for re-education, grouping, and screening.

Judge Lavergne inquired if Mr. Sophang had decoded the telegram. The witness said the East Zone was in frequent conflict with Vietnam and the “inside” usually decoded telegrams from that zone, rather than the “outside team.” When Judge Lavergne asked what the terms “re-education, grouping, and screening” meant, Mr. Sophang said he could not explain precisely as he did not

² The term “Yuon” was used to refer to Vietnamese people.

know what happened at the base and did not want to presume. Mr. Sophang confirmed that “Brother Van” referred to Ieng Sary, who had no other revolutionary names.

- *Telegram – January 11, 1978; No. 69; addressed to “respected brother”; copied to Uncle Nuon; Brother Van; Brother Vorn; Brother Khieu; Office; Documentation; signed by Vy.*

Firstly, Mr. Sophang testified that Vy was the secretary of the Northeast Zone. Judge Lavergne quoted from the telegram, which referred to the transfer of people to M-5 and M-6 among other places³ and asked Mr. Sophang if he could describe where M-5 and M-6 were located. Mr. Sophang responded that he did not know about their locations but that the “M” code referred to an office. He further testified that he had “never encountered” the movement of people.

- *Telegram – December 11, 1977; addressed to “respected and beloved 870”; copied to Uncle; Uncle Nuon; Brother Van; Brother Vorn; Brother Khieu; Office; Documentation; delivered by Se.*

In response to Judge Lavergne, Mr. Sophang said Se was responsible for Zone 801 and the telegram was sent to “Committee 870,” meaning the committee members. Mr. Sophang said that generally zones could send telegrams directly to the center, including the autonomous zones of Siem Reap, Oddar Meanchey, and Preah Vihear. However, Mr. Sophang noted that under a restructuring of the zones, the three areas had to relay telegrams through Zone 801. Judge Lavergne then quoted an excerpt from the telegram that discussed a proposal to unify Siem Reap and Banteay Srey district – comprised of 40,000 mainly “new people” and 20,000 mostly “old people” respectively – as they were adjacent and could then be more easily controlled.⁴ Mr. Sophang confirmed that his team had decoded the telegram, though he had not read other telegrams about the merging of districts.



- *Telegram – No. 15; addressed to “Comrade Brother Pol”; copied to Brother Nuon; Brother Chon⁵; Brother Yem; Archives; signed by Chon; Mr. Sophang discussed the telegram with investigators from the Office of the Co-Investigating Judges.*

Judge Lavergne noted that the telegram discussed a disagreement between the East and Northeast Zone about the East Zone being supposed to liberate “Islamic zones” and hand over displaced people. When Judge Lavergne asked why the issue could not have been resolved between the zones and was related to Pol Pot, Mr. Sophang noted that the disagreement was in

³ The English translation of this excerpt was unclear, though it appeared to indicate that people were being transferred from sectors 104, 101, and 107 during the rice-harvesting period.

⁴ The telegram noted that Banteay Srey was less fertile and did not have much farmland, whereas Siem Reap had mainly fertile soil along the Tonle Sap River.

⁵ Spelling unclear from English translation.

fact between the East and North Zone secretaries. The witness said he understood that any decisions had to be reported to Pol Pot because he made the final decision.⁶ Mr. Sophang testified that he did not know about inter-zone communication or if all such communications had to go through Office 870. Judge Lavergne inquired if Mr. Sophang had read messages about the dispersal of the Cham. The witness said he did not recall decoding any telegrams relating to the Cham.

- *Telegram – June 26, 1977; No. 14; addressed to “highly respected and beloved Angkar”; copied to Uncle; Uncle Nuon; Brother Van; Brother Vorn; Brother Khieu; Office; Documentation; sent to M-401.*

Judge Lavergne noted the telegram discussed the arrests of 24 people in Kampong Chhnang who “fled 109 days ago”⁷ and asked the witness if he regularly received telegrams from zones asking Office 870, or Angkar, to send requests to other zones. Mr. Sophang said he had not decoded it but noted that when there was no means of communicating with a place, the telegram had to go through Office 870.⁸ When Judge Lavergne inquired if it was practically possible for zones to communicate directly with each other, Mr. Sophang said zones had their own codes and decoded telegrams independently, but he did not if inter-zone communication was allowed.

- *Telegram – March 20, 1978; addressed to Brother Sy and Pauk; signed by Office 870.*

Judge Lavergne noted that the telegram appeared to contain a request from one zone to another zone to forward a report, and asked Mr. Sophang firstly who Se and Pauk were. Mr. Sophang said the document was not a telegram as it had no heading or number and at that time Brother Sy was in the leadership of one of the zones and Brother Pauk was North Zone secretary. In response to questions from Judge Lavergne about Office 870, Mr. Sophang said as the code number with an “M” prefix was an office and it referred to members of the Office 870 committee, and normally in telegrams other brothers – “Brother One; Brother Khieu” – would be copied in. Mr. Sophang said if the court looked at minutes of standing committee meetings, they could conclude that the committee was able to appoint people to head the political and administrative offices of Office 870. Judge Lavergne asked if Mr. Sophang knew who signed on behalf of Office 870 at the time. The witness said he did not know who was in charge but based on documents, Doeun was appointed to be in charge of political office of 870 and a person named Pang was in charge of the state office and he did not know which one of them was authorized to sign for M-870.

In response to questions from Judge Lavergne, Mr. Sophang said Pang⁹ – who was his trainer and supervisor – disappeared before January 7¹⁰ and he did not know who replaced him. The witness said he did not know what happened to Doeun.

⁶ The English translation was unclear in this part of the testimony.

⁷ The English translation of this excerpt was unclear, but it appeared to request that Angkar contact the North Zone to ask from what zones the people fled and asked Angkar what measures should be taken.

⁸ Mr. Sophang mentioned a communication from B-1 to the North Zone, but it was unclear if he was identifying this particular telegram.

⁹ During the hearing, pronunciation and translation of the names of two people – “Pang” and “Ponn” – were unclear and may have been mistaken for each other. The names are spelled phonetically according to the live English

Trial Chamber Examination Returns to Telegrams

- *Telegram – April 10, 1978; No. 324; “respectfully sent to beloved Committee 870”; signed by Se.*

Mr. Sophang firstly identified an annotation in the top left-hand corner as “Uncle Nuon.” Judge Lavergne noted that the telegram concerned the “enemy” situation along the Thai and Lao borders, as well as agricultural production and harvest. He quoted from the telegram as follows:

This situation is normal. We are continuing to purge the remaining group continuously including those who oppose our revolution openly and secretly. We have strong support from the people, especially the base class people, who are now seeing more clearly who is a friend and who is the enemy. In Sector 103, we carry out the purge of the hiding, burrowing enemy. We depended on the people, and who have done it well. The enemy is not able to raise their heads anymore because the people force is so strong. In addition the force oppresses them constantly, the sweeping cleanse, and screening them constantly. We have won over these enemies since the beginning up until now. The purge of the enemy in Sector 103 has made the people very happy.

Judge Lavergne asked how “purge” and “elimination” were defined during the Democratic Kampuchea (DK) period. Mr. Sophang noted that Sector 103 was part of the Preah Vihear autonomous zone that later became part of Zone 801 and that he used the word “perhaps” in his OCIJ statement as he had never been to the bases or engaged in “purging.” Mr. Sophang said, however, that the word “purge” literally meant to “sweep clean” but “under any regime” it would denote the removal of elements that opposed the regime. In response to inquiries from Judge Lavergne, Mr. Sophang said that based on “his understanding,” the word “screening” literally meant to clean or purify, but practically in the “gathering of forces” it meant selection had to be careful and precise, with people’s background, biographies, morality, lifestyle, and work history to be examined before they were recruited. Again noting the definitions were based on his “understanding,” Mr. Sophang repeated his definition of “purge” and explained that the term “smashing” had a more serious connotation than screening or purging, testifying that:

The literal meaning of “smashing,” it means to make it into tiny pieces; however, during that regime, the word “smashing” was used generally. For instance, we smashed one enemy armored tank. It means the tank was destroyed and cannot be used. That is in regard to the smashing of material. As for the smashing of people, it carried the heaviest connotation; it means the killing or the execution of the people. This is based on my personal understating.

Judge Lavergne inquired about telegrams sent from Phnom Penh to other countries. Mr. Sophang said he understood that it was not related to his work and the Ministry of Foreign Affairs (MFA) was involved, but he was uncertain.

- *Telegram – December 21, 1977; addressed to “respected and beloved brother”; sent from Pyongyang; signed by Yem, ambassador to DK based in North Korea.*

translation. Those who wish to verify the official spelling of any name should consult the official ECCC transcripts. Transcripts of Case 002 proceedings can be found at: <http://www.eccc.gov.kh/en/case/topic/2>

¹⁰ This date is believed to refer to January 7, 1979.

After citing the telegram, Judge Lavergne inquired if Mr. Sophang often received telegrams destined for Office 870 or Pol Pot that came from abroad. Mr. Sophang said that he was uncertain, but after the liberation, diplomatic relationships were formed. Mr. Sophang said the telegram fell within his working group, but later when “foreigners” could work properly they dealt exclusively with the MFA. The witness noted that Yem worked at the Cambodian embassy in North Korea. When asked if it could be concluded that Phnom Penh communicated with foreign countries via embassies, Mr. Sophang testified that the K-18 office could send telegrams through radio directly to the embassy in Pyongyang. He also stated that his team had never decoded messages relating to trade or commerce, such as the import and export of goods.

Chamber’s Questioning Turns to Khieu Samphan

In reply to a series of questions from Judge Lavergne, Mr. Sophang said Khieu Samphan’s alias was Brother Hem – he had no others – and he signed messages using both names but would specifically use “Khieu Samphan” when instructing people at the base to await or listen to his announcement. Judge Lavergne inquired about Khieu Samphan’s ranking in K-1, Mr. Sophang said Khieu Samphan had the right to use his group for messages – as K-1 did – which were usually about organization and distribution of materials. “K-1 had the authority to issue or to respond to any kind of telegram or message, but as for Mr. Khieu Samphan, mainly his messages were ... related to the distribution of materials,” Mr. Sophang testified.

Judge Lavergne then cited a chart¹¹ that Mr. Sophang had presented to OCIJ investigators and inquired as to the meaning of arrows pointing from the state presidium to various ministries. Mr. Sophang replied that, generally, in a government the president of the state presidium would oversee the ministries. Mr. Sophang noted that he had not drawn an arrow pointing to the Ministry of Defense as Khieu Samphan did not have authority over the military, which was supervised by Son Sen. Judge Lavergne emphasized that he was asking what Mr. Sophang had witnessed personally, and inquired if telegrams addressed to certain ministries were copied to Khieu Samphan, or whether he saw communications between Khieu Samphan and ministries. Mr. Sophang testified that he “did not note that.”



Judge Lavergne cited Mr. Sophang’s prior testimony that he had never received any messages about instructions on a military plan to attack Phnom Penh or to evacuate the population. Mr. Sophang confirmed this summary. Noting that the witness had testified that when he was at B-20 he could contact “Ponn”¹² – who worked with Pol Pot, Judge Lavergne inquired if Mr. Sophang had received messages after April 17 about the implementation of instructions to bases about receiving evacuees from Phnom Penh. Mr. Sophang said he had not received such messages.

¹¹ This chart is believed to be the same document presented to the witness by the prosecution on Tuesday, September 4, 2012.

¹² Refer to footnote no. 9.

Next, Judge Lavergne questioned the witness about a document containing a list of Office K-1 staff members.¹³ Mr. Sophang confirmed that “Brother Lin” and “Ken” referred to the same person, who was in charge of security both inside and outside the K-1 premises. Judge Lavergne noted that “Lin” is described as the general of K-1 and K-4. In response to questions from Judge Lavergne, Mr. Sophang confirmed that he knew “Tan – chief of Office K-1” and “Sin – chairman of guards who accompanies Uncle during his travel,” as well as “Han” and Ket Thor, alias Sem, who was the wife of Lin, or Ken. After Judge Lavergne listed names and positions under a sub-heading “K-7” under the title “K-7 messenger services, transport, telephones,” Mr. Sophang confirmed that he knew “Han” as chairman of production at K-8, not chairman of Office K-7.

Noting a section entitled “K-13,” the judge asked Mr. Sophang if he recognized the names: Ponn – chairman of Office K-13; Yuos – deputy chairman of Office K-13; Art – member of Office K-13; Sem; Lakk; and Sreang. Mr. Sophang appeared confused, noting that Ponn was his supervisor in charge of telegrams along with Yuos, he had never heard of K-13, and their names should be under K-18. Mr. Sophang did confirm that he knew the names Art, Lakk, and Sreang, but could not recall the name Sem. Judge Lavergne again cited the document, asking Mr. Sophang if he recognized the names Dim – the “responsible person” for K-1; The – member of Office K-1; Pich; Chhong; Chhat; and Long.¹⁴ In response to questions by Judge Lavergne about K-1 staff, Mr. Sophang said he could not recall the names of the people.

Judge Lavergne then read a series of names from a document entitled “Section of Ministry S-71” that originated from S-21: San Sim – deputy chief of Office K-18, who appeared to have entered S-21 on December 6, 1978; Uk Phan, alias Ponn – chief of the office of telephones who appeared to have entered S-21 on April 4, 1978; Thong Han – chief of messenger group from Office 7 who appeared to have entered S-21 on May 24, 1978; Thoun Kim Sroy alias Sreang - chief of group of Office K-18.¹⁵ Mr. Sophang said he did not know about the disappearances of any of the above people, only that of his supervisor Ponn. Judge Lavergne concluded his questioning.

International Co-Lawyer for Nuon Chea Andrew Ianuzzi briefly notified parties that they might use two documents recently placed on the case file that are not on the interface – transcripts of audio recordings of the interviews with Mr. Sophang – in during their cross-examination.

Khieu Samphan Defense Begins Cross-Examination

National Co-Lawyer for Khieu Samphan Kong Sam Onn began his questioning by asking Mr. Sophang to clarify the definitions of “inside” and “outside” teams. Mr. Sophang said at K-1 there was an “inside decoder team” and he worked with another decoding team at Samdech Sothearos School, which was also tasked with training. Mr. Sophang said the division of work depended on the nature of the message, with messages not related to enemies or enemy incursions used to train younger workers. Mr. Sophang said he was initially responsible for the Northeast Zone but when the border situation intensified, messages from that zone were decoded “inside.” The

¹³ The English translation of this question was unclear.

¹⁴ Spelling of these names was unclear in the English translation.

¹⁵ Spelling of these names was unclear in the English translation.

witness said his “outside group” included about 10 youths who carried out tasks¹⁶ and were responsible for multiple “targets,” but the inside group had few members. In response to queries from Mr. Sam Onn, Mr. Sophang said he verified the decoded messages – including for spelling and accuracy – before they were sent to K-1, but his office was only authorized to decode messages and did not know if the transmission or content were accurate. When asked about procedure for verifying that documents reached their intended recipients, Mr. Sophang said he did not know if they did, and if he was uncertain about the names to be listed in the “copy to” line, he would verify the intended recipients with Ponn. “If I am not clear, then I would simply relay the message in its entirety,” Mr. Sophang said.¹⁷

Citing the witness’s September 3 testimony, Mr. Sam Onn inquired if various terms used Mr. Sophang – including “center”; “center office”; “center committee”; “870 committee”; “870”; and “standing committee” – could be distinguished from each other. Mr. Sophang said it was commonly observed at the time that when people referred to Angkar, it was actually 870, and when people mentioned the party committee, it was also referred to as Office 870. Mr. Sophang said he was also confused and he had limited understanding of the internal arrangements of the party.¹⁸ Mr. Sophang agreed with Mr. Sam Onn that no distinction was made between “Office 870”; “870 committee”; and “party center” in his unit. When asked about the central and standing committees of the Communist Party of Kampuchea (CPK), Mr. Sophang said that as someone low in the organizational structure, he could not know who was sitting in the those committees and could not distinguish between them.

Taking over from his colleague, International Co-Lawyer for Khieu Samphan Arthur Vercken inquired if ministries under the DK regime had their own coding and decoding teams, telegraph machines, and lines. Mr. Sophang said they did not – he was unsure about the MFA – except for the Ministry of Defense, as the air force, infantry units, and navy had such facilities.



Mr. Vercken cited Mr. Sophang’s first interview with OCIJ investigators on February 18, 2009, noting that he said Khieu Samphan only communicated through handwritten letters or otherwise used the phone in his office to dictate letters to certain locations. Mr Vercken also cited the witness’s August 29 testimony that messages from Khieu Samphan passed through his unit, and inquired if Mr. Sophang handled those messages. Mr. Sophang said that if Khieu Samphan had a letter it would be typed and sent through a messenger to be encoded at his unit, but if they were “short and urgent,” Khieu Samphan’s office would communicate with the witness’s office through telephone. Mr. Sophang said any message related to his unit would be sent by K-1, though not all of Khieu Samphan’s letters had to go through his office as he was authorized to communicate with another team at K-1.

¹⁶ Mr. Sophang also mentioned the child trainees at his office.

¹⁷ In response to a question from Mr. Sam Onn, Mr. Sophang appeared to suggest he had not received telegrams that already had names in the “copy to” line. However, the English translation was unclear.

¹⁸ Mr. Sophang’s response was unclear in the English translation.

In response to a question from Mr. Vercken about the encryption process, Mr. Sophang said the contents of written or typewritten messages were converted into code numbers. Some confusion arose when Mr. Sophang appeared to say that they had to use Morse code for it to be a “secret code.” When Mr. Vercken asked a follow-up question in which he referred to the internationalized nature of Morse code, Mr. Sophang confirmed that numbers were used to encrypt documents, not Morse code, though he noted that his unit could use Morse code in Khmer, French, and English.

Mr. Vercken inquired about the definition of an “open letter,” noting that Mr. Sophang mentioned such a letter by Khieu Samphan. Mr. Sophang testified that it was a message that was not secret, such as those about distribution of materials that informed zones about upcoming deliveries from the center. Mr. Sophang said such letters did not have to undergo complex encryption and were sometimes simply encoded into numbers before being sent to zones. As an example, Mr. Sophang said open instructions or public statements could be transmitted in Khmer using Morse code, such as informing the public that the president of the state presidium would make an address during a festival; such communications were sometimes sent overseas as well. When Mr. Vercken asked if such messages passed through his unit, Mr. Sophang said they were like circulars, or directives. Sometimes when Khieu Samphan needed to address the public – such as during Khmer New Year or the international New Year – he would issue a circular to inform the public, Mr. Sophang said. He recalled that usually such public statements and circulars would be sent to K-1, which would decide where to relay the message, as K-1 was authorized to circulate a letter to all zones, but Mr. Sophang was only responsible for certain zone communications. The witness said normally the issue of distributing materials would go through his unit. When Mr. Vercken inquired if there was mistrust of telephones in Phnom Penh at the time, Mr. Sophang said he did not know.

Turning back to the “internal” and “external” encryption teams, Mr. Vercken asked if Mr. Sophang knew the nature of messages processed by the internal team. Mr. Sophang said that he did not know what the internal team did apart from working on telegrams, noting that his own team also taught literature.

Referencing Mr. Sophang’s interview with OCIJ investigators, Mr. Vercken inquired whether he recalled commenting that Khieu Samphan sent his unit messages through K-1 messenger Sam. Mr. Sophang concurred that it was “Sam’s group.” In response to queries from Mr. Vercken, Mr. Sophang said Khieu Samphan’s messages would be sent to his team either through telephone or a messenger – from Sam’s group – but indicated that, apart from messages about the distribution of materials, they would go to K-1 first and then sometimes to his group. When Mr. Vercken asked if it was correct that Mr. Sophang knew nothing about messages by Khieu Samphan that were not forwarded to his group, Mr. Sophang said he knew only of the telegrams and general instructions to be transmitted via telegrams.

Mr. Vercken asked which people were usually included in the “copy to” line of telegrams. Mr. Sophang said that generally they were copied to “those uncles” – Uncle; Uncle Nuon; Uncle Van; Uncle Khieu; as well as Office and Document – with seven copies typically made and the final copy kept at his office. Mr. Sophang said he was informed when certain uncles were absent

and should not be copied in, such as when Ieng Sary went on an overseas mission or Son Sen engaged in an operation in the East Zone. Mr. Sophang noted that “Uncle” referred to Pol Pot and also mentioned “Uncle Vorn.”

Mr. Vercken inquired if Mr. Sophang copied decoded messages to Khieu Samphan, or Hem, during the DK period. In reply, Mr. Sophang said he never saw instructions to use “Khieu Samphan” or “Hem” and those usually listed were Uncle, Uncle Nuon, Uncle Van, Uncle Vorn, and Uncle Khieu. In response to queries from Mr. Vercken, Mr. Sophang said he did not recall including Koy Thuon, Nai Saran alias Ya, or Ke Pauk in the copy line, though he had seen Ke Pauk’s signature, as he had sent some telegrams. Mr. Vercken inquired if Mr. Sophang received messages for decoding that were addressed specifically to Khieu Samphan. The witness said he had not seen such messages using either his real name or alias. When Mr. Vercken asked if the subject of Khieu Samphan’s messages sent for coding altered throughout the DK period, Mr. Sophang said there was no change.

Khieu Samphan Defense Turns to OCIJ Interviews

Referring to the transcript of the witness’s interview with OCIJ investigators dated February 18, 2009 – the same date of the audio recording, Mr. Vercken noted that one of the investigators said, “Yesterday, you told us about Pang.” When the counsel asked if Mr. Sophang had another meeting with tribunal investigators on the previous day, International Senior Assistant Co-Prosecutor Tarik Abdulhak asserted that there was a danger of misrepresentation and “introducing controversy,” noting that the interview occurred over two days with a pausing of the interview on February 18 and a resumption on February 19, when the record is signed.

Mr. Vercken inquired if Mr. Sophang knew the date on which the record of his February 18 interview was read to him, which the witness said he could not recall due to the passage of time. According to the transcript, Mr. Vercken noted that a written record was read to Mr. Sophang on March 27, 2009, at 11:45 a.m. – the day before his second interview. When Mr. Vercken asked the witness if he could recall the written record being given to him on that date, Mr. Sophang said he could not. Mr. Vercken pressed Mr. Sophang on whether he remembered the date of the interview and when he signed a copy of the transcript. The witness said his first interview lasted two days, and he could not recall the duration of the second interview. He testified that his interview was read back to him and he was asked if it accurately reflected his statements before he signed it. Mr. Vercken said investigators mentioned “Pang” on the first day of the interview – based on the transcripts of audio recordings and written record of interview – when the witness had not mentioned Pang previously. Mr. Vercken asked Mr. Sophang if he had an interview with investigators prior to February 18. Mr. Sophang said the interviews were a long time ago and he could not recall. The defense team for Khieu Samphan concluded their questioning.

Lawyers for Nuon Chea Commence Cross-Examination

National Co-Lawyer for Nuon Chea Son Arun started the Nuon Chea team’s questioning by seeking clarification on when Mr. Sophang joined the revolution and began work at B-17. Mr. Sophang said he could not recall his exact age, but it was in 1973 and he was now 60 years old, therefore he would have been 20 to 21 years of age. Mr. Sophang confirmed that prior to joining the revolution he was a primary school teacher. Mr. Arun cited Mr. Sophang’s prior testimony that when he was attached to B-17, telegrams intended for the upper authority were addressed to



Brother Pol and occasionally to Brother Nuon. When Mr. Arun asked about the content of those telegrams, Mr. Sophang said when he was working in the forest, most telegrams were intended for Brother Pol, and the messages directed to Brother Nuon were about the situation at the rear, which had already been liberated.

After Mr. Arun noted Mr. Sophang's description of telegrams, Mr. Sophang said there was a salutation in the heading, and on the bottom there was usually a congratulatory message – such as “warmest revolutionary fraternity” – which varied depending on the author – as well as a date and signature, while those in the telegram unit were responsible for carbon copies and adding names to the “copy to” line. Mr. Sophang noted that the signature section could simply bear the name of the message's author.¹⁹ When asked about telegrams concerning plans to attack and liberate Phnom Penh, Mr. Sophang said he did not receive such telegrams, but there were those about ammunition, supplies, and distribution. He recalled that when he was stationed in the forest, Ya was responsible for logistical support and supplying materials to the front. Ya knew how much ammunition they had and how many supplies were needed and signed documents concerning materials and weapons, Mr. Sophang said. In response to a question from Mr. Arun, Mr. Sophang said he did not know where the leaders' office was when he was stationed “deep in the jungle,” where he was not entitled to move freely. However, he said his office later at Samdech Sothearos School in Phnom Penh was approximately one kilometer from the K-1 premises in two multi-story buildings along the Tonle Bassac River.

When Mr. Arun inquired through whom Mr. Sophang contacted the center, Mr. Sophang said telephones were the primary means of communication at the time. Ponn would contact him via telephone and sometimes they would come in person with messages, Mr. Sophang said. The witness said he sometimes saw leaders drive past his unit to or from K-1.

Mr. Arun inquired if Mr. Sophang ever saw or met Nuon Chea. The witness said Nuon Chea came to his unit once bringing short messages and telegrams inviting cadres to attend a 1977 meeting, though he did not speak with him. When Mr. Arun inquired about Nuon Chea's personality, Mr. Sophang said his observation was that Nuon Chea and the other leaders were “respectable”:

They were not people who liked to [] abuse their power. They were not people whom we are terrified of. We never saw them arrest or kill anyone by our own eyes. We have never seen that. They were of high moral value. In addition, they were senior and educated people, and we had respect for them. We never imagined that they could have been the murderers or the perpetrators of the crimes of serious nature.

¹⁹ Mr. Sophang's response was unclear in the English translation.

Mr. Arun cited a chart sketched by Mr. Sophang,²⁰ asking him firstly to clarify the meaning of two boxes namely “870 K-1” and “870 Committee K-1.” Mr. Sophang said the two boxes were different:

One reads communication network - this is also K-1 and that communication network belongs to 870. And there were those who were in charge of the telecommunication as part of K-1. As for the other box, it reads 870 committee: it refers to an institution of the center, which was known as 870 committee where Pol Pot was the head.

Mr. Sophang noted that Pol Pot resided within K-1 and his office was in that compound.

Mr. Arun noted a third box entitled “state presidium” with an abbreviated name underneath and an arrow pointing down to: “Information and Propaganda Hu Nim; Education Yun Yat; Social Affairs Ieng Thirith; Mines and Energy [blank]²¹; Economy and Finance Vorn Vet²²; and Foreign Affairs Ieng Sary. Mr. Sophang inquired if Mr. Sophang was referring to the government or a committee. Mr. Sophang explained that the downward arrow pointing to the ministries indicated civil administration within the government, and the abbreviated name referred to Khieu Samphan as president of the state presidium. Mr. Sophang said he was not sure the Defense Ministry was under Khieu Samphan’s supervision and he seemed to have no influence over it in practice, as it had its own authority over the military; thus he put it next to the ministries, but not under Khieu Samphan. In response to a query from Mr. Arun, Mr. Sophang said as Son Sen was deputy prime minister in charge of the defense and in charge of “internal security” throughout the country, he did not include a separate “ministry of security” as it fell under the Ministry of Defense.

Mr. Arun inquired about the number 3²³ next to Nuon Chea’s name under People’s Representative Assembly on the chart, and the term “court.” Mr. Sophang said he wished to put the court – with Kang Chab as its president, according to a radio broadcast – on the same level as other boxes on the chart because it was also part of the government. The witness testified that during the DK regime the highest institutions were: 870 committee, the state presidium, the People’s Representative Assembly, and the court. When Mr. Arun asked if there was a judicial body separate from the three other bodies, Mr. Sophang concurred. Mr. Arun inquired if Nuon Chea had another role aside from being head of the People’s Representative Assembly, to which the witness said he did not know the roles of people in the leadership in detail. “I did not know about their other tasks besides the role and the function displayed to the public and displayed to the world,” Mr. Sophang testified.

Citing Mr. Sophang’s written record of interview with OCIJ investigators when he was asked who “Yem” and “Doeun” were and in which he suggested that Yem could have been a member of the assembly and Doeun could have been chairman of an office with Khieu Samphan or Nuon

²⁰ This chart is believed to be the same document presented to the witness by the prosecution on Tuesday, September 4, 2012, and referred to earlier today by Judge Lavergne.

²¹ The English translation was unclear in this name but it appeared to be “Mines and Energy.” Mr. Sophang testified that the ellipsis next to this ministry meant that he did not know the minister.

²² Mr. Arun noted that Mr. Sophang amended his description of Vorn Vet’s position in his testimony.

²³ Mr. Sophang’s response about “3” was unclear in the English translation, but it appeared to relate to communication to the upper level – by bases or leaders – when in need of an immediate response.

Chea, or chairman of the North Zone committee. Noting Mr. Sophang's use of the phrase "could have been," Mr. Arun asked if the witness had made assumptions. Mr. Sophang said he used the terms "could have been" and "perhaps" because he was unsure, but he had learned from testifying that the court would not use testimony in which he was uncertain. Mr. Sophang stated that he would like the court to remove paragraphs and statements in which he made inferences.

Mr. Arun again noted a section in Mr. Sophang's interview in which he referred to a telegram to be sent only to Pol Pot, but the telegram unit had learned it was supposed to be sent to those who addressed problems with the public and people, which Nuon Chea was responsible for at the time. Mr. Arun quoted Mr. Sophang as saying that Nuon Chea was "in charge of the people" and asked why this was the case. Mr. Sophang said he did not know the detail and it was not his responsibility as Ponn handled the management, but the OCIJ investigators had asked him to help "analyze" the situation. "There was an instruction clearly there that it was to be sent to Brother Pol, but when we screen through the content of the message, we learned that it was not meant for Brother Pol alone, but the potential recipient could be many – that is what I told the investigator of the OCIJ then. So that is why the telegram unit produced an annotation that it was to be sent to Brother Nuon. But actually they came to the decision that this telegram had to be sent to Brother Nuon," Mr. Sophang said.²⁴

Noting a comment by Mr. Sophang to OCIJ investigators – and referred to by civil party lawyers who questioned him – about issues of immoral conduct being referred to Nuon Chea, Mr. Arun inquired why such issues would be under the purview of Nuon Chea as chairman of the People's Representative Assembly who had "nothing to do with" such things. The witness stated that if he mentioned "could have been" in his statement, it was an assumption. However, Mr. Abdulhak interjected, noting firstly that Mr. Arun was referring to the statement and exhibits without providing necessary document numbers. Mr. Abdulhak also asserted that Mr. Arun was misrepresenting Nuon Chea's positions during the period. "I believe his client has himself accepted that he held the position of deputy secretary of the CPK. To be putting to the witness a proposition that is simply not true is improper, and it leads to confusion and potentially incorrect evidence being adduced," Mr. Abdulhak argued. Mr. Arun said he did mention document numbers and the stated that he had concluded his questioning.²⁵

Nuon Chea defense examines court investigation

Continuing the examination for the Nuon Chea team, Mr. Ianuzzi began by thanking the witness for his candor in informing parties when he did not know the answer to a question. He then sought to clarify several points in Mr. Sophang's prior testimony. In response to questions from Mr. Ianuzzi, Mr. Sophang said he did not know whether intended recipients received telegrams sent, including those he had handled. Mr. Sophang explained that enveloped, incoming letters went to a guard post at the K-1 building, which received them and conveyed them to Ponn who would circulate them.

Mr. Ianuzzi cited a comment from the witness's September 4 testimony in which he described being "bombarded" with questions by OCIJ investigators during his interview. Mr. Ianuzzi asked

²⁴ Mr. Sophang's response was unclear in the English translation.

²⁵ Mr. Arun made additional comments, but the English translation of his response to the prosecution's objection was unclear.

if Mr. Sophang meant that when he did not know something, investigators continued to press him for an answer.

Mr. Abdulhak objected, asserting that the witness had given evidence in which he had mentioned limitations in his knowledge, and made clarifications and confirmations where necessary, and that techniques adopted by investigators were “irrelevant.” Mr. Abdulhak said it was “appropriate” for defense counsel to test the witness’s knowledge by referring to his prior statements. “We have the witness here and we can deal with the facts with the witness,” Mr. Abdulhak contended.

Mr. Ianuzzi argued that techniques used by investigators were relevant to the quality of the evidence that is put before the chamber in terms of witness statements, many of which will be relied upon in some form without calling witnesses. He said the witness was present and could explain his comments, noting that his response might be innocuous.

International Co-Lawyer for Ieng Sary Michael Karnavas supported Mr. Ianuzzi’s position, stating that as the events in question took place nearly 40 years ago, the defense was entitled to explore the conduct of the investigation as it goes to the credibility of Mr. Sophang’s memory and understanding of events at the time. “The prosecution would like to have any inappropriate conduct related to investigations not be explored, for all the obvious reasons. We think this is an absolute necessary process. It’s done before all the other tribunals,” Mr. Karnavas argued. Mr. Vercken supported the two other defense teams.



Mr. Ianuzzi said there was a sense that the closing order had “cured” any faults in the investigation, but all parties could point to numerous irregularities in records of witness interviews. “I think we’ve passed the point of rebutting any presumption of regularity that attaches to the judicial investigation,” he asserted. Mr. Ianuzzi further stated that this was a serious issue as there was not enough time to test all of the evidence, a point discussed at a recent trial management meeting.

President Nonn reminded the parties that the witness was informed of his obligation to be truthful in accounts of what he experienced and observed at the time and not to draw his own conclusions. President Nonn noted that Mr. Ianuzzi had said it was a serious matter and stated that counsel could make written submissions on particular matters for the chamber to rule on.

Mr. Ianuzzi inquired if he was supposed to put replies to objections in writing but became inaudible when his microphone appeared to have been turned off. President Nonn said the chamber would rule on the objection but noted that if Mr. Ianuzzi thought it was a matter of importance and regularity, he should file a submission.

After a lengthy discussion among judges, Judge Lavergne said the chamber was seized of numerous objections about investigative techniques and it was important that issues be raised at

trial openly, without alleging that the OCIJ's investigation had been "dishonest or fraudulent." "I think that at this stage in the proceedings such allegations are inappropriate, so you are invited to ask questions that do not contain such insinuations. In other words, your questions should be open," Judge Lavergne said. Mr. Ianuzzi said he believed his submission was measured – noting that he had suggested that the witness's answer to his question could have been innocuous – and he took exception to the idea that he had "impugned anyone's integrity."

Mr. Ianuzzi asked if the objection had been ruled on and if the witness could answer his question. President Nonn said Mr. Ianuzzi could continue putting questions to the witness. Mr. Ianuzzi proceeded to repeat his earlier question about the witness feeling "bombarded." Mr. Sophang responded that he had said he did not know what happened to Pang and The, and the investigators insisted on asking him who disappeared first. He recalled, "It was very difficult for me to respond – that was the situation – because I said I already did not know, but they still insisted on asking me further questions, that who was removed first."

When Mr. Ianuzzi attempted to proceed with another question on this incident, Judge Lavergne intervened before the witness answered, stating that there was either a communication problem or Mr. Ianuzzi was "not making an effort to understand" the chamber. Judge Lavergne informed the counsel that he must ask open questions and that he was suggesting to the witness that the manner in which he was questioned was dishonest. When Mr. Ianuzzi said the witness's answer suggested this and he was questioning him about it, Judge Lavergne stated that Mr. Ianuzzi was not in court to comment on the chamber's rulings on objections and must follow the chamber's instructions. Mr. Ianuzzi inquired whether he must ask an "open question" even when the witness's answer was "highly suggestive," to which Judge Lavergne responded that the witness's answer should not be over-interpreted.

In response to a series of further questions from Mr. Ianuzzi, Mr. Sophang confirmed that he recalled being asked by President Nonn when he first arrived in the courtroom about whether he had reviewed two statements he gave to OCIJ investigators. Mr. Sophang confirmed he had stood by the statements, in response to President Nonn, and during his testimony he had asked that his interview with OCIJ investigators be reviewed and portions where he made assumptions disregarded. When Mr. Ianuzzi asked if Mr. Sophang requested this because the chamber reminded him not to make assumptions, Mr. Sophang concurred. Mr. Ianuzzi inquired if anyone present at his interview with OCIJ had explained to him not to make assumptions. Mr. Sophang said there was no "clear explanation" like that provided by President Nonn. "However I was told to speak about the truth or what I knew clearly or the experience that I went through. I was reminded of all these points before the interview started," Mr. Sophang testified.

Before closing proceedings for the day, President Nonn reminded counsel to review Internal Rule 76(7).²⁶ President Nonn adjourned the proceedings, which are set to resume on Thursday, September 6, 2012, at 9 a.m. with further questioning of witness Norng Sophang.

²⁶ ECCC Internal Rule 76(7) reads, "Subject to any appeal, the Closing Order shall cure any procedural defects in the judicial investigation. No issues concerning such procedural defects may be raised before the Trial Chamber or the Supreme Court Chamber." The ECCC Internal Rules (Rev.8) can be found at: <http://www.eccc.gov.kh/en/document/legal/internal-rules-rev8>