



### **Prosecution's Examination of Pol Pot's Nephew Continues**

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On Tuesday, April 24, 2012 the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) continued trial proceedings in Case 002 against accused Nuon Chea, Ieng Sary, and Khieu Samphan.

The day was devoted to the examination of prosecution witness Saloth Ban, who was both Pol Pot's nephew and the Secretary General for the Ministry of Foreign Affairs during the period of Democratic Kampuchea (DK). Although the witness at first balked at continuing his testimony today due to an ominous dream from the night before, he was soon convinced to set aside his concerns, and the rest of the time was filled with his examination by the Prosecution.

#### ***Witness Dreams Warning of Self-Incrimination***

The day began with the President introducing a new duty lawyer and asking Saloth Ban whether he had any concerns. The witness responded that he was "delighted" and the President said he asked because of the change in duty counsel. The Prosecution was then given the floor.

Continuing from yesterday, Senior Assistant Co-Prosecutor Vincent de Wilde d'Estmael noted that the witness assisted them greatly yesterday and asked him to do the same today. He told the witness that his questions would refer to the period between April 1975 and January 1979.

Mr. de Wilde first asked Saloth Ban to clarify how frequently he went to K-1 to see his wife, and the witness responded that the situation was secret and he would maintain the secret until he dies. Mr. de Wilde asked if that meant he was refusing to answer the question. The President reminded the witness of his obligation to testify unless responding could result in self-incrimination.

Mr. de Wilde repeated the question. The witness said that he would not respond because he wished to keep his secret until the end of his life. He stated he was concerned that the question would implicate him. The President reminded him that only the leaders were subject to prosecution before this court and suggested that he consult with his duty counsel. He also noted that he could not see how this question would lead to self-incrimination.

Mr. de Wilde asked the President if he could repeat his question, and the President allowed him to proceed. Saloth Ban replied that he came to testify before this court and that he took an oath before he testified. He explained that an “iron guard”<sup>1</sup> came to him last night and told him to choose his words very carefully and not respond to questions that did not make him “happy.” The President instructed Mr. de Wilde to put that question aside and move to another question.

Moving on, the prosecutor recalled that yesterday Saloth Ban stated that he moved about in the town and asked whether he needed authorization to go to K-1. The witness responded that the “iron guard” also told him last night that this court was unjust and that he is lucky that he is testifying before a hybrid tribunal because otherwise he would be prosecuted. Mr. de Wilde inquired why the “iron guard” said this court was unjust, and the witness was responded that it was because this court does not prosecute “Case 000.”

The President asked the witness if he was refusing to respond to any more questions. The witness revealed that what he heard from the “iron guard” last night was actually in the form a dream. The President told him that this was a superstition and reminded him that he had a duty to cooperate. Saloth Ban “suggested” that the President make sure that he is not implicated. The President responded that the Chamber was careful and reminded the witness that duty counsel was there to assist him.

Mr. de Wilde was again given the floor, and he informed the President that if the witness continues to refuse to answer questions he will make an Article 28 application.<sup>2</sup>

### ***Saloth Ban Agrees to Testify***

Mr. de Wilde requested the witness confirm that there were not any major meetings, decisions, or problems when Ieng Sary was away from the Ministry of Foreign Affairs. The witness agreed this was correct and asked to make it clearly known that he was not responsible at the time. Mr. de Wilde showed him the record of one of the interviews before the Co-Investigating Judges, in which the witness is recorded to have said that a) he was in charge of meetings at the Ministry of Foreign Affairs when Ieng Sary was away, b) he was responsible for running the Ministry in accordance with instructions from the Central Committee, and c) most of the work when Ieng Sary was gone was simply day-to-day affairs. Saloth Ban had also listed several comrades who were in charge when both he and Ieng Sary were away, noting that the cadres would communicate instructions to them by phone. The witness confirmed this statement but again added that he did not have the authority to decide on any affairs.

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<sup>1</sup> This was later clarified to be a Buddhist spirit.

<sup>2</sup> The prosecutor was likely referring to an application under Rule 28 of the ECCC Internal Rules, which lays out the court procedures regarding the right against self-incrimination for witnesses.

The witness was also reminded about the statement he made yesterday where he said the upper echelon contacted the Ministry by phone and was asked to specify who made the call. The witness said he was certain that it was Pang. He was then asked what kind of recommendations Pang made to the Ministry when Ieng Sary was not there, and the witness responded that they were undetailed instructions about building solidarity. Mr. de Wilde told the witness that he would revisit this issue later.

Mr. de Wilde next tried to clarify the structure of the Ministry of Foreign Affairs. Saloth Ban testified that the Ministry did not have a Protocol Office *per se*; rather various people were assigned based on their protocol skills. He confirmed that things became more formal over time and that there were individuals who handled certain tasks. This answer caused Mr. de Wilde to request Saloth Ban to clarify who was the head of the Protocol Office, and the witness first said that there was no specific designation but then proceeded to name some people who were “sometimes in charge.”

When asked whether the Ministry was responsible for the airport, the witness responded that he did not know. He did assert that Pang, not the Ministry of Foreign Affairs, was tasked with welcoming foreign delegations or intellectuals coming back from abroad. The prosecutor noted again that they would come back to this point.

Mr. de Wilde asked how the Ministry of Foreign Affairs sent instructions to the ambassadors and the staff working in the embassies. The witness said he did not know the details. Mr. de Wilde questioned whether cables were used to communicate. The witness replied that he only knew his business at that time and again proclaimed he was only in charge of the day-to-day affairs.

The witness then testified that the State Market, which collected produce and meat for foreign visitors, was under the Ministry of Foreign Affairs. He noted that there were about 100-300 people working for the State Market. Mr. de Wilde asked how many people worked in B-1 and outside B-1. The witness said he did not have those statistics in hand.

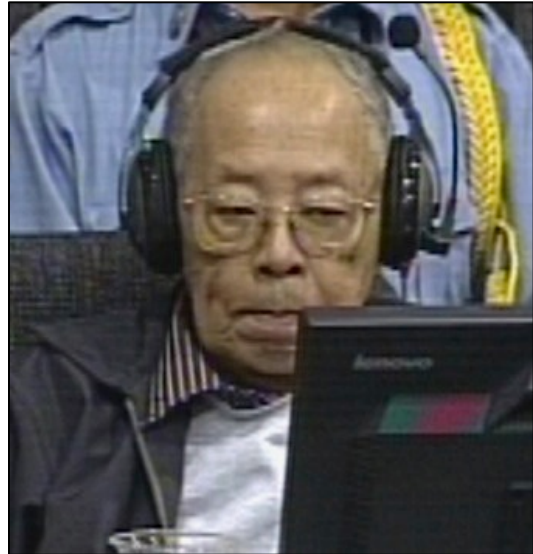
### ***Was Ieng Sary Involved with the Arrests at the Ministry of Foreign Affairs?***

Mr. de Wilde went back to the relationship between the Ministry of Foreign Affairs and Pang. He recalled that yesterday Saloth Ban testified that Pang a) was in charge of Office 870, b) assigned him to the Ministry of Foreign Affairs, c) chose the staff of B-1 among the pure peasant class, and d) could make certain decisions when he came to the Ministry. He also mentioned that the witness testified that one of his in-laws, who worked in Ministry, had been arrested. The witness agreed the summary was correct.

Saloth Ban then testified that Pang came to the Ministry when he needed to “take” a person who returned from overseas. Mr. de Wilde asked if Pang frequently came to the Ministry of Foreign Affairs to “take people,” and the witness responded that it was not frequent. He was asked to clarify what “not frequent” meant, and he was able to recollect that he only saw it twice. He then acknowledged that there were many people who were taken away from the Ministry by people other than Pang.

Saloth Ban was asked whether he ever saw the people who were taken away again. He responded that once they were taken away they were never returned. Mr. de Wilde asked if this meant these people were arrested and executed. The witness said he did not know.

Mr. de Wilde reminded the witness that he had testified that Pang could make decisions in the Ministry of Foreign Affairs and requested he clarify what kinds of decisions Pang could make. Saloth Ban said that Ieng Sary told those working in the Ministry that they had to do whatever Pang instructed. Mr. de Wilde asked whether this meant Ieng Sary knew people were taken away from the Ministry by Pang, but the witness said he was not aware.



The witness was shown another written record of prior testimony he gave before the Co-Investigating Judges in which he stated that a) he observed the disappearance of staff and cadres from Ministry of Foreign Affairs; b) members of his family also disappeared; c) Pang was among those who came to take people; d) Ieng Sary was aware when cadres and members of staff from the Ministry of Foreign Affairs disappeared; e) Ieng Sary said he did not know about the arrests in advance; and f) he and Ieng Sary were afraid. The witness confirmed that Ieng Sary knew about the disappearance of staff and cadres from the Ministry of Foreign Affairs but asked to add that he only knew after the disappearance.

Mr. de Wilde requested clarification on the time period when people were taken from the Ministry of Foreign Affairs. The witness responded that Pang disappeared when the enemy invaded Cambodia. Mr. de Wilde asked when Pang first came to the Ministry to take people away. The witness recalled that it was about a month or two before the Vietnamese arrived in the country. Mr. de Wilde pointed out that this appeared to be contradicted by his previous statements and asked him to confirm. The witness claimed that he was unclear.

Mr. de Wilde asked whether Pang always brought his own vehicle when he came to the Ministry to take people away. The witness responded that Pang used a motorbike. The President interjected to ask duty counsel to advise his client to respond freely to the questions put to him unless the questions would incriminate him.

The Prosecution informed the witness he was not asking about the means of transportation in general but rather the transportation used to take people away after they were arrested at the Foreign Ministry. He explained that he wanted to know if Pang commissioned vehicles from the Ministry of Foreign Affairs. The witness said Pang came by motorbike, would show a letter that stated an individual needed to be sent for re-education, and then the person would be put on the motorbike and taken away. He clarified that no vehicles were commissioned from the Ministry and noted that people were taken one-by-one on the motorbike.

Mr. de Wilde asked Saloth Ban who signed the letter that contained the order that people be taken away. The witness said that if Pang came to take someone away, there was no letter, but if a subordinate cadre came, they would bring a letter signed by Pang.

Saloth Ban was reminded that yesterday he stated Pang only came to the Ministry of Foreign Affairs when Ieng Sary was not there and was then asked whether there were meetings between the men at other locations. The witness responded that there was no official party communication between Pang and Ieng Sary.

Mr. de Wilde again showed Saloth Ban prior testimony given by him before the Co-Investigating Judges. This time the witness had stated that a) the Standing Committee decided to bring back diplomats and send them to S-21; b) Pang's group from office 870 were tasked with calling the diplomats back; and c) Pang was in touch with Ieng Sary directly.

The witness asked to remove the sentence about the Standing Committee making the decisions, blaming the alleged error in his previous testimony on his poor health. He again asserted that he did not think Ieng Sary knew about the decisions.

Mr. de Wilde pointed out that the witness had previously stated that Ieng Sary knew when people were taken away. He read a previous statement where the witness said that Ieng Sary was aware of the situation. Michael Karnavas, co-counsel for Ieng Sary, objected because he believed that the prosecutor was either "leading the witness" or "being unfair to the witness." He drew the Court's attention to the fact that one statement was about "awareness" and the other about "knowing people were taken away." Mr. de Wilde agreed to withdraw his question.

Moving on, Mr. de Wilde asked whether the witness confirmed that Pang was directly in touch with Ieng Sary regarding the arrest of persons. Mr. Karnavas objected again, arguing that the question had already been asked and answered three times. Mr. de Wilde responded that he was just clarifying a point that was not well answered by the witness. The judges conferred and overruled the objection. After the ruling, the witness immediately responded, "Ieng Sary knew only after the arrest was made." The President reminded the witness that the question was about the difference between his response today and his prior statement. He told the witness to compose himself before responding.

### ***Court Takes Morning Recess***

At this point, the Chamber adjourned for a twenty-minute morning break. Ang Udom, defense counsel for Ieng Sary, made his usual request that the accused be permitted to waive his right to be present in the courtroom and retire to his holding cell to observe the remainder of the day's proceedings via audio-visual link due to his health concerns. As usual, the President granted the request, requiring a waiver be submitted with the defendant's signature or thumbprint.

### ***Problem with Translation Suspends Court***

After the morning recess, the President tried to reopen the session, but his statement was not translated into French or English. After waiting fifteen minutes for the situation to be resolved, the President decided to adjourn Court until after the lunch break.

Michiel Pestman, co-counsel for Nuon Chea, then requested that the accused be permitted to waive his right to be present in the courtroom and retire to his holding cell to observe the remainder of the day's proceedings via audio-visual link. The judges took turns translating the request, and the President granted the request.

### ***Court Resumes***

The President began the afternoon session by asking the Prosecution how much more time was required. Mr. de Wilde noted that a lot of time had been lost and asked that he be given until mid-day tomorrow, requesting that the time not be taken from the Civil Parties. The President denied the request but offered him an extra hour. Mr. de Wilde thanked the President.

Returning to the examination, the prosecutor reminded the witness of his previous testimony that one of his in-laws was sent temporarily to the Ministry and then arrested by Pang. He asked the



witness to refer to his prior testimony made before the Co-Investigating Judges.

Onlookers then erupted in laughter as a Khmer swear word was inadvertently broadcast to the Chamber.

Moving on, the witness was reminded that he had previously testified that Ieng Sary did not implicate people but the implications came from outside the Ministry; he had also listed several people who were arrested in the Ministry. The witness stood by his prior statement but commented that he used the word “administered” or “managed,” which meant that he was an “assistant to the leader.”

The witness was asked why his brother-in-law was taken to the Ministry of Foreign Affairs and then arrested, but he claimed that he did not know. Mr. de Wilde drew the

witness's attention to another report he previously made before the Co-Investigating Judges, which he had stated that his brother-in-law was taken to work at the Ministry of Foreign Affairs and was affiliated with Koy Thuon.

The prosecutor inquired whether this report refreshed the witness's memory about why his brother-in-law was arrested. Saloth Ban asked to consult with his duty counsel because he was not clear about the question. He then stated he did not know the reasons for the arrest but he knew that his brother-in-law was from the 304 zone that was under the control of Koy Thuon. Mr. de Wilde asked what the term “affiliated with” meant. The witness responded that it was a revolutionary affiliation. He offered the example that if someone is from the 304 zone he is affiliated with the 304 zone.

Mr. de Wilde next recalled the witness's testimony that at B-1 people who were not pure were set aside, and once they were investigated they were thrown out and sent elsewhere. He asked who conducted the investigations once people arrived at the Ministry. The witness again implicated Pang.

The witness was then asked to explain why people were transited through the Ministry, and he responded that he observed that there were no weapons kept at the Ministry of Foreign Affairs. Mr. de Wilde questioned why that fact made it necessary for people to be trafficked through the Ministry of Foreign Affairs. The witness stated that it was difficult to respond but then offered that "maybe" it was because they had "confidence in him" because he was "in charge" and they "trusted" him.

Mr. de Wilde inquired about the duties of several intellectuals who were taken away by Pang, but the witness did not know. Saloth Ban did admit to knowing their faces, however, and also testified that while at the Ministry these intellectuals mostly rested and did a few minor tasks.

The prosecutor asked if Saloth Ban knew about a person with the revolutionary name Nath, and the witness said this person was part of the military before going to the Ministry of Foreign Affairs. Mr. de Wilde asked him what Nath's duties were as a soldier. Saloth Ban stated he did not know his role or tasks.

Saloth Ban was then asked how he knew that members of the Ministry of Foreign Affairs were accused by outsiders. The witness said that it meant that Pang had the authority to take whomever he wanted, whenever he wanted. Mr. de Wilde requested the basis of the arrests, but Saloth Ban responded that he did not know.

The witness was asked whether Ieng Sary received information about the confessions of prisoners. He asserted that Ieng Sary only knew about it when people were taken away. He was then asked if Ieng Sary ever convened meetings to discuss the problem of arrests within the Ministry of Foreign Affairs. The witness responded that there were no meetings.

Yet another prior statement made by the witness before the Co-Investigating Judges was placed on the screen. The witness was reminded that here he had said Ieng Sary convened a meeting at the Ministry to discuss the content of confessions. The witness had also commented that Ieng Sary sometimes had a sad face and the Central Committee designated Son Sen as the head of security. The witness confirmed that statement but clarified that he and Ieng Sary did not know where people were sent. The prosecutor asked when Ieng Sary convened the meeting about the contents of confessions. Saloth Ban responded that people were disappearing and they took measures to make sure that the staff did not feel afraid.

Mr. de Wilde observed that the witness repeatedly said that Pang came to arrest people at the Ministry of Foreign Affairs in late 1978. He also noted that Saloth Ban had testified that Pang was arrested in May of 1978. The prosecutor queried whether this refreshed the witness's memory about the dates when Pang visited the Ministry of Foreign Affairs. The witness asked for assistance with examining the dates. He then apologized and said he might have been mixed up when it came to years.

Mr. de Wilde next turned to prior testimony before the Co-Investigating Judges where the witness stated that he was aware that confessions were sent to the Ministry of Foreign Affairs and most of the documents contained fictitious information. The witness confirmed that confessions were sent from S-21 to the Ministry of Foreign Affairs. He did not know, however, who sent the confessions.

The witness recalled that Ieng Sary read Koy Thuon's confession in a meeting at the Ministry of Foreign Affairs and everyone, including Ieng Sary, became afraid. The witness was asked why they were afraid, and responded that he thought his day would come.

Mr. de Wilde asked whether it was necessary to investigate the extent to which some people were affiliated with Koy Thuon. The witness stated that there was no need to conduct an investigation because they were the children of peasants and they had no influence over military issues.

The witness was then asked about the S-21 confessions that were given to the Ministry of Foreign Affairs. He responded that he did not know whether confessions implicated people within the Ministry. The witness also testified that he was worried and believed that everyone else was afraid as well.

Mr. de Wilde moved on to another previous statement by the witness. He admitted that the question had been worded in a confusing fashion, but the answer included that Ieng Sary and Pol Pot defended two individuals who were implicated in several documents. The witness stood by this statement. Mr. de Wilde asked what it meant to be "implicated in several documents." The President interjected that the question was confusing, and Mr. de Wilde clarified he was wondering whether it meant several people said those individuals were enemies.

Mr. Karnavas was given the floor to object to the question but was first warned by the President that he had to be more succinct than he was that morning. Mr. Karnavas took the President's warning under advisement and said he thought the phrasing of the question was "quite leading." He said that he understood how counsel was feeling but pointed out that the prosecutor was giving the answer in the question. Mr. de Wilde responded that he did not think the question was leading when taken in context. The witness then asked to consult with his duty counsel.

Mr. Pestman took the floor to request clarification on an apparent discrepancy in the English, French, and Khmer translation of the last question. The President asked the Prosecution to respond, also suggesting that the translators go back to the Khmer during the break and rectify the discrepancy.

#### ***Time to be Allotted for Examination***

The President then canvassed the other parties about the time they required to examine the witness. The Civil





Parties requested three hours, and the President told them to reconsider their request. Nuon Chea's defense team asked for half a day, also requesting the President to honor Ieng Sary's defense team's request to complete its examination first. Ieng Sary's team then said they would need a day and a half. The President told them it was unlikely that they would be granted more than one session. Khieu Samphan's defense team added they would need about an hour. The Chamber agreed to consider the time requests, noting that it wanted to conclude the examination this week so as to not further inconvenience the witness.

The afternoon break was then taken, and upon returning, the Chamber informed the Chamber that due to the necessity of ascertaining the truth, the Prosecution will be given the entire morning session tomorrow and the Civil Party lawyers will get the afternoon session. The Defense teams were told they will be informed of their time allotment tomorrow.

### ***The Prosecution Continues to Examine the Witness***

Before resuming his examination of the witness, Mr. de Wilde clarified the discrepancy in the translation, announcing that the Khmer versions agreed with the French version and that the English version had several translation problems that had made the identification of the mistake very difficult.

Mr. de Wilde recollected that the Chamber had not ruled on the objection made by Mr. Karnavas before the break. The President permitted Mr. de Wilde to put the question to the witness again, so the prosecutor inquired whether "being implicated in several instances" meant "being accused by several persons." The witness said that the phrase meant an unknown person implicated the particular persons.

The Prosecution then read another statement made before the Co-Investigating Judges where the witness testified that he was ordered to meet with Koy Thuon's subordinates after Koy Thuon's arrest and that he reported back to Ieng Sary that the people were ignorant and only followed their leader. After reading this statement, Mr. de Wilde requested clarification from the witness, because Saloth Ban had also testified that there was no investigation into Koy Thuon's subordinates. The witness responded that the word "meeting" did not mean an "investigation." Rather, he asserted, the meeting had been a study session where they reviewed the twelve moral principles. Mr. de Wilde stated that he was confused how Saloth Ban could conclude that people "knew nothing" based on the study of the 12 moral principles. The witness explained that it came out during the self-criticism sessions.

The witness was next asked whether any reports were prepared on security in the Ministry. Saloth Ban responded that minutes were not prepared because lots of people could not write. He did note that reports were prepared at meetings led by Ieng Sary but asserted that he did not participate in them.

Mr. de Wilde showed the witness a new document. The witness was given time to review it and was then asked if he remembered it. The witness stated that he could not even remember his own documents and rhetorically asked how he could be expected to remember other documents. Mr. de Wilde asked the Chamber to allow him to read sections that prove the document is from B-1.

Mr. Karnavas took the floor and informed the Chamber that the agreed procedure was not being followed. He noted that the document must be withdrawn if the witness had not seen it before. The President instructed Mr. de Wilde to follow the protocol of the court.

Mr. de Wilde agreed to ask general questions about the document without showing it to the witness. He began by asking the witness if he attended any meetings that discussed the infiltration of enemies within the Ministry of Foreign Affairs. The witness responded that he had to “invent” himself in order to convince the peasants to understand the meaning of patriotism. By way of an example, he began to tell a story of a dark buffalo and a light buffalo getting in a fight about a rabbit, but Mr. de Wilde interrupted to request the witness answer the question posed to him. The witness responded, “Of course” and declared that the infiltration existed nationwide. Mr. de Wilde inquired who the enemies were. The witness said it was difficult to explain, but generally the main enemy was someone who intends to destroy the world and the environment. He further proclaimed that everyone tends to forget about “Case 000.” The President asked the witness to compose himself and answer the question posed to him.

Mr. de Wilde told Saloth Ban that he did not understand what the witness meant by “the person trying to destroy the world and the environment” and asked him to be more precise about who they were and how they could be discovered. The witness responded, “Regarding the destruction of the world, I cannot explain to you here – it would likely take me one month.” He then noted that he was not an expert on monitoring the enemy, stressing that he was not a spy.

Mr. de Wilde questioned whether Saloth Ban meant “spies” when he talked about “enemies.” The witness said that he cannot reply to that question. He was asked whether that meant he did not remember or he did not wish to reply. The witness replied that he is not a technical expert on spying. When asked whether there were meetings about the infiltration by CIA, KGB, or Vietnamese agents, the witness said he never clearly understood what those terms meant. He said he only concentrated on doing good work because otherwise he would have to “refresh” himself. The witness then explained the meaning of the phrase “revolutionary vigilance,” stating that it meant no one should “sit” or “write” on their heads and that they should not “write” on someone else’s head.

Warning that the translation was poor, the prosecutor referred the witness to another document. Mr. Karnavas interjected to suggest that the witness be allowed to testify on whether he knows



the document before they dive into the content. Judge Jean-Marc Lavergne interrupted and requested Mr. de Wilde ask the witness about the notebook he previously mentioned he kept. The prosecutor agreed and asked the witness if he remembered what was on the first page of the notebook. The witness said he did not understand the question. Mr. de Wilde reminded him that he said that he had taken notes and inquired again if Saloth Ban could say what was written on the first page. The witness responded that he just kept notes on a piece of folded paper.

The witness noted that the screen before him was displaying a picture of a lion, and he wanted to make clear that he knew

nothing about a lion. Mr. de Wilde apologized for the document being displayed on the screen before receiving permission from the Chamber but asked whether he could allow the witness to examine the document because a lion was not an accurate description of the document.

Kong Sam Onn, co-counsel for Khieu Samphan, took the floor to note that he was not sure how the witness was going to be able to examine the entire document because of its length. He suggested Mr. de Wilde be directed to point the witness to a specific section. The President asked Mr. de Wilde to inquire whether the witness had ever seen this document before. The witness responded that he was not familiar with it.

Mr. de Wilde requested the President instruct the witness to read more than the title. He also noted that the witness was shown this document by the Co-Investigating Judges. The witness again insisted that he had not previously seen the document.

Mr. de Wilde asserted he was obliged to refer directly to the prior testimony made before the Co-Investigating Judges because the record states that the document was shown to the witness. This assertion prompted Mr. Karnavas to request again that the established procedures be followed. The President responded that the situation before them was new because there was evidence that the witness had seen the document.

The witness was specifically asked by Mr. de Wilde whether the Co-Investigating Judges showed him the document. The witness said he was not sure but noted he had not examined the document thoroughly and therefore could not accept it.

Ending the discussion, the President told the witness that parts of the document would be put before him tomorrow. The Chamber then adjourned until tomorrow morning. The witness was invited to come early to review the document before court begins again on Wednesday, April 25.