

BEFORE THE TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

**FILING DETAILS**

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**CO-PROSECUTORS' RULE 92 SUBMISSION REGARDING INDICIA OF  
RELIABILITY OF THE 978 DOCUMENTS LISTED IN CONNECTION WITH  
THOSE WITNESSES AND EXPERTS WHO MAY BE CALLED DURING THE  
FIRST THREE WEEKS OF TRIAL**

**PUBLIC REDACTED VERSION**

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## I. INTRODUCTION

1. On 2 December 2011, the Co-Prosecutors filed their *Consolidated response to objections to the Co-Prosecutors' document list for the first trial session* ("Consolidated Response").<sup>1</sup> In the Consolidated Response the Co-Prosecutors notified the Trial Chamber and the parties that they would shortly file the present submission, setting out the indicia of reliability of the documents included on the Co-Prosecutors' document list in connection with those witnesses and experts who may be called during the three first weeks of trial ("Document List").<sup>2</sup>
2. The defence teams for Ieng Sary and Nuon Chea have both suggested that, prior to admission of a document into evidence, the party tendering the document should demonstrate the indicia of reliability or authenticity of that document.<sup>3</sup> The Co-Prosecutors submit that such a general requirement would be unduly restrictive and would far exceed the requirements imposed on the parties in Case 001 or in international criminal tribunals more broadly. The Co-Prosecutors incorporate by reference their previous submissions as to the legal standard for admission of documents at the ECCC and in other international criminal tribunals.<sup>4</sup> Notwithstanding this position, in the interests of enhancing the efficiency of the proceedings and assisting the Trial Chamber, the Co-Prosecutors make the present submission of their own motion in which they set out the indicia of reliability of the 978 documents on the Document List. The Co-Prosecutors request the Trial Chamber to have regard to the indicia of reliability when considering defence objections to the documents and thereafter to admit the documents.
3. There is no commonly accepted set of "indicia" for determining the reliability of a document. A document's reliability can generally be derived from its internal characteristics and/ or external features. Based on practice at the national and international level, the Co-Prosecutors submit that the following non-exhaustive and

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<sup>1</sup> **E131/19** Consolidated Response, 1 December 2011 (notified 7 December 2011. An advance courtesy copy was sent, in English, to the Trial Chamber and the parties on 1 December 2011.)

<sup>2</sup> **E131/1/4** and **E131/1/4.1** Document List, 1 November 2011.

<sup>3</sup> See **E136/1** Ieng Sary's Response to the Co-Prosecutors' request to establish an efficient system for admitting documentary evidence at trial, 18 November 2011 at para. 3a (calling for "guidelines requiring the parties to list the source of each document and describe the document's indicia of reliability"); **E131/1/9** [Nuon Chea's] *Objections, observations and notifications regarding various documents to be put before the Trial Chamber*, 14 November 2011 at para. 19 (objecting to "any document whose authenticity has not been definitely established by the party seeking its admission (or by the Chamber should it chose to rely on documentary material *sua sponte*)".)

<sup>4</sup> See generally **E114/1** Co-Prosecutors' response to 'Ieng Sary's objections to the admissibility of certain categories of documents', 16 September 2011 at paras. 8-12; **E131/19** Consolidated Response, *supra* note 1 at paras.57-59.

non-cumulative list of internal characteristics and external features can be relevant to assessing reliability.

*i. Internal characteristics*

- (a) **markings** – the document contains a signature, stamp, seal, fingerprint, document reference or code, postmark or other similar marking;
- (b) **form** – the handwriting or type face of the document is consistent with other documents of that type or from the source or author; the layout and format is consistent with other documents of that type or from the source or author;
- (c) **source /author** – the document was created by an official or public source or the source/author is otherwise identifiable;
- (d) **date of creation** – the document was created contemporaneously with the events the document purports to record;
- (e) **contents** – the document uses a distinctive syntax or distinctive expressions commonly used by the source or author; or the document contains information (about persons, places, or events) that could only be within knowledge of the source or author;
- (f) **purpose** – the purpose of the document is clearly identifiable and is consistent with known policies or objectives of the source or author;
- (g) **internal consistency** - information in the document is internally consistent or is consistent with information in a related document.

*ii. External features*

- (a) **authentication** – the document (or documents of an identical or similar nature) has been confirmed to be an authentic document by the author, by a witness with knowledge or by an expert witness;
- (b) **identification** – the document (or documents of an identical or similar nature) has been reviewed by the author, by a witness with knowledge or by an expert witness and that person did not raise any challenge to its authenticity, giving rise to a presumption of authenticity;
- (c) **corroboration** - the information (about persons, places, events) in the document is consistent with or corresponds to information recorded in other documents;
- (d) **discovery**: the place of discovery is known and the place of discovery is readily explicable (for example, a place where such documents would usually be kept or a place having an obvious link to the source, author, recipient);

(e) *custody*: the circumstances of the provision of the document (or copy) to the tendering party is known.

4. The majority of the 978 documents on the Document List are official documents generated contemporaneously by an office or unit under the supervision of the DK government. These documents were obtained by the Office of the Co-Prosecutors (“OCP”) or the Office of the Co-Investigating Judges (“OCIJ”) during the preliminary and judicial investigations and placed on the Case File. A large number of these documents were collected by the OCP and OCIJ from the Documentation Centre of Cambodia (“DC-Cam”) during the preliminary and judicial investigations.<sup>5</sup> In an interview conducted by the OCP during the preliminary investigation, Chhang Youk confirmed that he has “intimate knowledge” of the documents in the DC-Cam collection and took appropriate measures to confirm their authenticity.<sup>6</sup> In a further series of interviews conducted by the OCIJ during the judicial investigation, DC-Cam director Chhang Youk, provided other valuable information as to the origins and discovery of documents in the DC-Cam collection.<sup>7</sup> Further information regarding the DC-Cam collection is set out in an article written by Chhang Youk and DC-Cam legal consultant John D Ciorciari entitled *Documenting the Crimes of Democratic Kampuchea*. This article is available on the Case File.<sup>8</sup>
5. Information provided by Chhang Youk regarding the chain of custody of documents obtained by DC-Cam from the Ministry of Interior and the Tuol Sleng Archives (TSL) is of particular interest as many of documents on the Document List were obtained from one of these two sources. With regard to documents obtained from the Ministry of Interior, Chhang Youk has testified that they were originally found in 1979 by the Vietnamese in a house on street 240 in Phnom Penh where Son Sen is believed to have resided. He further confirmed that DC-Cam retains the original of all such documents.<sup>9</sup> With regard to the TSL collection, the article by Youk Chhang and John D. Ciorciari indicates that they were discovered at S-21 by Penn Eng in 1979. Following discovery,

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<sup>5</sup> Certain documents were collected from DC-Cam by the OCP during the judicial investigation. In such cases, the documents collected were all publicly available documents and as such their collection does not amount to an investigative action. See further **D313** Co-Prosecutors' Request to place additional evidentiary material on the case file, 31 December 2009.

<sup>6</sup> **D2-2** Written Record of Interview (Chhang Youk), 12 July 2007 (conducted by OCP).

<sup>7</sup> See **D150** Written Record of Interview (Chhang Youk), 19 March 2009; **D204/2** Written Record of Interview (Chhang Youk), 28 May 2009; **D204/3** Written Record of Interview (Chhang Youk), 24 June 2009; **D204/4** Written Record of Interview (Chhang Youk), 19 August 2009; **D311/2** Written Record of Interview (Chhang Youk), 6 October 2009; **D311/3** Written Record of Interview (Chhang Youk), 7 December 2009.

<sup>8</sup> **D155.3** *Documenting the Crimes of Democratic Kampuchea*, John D. Ciorciari and Youk Chhang, 24 March 2009.

<sup>9</sup> **D204/4** Written Record of Interview of Chhang Youk, 19 August 2009 p.3 and **D311/2** Written Record of Interview of Chhang Youk, 6 October 2009, p5. See also **D155.3** *Documenting the Crimes of Democratic Kampuchea*, John D. Ciorciari and Youk Chhang, 24 March 2009 at p. 226.

the documents were in Penn Eng's custody until 1980. Between 1980 and 1984, Ien Pech was responsible for the TSL materials. Between 1984-1986, Ly Heang held the documents. Since 1986, Chey Sopheara, the current Director of the Tuol Sleng Genocide Museum has managed and protected the collection.<sup>10</sup>

## II. INDICIA OF RELIABILITY

6. The documents on the Document List are grouped into 26 different document categories. The documents within each document category share a number of common features in terms of content, layout/form, and origins. Accordingly, in this submission, the indicia of reliability are presented by document category rather than by individual document. References to individual documents are, however, included as appropriate to identify to which document any particular assertion relates. In addition, it is noted that the indicia set out for each category of documents are illustrative in nature and are not intended to be an-exhaustive articulation of the reliability and authenticity features of those documents. Given the large number of documents on the Document List, such an exercise would be unduly burdensome and, in the Co-Prosecutors' submission, is not required under the relevant legal test for admissibility. The Co-Prosecutors reserve their right to provide further information in relation to any particular document or category of documents should such information be required by the Trial Chamber.

### 1. Accused statements

7. There are 68 documents on the Co-Prosecutors Document List categorised "Accused Statements".<sup>11</sup> This category includes all statements that can be attributed to one of the accused persons. The majority of these documents are transcripts or records of prior statements made in interviews, speeches and public statements delivered contemporaneously with the events charged in the Closing Order. This category also includes records of statements made by the Accused to the OCIJ during the judicial investigation and other records of interviews with the Accused conducted by various persons.
8. In terms of form, the documents fall into different sub-categories including: 'DK Media Reports', 'DK Public Statements' (comprising DK Government Statements and FUNK/GRUNK publications), 'International Communications', 'International Media Reports', 'Statements' and 'Written Records'. These sub-categories themselves comprise categories of other documents on the Document List and are addressed separately in later sections. The characteristics and features of reliability of the

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<sup>10</sup> **D155.3** *Documenting the Crimes of Democratic Kampuchea*, John D. Ciorciari and Youk Chhang, 24 March 2009 at p. 239.

<sup>11</sup> Documents 1-68 on Document List.

documents included in those later categories apply equally to the documents included in the relevant sub-categories in this section.

*DK Media Reports*

9. There is one statement of accused person Khieu Samphan reproduced in the Foreign Broadcast Information Service (FBIS).<sup>12</sup> This document shares the same internal characteristics as other FBIS reports discussed further in section 9 below. The document was collected by DC-Cam from a source identified as “LS”.<sup>13</sup> The document was obtained by the OCP from DC-Cam and placed on the Case File at the request of the OCP in December 2009.<sup>14</sup> The document displays DC-Cam cataloguing marks<sup>15</sup> and the letters “LS” in parenthesis in the top right hand corner.

*DK Public Statements*

10. There are seven statements within this category, comprising official statements made on behalf of the DK government during the period April 1975-January 1979 and on behalf of associated entities prior to April 1975 and subsequent to January 1979. One of the documents is a telegram from Ieng Sary to Son Sen.<sup>16</sup> Four are records of speeches given by Ieng Sary and Khieu Samphan at various official events between 1976-1978,<sup>17</sup> one is a publication authored by Ieng Sary on behalf of FUNK,<sup>18</sup> and one is a report written in 1987 by Khieu Samphan in his capacity as Vice President of Democratic Kampuchea in charge of Foreign Affairs.<sup>19</sup>
11. All but one<sup>20</sup> of the documents are contemporaneous records of the events they purport to record. The telegram from Ieng Sary to Son Sen<sup>21</sup> was identified, during an OCIJ interview, by DC-Cam director Chhang Youk who also confirmed that DC-Cam holds the original of this document.<sup>22</sup> This document was admitted into evidence in Case 001.<sup>23</sup>

<sup>12</sup> D313/1.2.310 (document 12).

<sup>13</sup> See DC-Cam database at:  
<http://www.dccam.org/Database/Lod/details.php?keyword=D42048&numRecords=100&lang=eng&page=1&idnum=D42048>

<sup>14</sup> See D313 Co-Prosecutors' Request to include additional materials as part of case file, 31 December 2009 at paras. 25-29.

<sup>15</sup> Handwritten number appearing in top right hand corner and preceded by the letter “D”.

<sup>16</sup> IS 21.154 (document 22)

<sup>17</sup> D56-Doc. 103 (document 18); D313/1.2.307 (document 9); IS 20.25 (document 10); D108/28.243 (document 16).

<sup>18</sup> D313/1.2.258 (document 1).

<sup>19</sup> D84-Annex A-02 (document 32)

<sup>20</sup> D84-Annex A-02 (document 32)

<sup>21</sup> IS 21.154 (document 22)

<sup>22</sup> See D311/2 Written Record of Interview, 6 October 2009 at p.8.

<sup>23</sup> E3/803.

12. All of the documents were obtained by the OCP from DC-Cam. Two were obtained during the preliminary investigation and attached to the Introductory Submission.<sup>24</sup> One was placed on the case file in Case 001 by the OCP in March 2008 and subsequently transferred onto the Case File by the OCIJ.<sup>25</sup> The remaining four documents were placed on the Case File during the judicial investigation at the request of the OCP.<sup>26</sup>

*International media*

13. There are 31<sup>27</sup> statements of the accused persons published in international media publications including as Radio Free Asia,<sup>28</sup> Voice of America,<sup>29</sup> the BBC's Summary of Worldwide Broadcasts (*SWB*),<sup>30</sup> Newsweek,<sup>31</sup> New York Times,<sup>32</sup> and the Washington Post<sup>33</sup> amongst others. The general characteristics of a number of these publications are discussed in the 'DK Media Reports' and 'International Media Reports' summaries in sections 9 and 16 below. Twelve<sup>34</sup> of these documents were published contemporaneously with the events they purport to record.
14. Fifteen<sup>35</sup> of these documents were obtained from public sources and placed on the Case File by the OCIJ during the judicial investigation. The remaining documents were

<sup>24</sup> IS 21.154 (document 22); IS 20.25 (document 10).

<sup>25</sup> See D108 Note by the Co-Investigating Judges, 28 October 2008.

<sup>26</sup> D313/1.2.258 (document 1); D313/1.2.307 (document 9); D84-Annex A-02 (document 32); D56-Doc. 103 (document 18). See D313 Co-Prosecutors' Request to place additional evidentiary material on the case file, 31 December 2009; D84 Co-Prosecutors' Request to admit 3 documents to the case file, 17 April 2008 at para 7; D56 Co-Prosecutors' Request to place additional evidentiary material on the case file, 31 December 2009 at para. 1 and D56-Annex A.

<sup>27</sup> D297.14 (document 46); D366/7.1.634 (document 7); D297.12 (document 44); D297.9, D297.9.1 (document 60); IS 20.24, D313/1.2.328 (document 13); D366/7.1.273 (document 49); D297.8, D297.8.1 (document 59); IS 20.4 (document 4); D56-Doc. 209 (document 28); D56-Doc. 252 (document 30); D366/7.1.640 (document 15); D297.6, D297.6.1 (document 54); D366/7.1.275 (document 56); D365/1.1.39 (document 8); D56-Doc. 207 (document 27); D297.2, D297.2.1 (document 50); D56-Doc.042 (document 3); D297.15 (document 47); D56-Doc. 137 (document 21); D297.7, D297.7.1 (document 57); D297.10, D297.10.1 (document 61); D297.4, D297.4.1 (document 52); D248/5.1.7 (document 24); IS 20.8 (document 34); D297.13 (document 45); D297.11 (document 43); D29-Attachment 89 (document 40); D199/26.2.97 (document 6); D297.3, D297.3.1 (document 51); D297.5, D297.5.1 (document 53); New ERN 00177964-84 (document 41).

<sup>28</sup> D297.14 (document 46); D297.12 (document 44); D297.15 (document 47); D297.13 (document 45); D297.11 (document 43); New ERN 00177964-84 (document 41).

<sup>29</sup> D297.9, D297.9.1 (document 60); D297.8, D297.8.1 (document 59); D297.6, D297.6.1 (document 54); D366/7.1.275 (document 56); D297.2, D297.2.1 (document 50); D297.7, D297.7.1 (document 57); D297.10, D297.10.1 (document 61); D297.4, D297.4.1 (document 52); D297.3, D297.3.1 (document 51); D297.5, D297.5.1 (document 53).

<sup>30</sup> IS 20.24, D313/1.2.328 (document 13).

<sup>31</sup> D366/7.1.273 (document 49); IS 20.4 (document 4).

<sup>32</sup> D56-Doc. 209 (document 28); D56-Doc. 252 (document 30); D56-Doc. 207 (document 27).

<sup>33</sup> D366/7.1.640 (document 15); D365/1.1.39 (document 8).

<sup>34</sup> D366/7.1.634 (document 7); IS 20.4 (document 4); D56-Doc. 209 (document 28); D56-Doc. 252 (document 30); D366/7.1.640 (document 15); D365/1.1.39 (document 8); D56-Doc. 207 (document 27); D56-Doc.042 (document 3); D56-Doc. 137 (document 21); D248/5.1.7 (document 24); D199/26.2.97 (document 6).

<sup>35</sup> D297.14 (document 46); D297.12 (document 44); D297.9, D297.9.1 (document 60); D297.8, D297.8.1 (document 59); D297.6, D297.6.1 (document 54); D297.2, D297.2.1 (document 50); D297.15 (document 47); D297.7, D297.7.1 (document 57); D297.10, D297.10.1 (document 61); D297.4, D297.4.1

obtained by the OCP and attached to the Introductory Submission<sup>36</sup> or placed on the Case File during the judicial investigation at the request of the OCP.<sup>37</sup> Of the documents obtained by OCP, seven<sup>38</sup> were originally collected by DC-Cam from the so-called Swedish collection in February 2007.<sup>39</sup> The remainder were obtained from publicly available media sources.

*International communications*

15. There are nine “international communications” documents recording statements of accused persons Ieng Sary and Khieu Samphan. Two of these documents are US State Department Telegrams, dating from August and September 1975.<sup>40</sup> These documents were placed on the Case File at the request of OCP, having been obtained from a larger collection of records dating from 15 March 1973 to 22 December 1975 publicly released by the USA's National Archives and Records Administration.<sup>41</sup> The documents share the internal characteristics of other US telegrams discussed further in the ‘International Communications’ summary in section 15 below.
16. There are seven<sup>42</sup> documents recording official statements of accused person Ieng Sary to United Nations (UN) bodies dating between 5 October 1976 and 9 October 1979. Four of the documents are records of speeches given at meetings of the UN General Assembly.<sup>43</sup> Two of the documents are communications to the UN Human Rights Commission (an organ of the UN Economic and Security Council).<sup>44</sup> The remaining document is a communication to the UN Security Council.<sup>45</sup>

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(document 52); D297.13 (document 45); D297.11 (document 43); D297.3, D297.3.1 (document 51); D297.5.1 (document 53). See D297 Note on Placement of Materials, 5 January 2010. D199/26.2.97. See D199 International Rogatory Letter.

<sup>36</sup> IS 20.4 (document 4), IS 20.8 (document 34) and IS 20.24, D313/1.2.328 (document 13).

<sup>37</sup> D366/7.1.273 (document 49); D366/7.1.275 (document 56); see D366 Co-Prosecutors' Request to Place Additional Evidentiary Material on the Case File, 12 February 2010 at para. 3. D29-Attachment 89 (document 40); see D29 Co-Prosecutor notice of disclosure of additional materials 18 Oct 2007. D366/7.1.634 (document 7); D366/7.1.640 (document 15); D56-Doc. 207 (document 27); D56-Doc.042 (document 3); D56-Doc. 137 (document 21); D248/5.1.7 (document 24); D365/1.1.39 (document 8); D56-Doc. 209 (document 28); D56-Doc. 252 (document 30).

<sup>38</sup> D56-Doc. 207 (document 27); D56-Doc.042 (document 3); D56-Doc. 137 (document 21). See D56 Co-Prosecutors' Request to place additional evidentiary material on the case file, 31 December 2009 at para. 1 and D56-Annex A. D248/5.1.7 (document 24). See D248 Rogatory Letter for documents at DC-Cam. IS 20.24, D313/1.2.328 (document 13); D366/7.1.634 (document 7); D366/7.1.640 (document 15).

<sup>39</sup> See DC-Cam database available at: <http://www.d.dccam.org/Database/Lod/index.php>

<sup>40</sup> D313/1.2.84 (document 5); D313/1.2.78 (document 2).

<sup>41</sup> See D313 Co-Prosecutors' Request to Place Additional Material on the Case File, 31 December 2009 at para. 11.

<sup>42</sup> IS 20.1, IS 21.155 (document 23); D366/7.1.820 (document 19); D115/2.2 (document 17); D313/1.2.403 (document 25); D313/1.2.309 (document 11); IS 20.10 (document 14); D115/2.1 (document 20).

<sup>43</sup> D313/1.2.403 (document 25); D313/1.2.309 (document 11); IS 20.10 (document 14); D115/2.1 (document 20).

<sup>44</sup> D115/2.2 (document 17); D366/7.1.820 (document 19).

<sup>45</sup> IS 20.1, IS 21.155 (document 23);



17. Two of the records of UN General Assembly speeches are official records of the UN and follow the regular format of all other official records of that body.<sup>46</sup> The communications to the UN Human Rights Commission are reproduced on UN Economic and Security Council letterhead. Both of these documents display the UN logo and follow a consistent layout and format. The remaining document is a reproduction of a telegram on UN Security Council letterhead. It displays the UN logo and standard UN document referencing marks.
18. Three of these documents were obtained from public sources by the OCIJ who placed them on the Case File during the course of the judicial investigation.<sup>47</sup> A further two were placed on the Case File at the request of the OCP during the judicial investigation. One of these was obtained from the UN library of New York<sup>48</sup> and the other from DC-Cam who in turn collected that document from a source identified as “LS” in 2009.<sup>49</sup> The remaining two documents were obtained by the OCP during preliminary investigation and attached to Introductory Submission.<sup>50</sup>
19. The communication from Ieng Sary to the UN Security Council<sup>51</sup> was admitted into evidence in Case 001.<sup>52</sup>

*Written records*

20. There are eight official written records of interviews,<sup>53</sup> initial appearances<sup>54</sup> and adversarial hearings<sup>55</sup> conducted by the OCIJ with the accused. These documents were all prepared by the OCIJ and share the same key internal characteristics (such as fingerprinting and/or signing in accordance with the Internal Rules and the affixing of the official court stamp) as the documents discussed in the “Written Records” summary in section 26 below.

*Records of other interviews*

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<sup>46</sup> D115/2.1 (document 20); IS 20.10 (document 14).

<sup>47</sup> D115/2.2 (document 17); D313/1.2.403 (document 25); D115/2.1 (document 20). See D115 International Rogatory Letter.

<sup>48</sup> D366/7.1.820 (document 19). See D366 Co-Prosecutors' Request to Place Additional Evidentiary Material on the Case File, 12 February 2010 at para. 3.

<sup>49</sup> See DC-Cam database available at: <http://www.d.dccam.org/Database/Lod/index.php>. D313/1.2.309 (document 11), see D313 Co-Prosecutors' Request to place additional evidentiary material on the case file, 31 December 2009.

<sup>50</sup> IS 20.1, IS 21.155 (document 23); IS 20.10 (document 14).

<sup>51</sup> IS 20.1, IS 21.155 (document 23);

<sup>52</sup> Admitted as E3/785.

<sup>53</sup> D286 (document 68); D47 (document 64); D49 (document 65); D46, D46/Corr-1 (document 63); D285 (document 67). D286 (document 68) is a record of interview of Ieng Thirith. Although the charges against Ieng Thirith have now been severed from Case 002, the Co-Prosecutors still seek to rely on this document as evidence against the Accused.

<sup>54</sup> D38 (document 55).

<sup>55</sup> C25 (document 62); C19 (document 58).

21. There are 10 documents recording statements made by the Accused during interviews conducted by persons other than the OCIJ.
22. Six of these documents were obtained by the OCP during the preliminary investigation and attached to Introductory Submission. Of these six, one document contains notes of an interview with Khieu Samphan conducted by the School of Oriental and African Studies (SOAS)/ Human Rights Watch (HRW);<sup>56</sup> two are records of interview of Ieng Sary conducted by Stephen Heder in December 1996 and January 1999,<sup>57</sup> with one being a full transcription of an audio recording;<sup>58</sup> one contains notes, recorded by Stephen Heder, of an interview of Ieng Sary conducted by Elizabeth Becker;<sup>59</sup> one records notes of an interview of Nuon Chea conducted by Khem Ngun in May 1998;<sup>60</sup> and the final one records notes of an interview conducted with Nuon Chea and Khieu Samphan in June 2006 by Meng-Try Ea and Sopheak Leoung.<sup>61</sup>
23. The remaining two records of interview were placed on the Case File during the judicial investigation phase. One of these, being Stephen Heder's shorthand notes of his interview with Ieng Sary in January 1999, was placed on the Case File by the OCIJ of its own initiative.<sup>62</sup> The other, being a transcript of an interview of Ieng Thirith by Elizabeth Becker, was placed on the Case File during the judicial investigation at the request of the OCP.<sup>63</sup>
24. The SOAS / HRW interview of Khieu Samphan<sup>64</sup> and the transcript of the audio recording of the interview of Ieng Sary conducted by Stephen Heder were admitted into evidence in Case 001.<sup>65</sup>

*Miscellaneous*

25. This sub-category includes two letters from Khieu Samphan and a report by DNUM, the political group set up by Ieng Sary following his defection to the government in 1996.
26. One of the letters from Khieu Samphan is a handwritten letter addressed to the Co-Investigating Judges dated 8 January 2008 and placed on the Case File by the OCIJ.<sup>66</sup>

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<sup>56</sup> IS 20.23 (document 42);

<sup>57</sup> IS 20.7 (document 37); IS 20.6, D29/I (document 35).

<sup>58</sup> IS 20.6, D29/I (document 35).

<sup>59</sup> IS 20.12 (document 31).

<sup>60</sup> IS 20.28, D288/5.107 (document 36).

<sup>61</sup> IS 20.34, D29-Attachment 81, 20.34/Corr-1 (document 48).

<sup>62</sup> D210/14/1.2 (document 38). See **D210** Note on Placement of documents, 9 Oct 2009. D58 (document 66).

<sup>63</sup> D366/7.1.653, D28 (document 26). See **D366** Co-Prosecutors' Request to Place Additional Evidentiary Material on the Case File, 12 February 2010 at para. 3. Although the charges against Ieng Thirith have now been severed from Case 002, the Co-Prosecutors still seek to rely on this document as evidence against the Accused.

<sup>64</sup> IS 20.23 (document 42) admitted as E3/53.

<sup>65</sup> IS 20.6, D29/I (document 35) admitted as E3/106.

The other is a public letter addressed to “all compatriots”. It was obtained by the OCP from DC-Cam after the Introductory Submission and placed on the Case File at the OCP’s request.<sup>67</sup> The DNUM report was obtained by the OCP during the preliminary investigation and attached to the Introductory Submission.<sup>68</sup> There are handwritten annotations at the end of the document recording mobile phone numbers of Long Norin and Sok Peap, both Vice-Presidents of DNUM.

## 2. Analytical reports

27. There are five documents on the Document List identified as analytical reports. Four reports were authored by independent researchers<sup>69</sup> and one was prepared by Amnesty International.<sup>70</sup> The Analytical Reports are of known provenance and contain content and internal markings that provide further indicia of reliability.
28. The Amnesty International report on Democratic Kampuchea<sup>71</sup> is an excerpt from the *1975-76 Amnesty International Report*. Amnesty International is a known international organization, therefore the provenance of this report is undisputed. This document was collected by DC-Cam<sup>72</sup> and was provided to the Co-Prosecutors during the course of their preliminary investigation.
29. The Analytical Reports display internal markings that attest to their reliability and authenticity. *Pol Pot and Khieu Samphan*<sup>73</sup> is a copy of a report published by the Centre of Southeast Asian Studies at Monash University in Australia. This is made clear from the internal markings on the document, such as the university’s coat of arms and the document’s ISBN number. *Overview of the Hierarchy of Democratic Kampuchea*<sup>74</sup> is a document specifically prepared for the ECCC by Craig Etcheson. The document is drafted on the letterhead of the Office of the Co-Prosecutors and is signed by the author. This report was admitted as evidence in Case 001.<sup>75</sup> *Ieng Sary’s Foreign Travel compared to S-21 records of arrest and execution of MFA staff*<sup>76</sup> is another document prepared for the ECCC. This document was prepared by Richard Moore, an analyst in

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<sup>66</sup> D58 (document 66).

<sup>67</sup> D29-Attachment 85, D312.2.1, D312.2.4 (document 39), see D29 Co-Prosecutor notice of disclosure of additional materials 18 Oct 2007.

<sup>68</sup> IS 20.3 (document 33)

<sup>69</sup> D29-Attachment 66 (document 70); IS 11.15 (document 71); D2-15 (document 72); and D177/3.1 (document 73).

<sup>70</sup> D84-Annex A-01 (document 69).

<sup>71</sup> D84-Annex A-01 (document 69)

<sup>72</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=16147&numRecords=100&lang=eng&page=1&idnum=D16147>

<sup>73</sup> D29-Attachment 66 (document 70).

<sup>74</sup> D2-15 (document 72).

<sup>75</sup> Admitted as E3/32.

<sup>76</sup> D177/3.1 (document 73).

the OCIJ. The document displays the seal of the ECCC.<sup>77</sup> The *Biography of Ieng Sary*<sup>78</sup> was prepared for Searching for the Truth magazine, a publication of DC-Cam. The biography appeared in the English edition published in April 2003, a copy of which is available from the DC-Cam website.<sup>79</sup>

### 3. Books

30. There are 11 items on the Document List identified as books<sup>80</sup>, all of which are copies of recognised published books.<sup>81</sup>
31. Two books on the Document List were authored by accused person Khieu Samphan.<sup>82</sup> Three of the books included on the Document List were admitted by the Trial Chamber in Case 001<sup>83</sup> in addition to at least 13 other books.<sup>84</sup>
32. The books display internal markings that attest to their reliability. Eight books on the Document List clearly display an ISBN.<sup>85</sup> An ISBN is not visible on the copy of “*When the War Was Over*”, by Elizabeth Becker. However, this copy does display the marking of the publisher, Public Affairs New York. The remaining two books were published by the War Crimes Research Office, American University (republished with permission by DC-Cam)<sup>86</sup> and Ponleu Khmer Printing and Publishing House.<sup>87</sup>

### 4. Civil Party Applications

33. There are 3 documents on the Document List categorised as “Civil Party Applications”.<sup>88</sup> The applications are official ECCC records, completed by the relevant

<sup>77</sup> D177/3.1 (document 73) at p. 47.

<sup>78</sup> IS 11.15 (document 71).

<sup>79</sup> See [http://d.dccam.org/Projects/Magazines/Image\\_Eng/pdf/1st\\_Quarter\\_2003.pdf](http://d.dccam.org/Projects/Magazines/Image_Eng/pdf/1st_Quarter_2003.pdf)

<sup>80</sup> Documents 74-84 on the Document List.

<sup>81</sup> The ICTR has held that a recognised copy of a published book holds sufficient indicia of reliability to be admitted as evidence. See *Prosecutor v Casimir Bizimungu et al.*, Case No. ICTR-99-50-T, Judgment (ICTR Trial Chamber), 18 November 2008 at para. 4

<sup>82</sup> D83-Annex-00013 (document 83); IS 4.23 (document 81).

<sup>83</sup> IS 4.15 (document 74) admitted as E3/330; IS 4.1 (document 75) admitted as E3/510; and IS 4.2 (document 78) admitted as E3/4.

<sup>84</sup> Huy Vannak *The Khmer Rouge Division 703: From Victory to Self Destruction*, admitted as E3/391; Meng-Try Ea, *The Chain of Terror: The Khmer Rouge Southwest Zone Security System*, admitted as E3/48; Menry Kamm, *Cambodia: Report from a Stricken Land*, admitted as E3/87; Nayan Chanda *Brother Enemy: The War after the War*, admitted as E3/193; David Chandler, *Voices from S-21: Terror and History in Pol Pot's Secret Prison*, admitted as E3/427; Ysa Osman, *Oukoubah: Justice for the Cham Muslims under the Democratic Kampuchea Regime*, admitted as E3/404; Stephen Morris, *Why Vietnam Invaded Cambodia: Political Culture and the Causes of War*, admitted as E3/523; David Chandler et. al, *Pol Pot Plans the Future: Confidential Documents from Democratic Kampuchea*, admitted as E3/67; Raoul M. Jennar *Les Clés du Cambodge*, admitted as E3/515; Nic Dunlop, *The Lost Executioner*.

<sup>85</sup> IS 4.15 (document 74); IS 4.25 (document 76); D313/1.2.6 (document 77); IS 4.2 (document 78); D141/1.2 (document 79); IS 4.41 (document 82); D83-Annex-00013 (document 83); New document (document 84).

<sup>86</sup> IS 4.18 (document 80).

<sup>87</sup> IS 4.23 (document 81).

<sup>88</sup> Documents 85-87 on the Document List.

civil party applicant. The documents are internally consistent with regards to format and layout. They all comprise a standardised form, which is filled out by the applicant and dated and signed by the applicant and witness at the end. The official seal of the Court appears on the first page

34. One of the applications<sup>89</sup> includes a copy of the front and back of the applicant's ID card. The other two applications are thumb-printed at the bottom of each page.<sup>90</sup> These applications also have a separate document attached to them as per the instructions for completing Part B of the form. The separate documents are directed to the Victims Unit and headed "Additional Information from Victim." In the body, the applicant asks that the document be attached to his previously filed complaint or civil party application. The additional documents are thumb-printed by the applicant and stamped by the Court.
35. The civil party applicants who filled out these applications have partially testified to date or are scheduled to testify during the first trial.<sup>91</sup>

### 5. CPK Publications

36. There are 83 documents on the Document List categorised as "CPK Publications".<sup>92</sup> This category is primarily made up of editions of the Revolutionary Flag and Revolutionary Youth publications. It also includes CPK Directives and other speeches, written statements or official documents published by the CPK.

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<sup>89</sup> D22/3605 (document 87).

<sup>90</sup> D22/43, D22/43.2 (document 85) and D22/42, D22/42.3 (document 86).

<sup>91</sup> See E131/1.1 Confidential Annex A to Trial Chamber memorandum, 25 October 2011; E131/1 Trial Chamber Memorandum entitled Notice of variation of call of civil parties and witnesses, 2 December 2011. The parties were advised on 2 December 2011 that TCCP 123 may not be able to testify due to illness.

<sup>92</sup> Documents 88-170 on the Document List.

*Revolutionary Flag and Revolutionary Youth publications*

37. There are 24 editions of the Revolutionary Flag<sup>93</sup> and 28 editions of the Revolutionary Youth<sup>94</sup> on the Document List. In addition, there are two summaries of two other editions of the Revolutionary Flag and Revolutionary Youth.<sup>95</sup> The Revolutionary Flag and Revolutionary Youth were officially published and distributed by the Ministry of Propaganda out of various offices, including K-25, K-26 and K-27. Witness ██████, who worked at the Ministry, states that “K-25 published the Revolutionary Flag and the Male and Female Youth Magazine. The chief of the writers' team was named Chhay. K-26 was the printing site for newspapers, and K-27 printed the picture magazines.”<sup>96</sup> Witness ██████ confirms that “The Ministry of Propaganda produced the magazines and the Revolutionary Flag, and Touch Phoeun and the well-educated people wrote articles for the magazines.”<sup>97</sup> Nuon Chea recently testified that the *Revolutionary Flag* distributed to the zones, that there was a “technique” to number them and a “printing house” to publish them. He also testified that he and Pol Pot, together with other members of the Standing Committee, wrote articles for the *Revolutionary Flag*.<sup>98</sup>
38. The articles in both publications focus on known CPK economic, strategic and military policies and activities. They also use distinctive expressions that are commonly associated with the CPK and in keeping with CPK ideology. For example, the articles use expressions such as “Revolutionary Army”, “American imperialists”, “smash”, “comrade”, “brothers and sisters”, and “storming attack”. The purpose of both publications is clearly to indoctrinate party members in known policies and objectives of CPK.

<sup>93</sup> D243/2.1.1 (document 99); D243/2.1.2 (document 106); D243/2.1.3 (document 113); D243/2.1.4 (document 116); D243/2.1.5; D288/5.36 (document 121); IS 11.9; D123/3.1 (document 123); D243/2.1.6 (document 126); D243/2.1.7 (document 129); D243/2.1.8 (document 132); D243/2.1.9 (document 135); D243/2.1.10 (document 140); D2-15.4 (document 143); D243/2.1.11 (document 144); D189.2 (document 147); D243/2.1.12 (document 148); IS 11.10; D243/2.1.13 (document 152); IS 11.11 (document 153); D243/2.1.14 (document 156); D243/2.1.15 (document 158); D243/2.1.16 (document 160); IS 11.14 (document 161); D243/2.1.17 (163); D243/2.1.18 (document 165); and D243/2.1.19 (document 166).

<sup>94</sup> IS 11.7 (document 119); IS 11.12 (document 157); D243/2.1.28; D243/2.1.29; D248/4.11; D248/4.7; IS 11.3; IS 11.4; D243/2.1.25; D248/4.3; D248/4.2; IS 11.12; D243/2.1.22; D248/4.8; D243/2.1.24; 243/2.1.26; D248/4.4; D243/2.1.27; D248/4.10; IS 11.6; D248/4.5; D248/2.1.23; IS 11.8; D248/4.9; D175/6.2; D248/4.6; D243/2.1.20; D243/2.1.21.

<sup>95</sup> IS 11.5 (document 109) contains a summary of the Revolutionary Flag Special Issue of December 1975 - January 1976; IS 11.1 (document 98) contains a summary of the Revolutionary Youth Issue 7 of July 1975. The Co-Prosecutors are not in possession of copies of these editions of the magazines.

<sup>96</sup> D201/10 Written Interview of ██████, 25 July 2009 at p.3 (on Co-Prosecutors' First Phase Document List at Annex 12; no.524; and on Khieu Samphan Document List). See also D201/11 Written Interview of ██████, 28 July 2009 at p.3-4 (on Co-Prosecutors' First Phase Document List at Annex 12; no.525).

<sup>97</sup> D234/7 Written Interview of ██████, 24 July 2009.

<sup>98</sup> Transcript, 21 December 2011, at p. 73-74.

39. The editions of the Revolutionary Flag and Revolutionary Youth on the Document List contain consistent markings and have a similar layout.<sup>99</sup> The front cover page displays two or more flags. The communist hammer and sickle symbol is displayed at the beginning of each chapter and on the back cover page.
40. All of the Revolutionary Flag and Revolutionary Youth editions on the Document List were collected by DC-Cam and provided either to the OCP during the preliminary investigation or to the OCIJ during the judicial investigation.<sup>100</sup> All but four editions are recorded on the DC-Cam database as having been collected by DC-Cam from the Tuol Sleng Archives in 1999.<sup>101</sup> The remaining four editions are recorded as having been collected from other sources.<sup>102</sup>
41. DC-Cam Director Chhang Youk identified two of the Revolutionary Flag editions on the Document List in an interview conducted by the OCIJ. He discussed the circumstances of their discovery and confirmed that DC-Cam holds the originals of these documents.<sup>103</sup> Another edition was authenticated by witness [REDACTED] in an OCIJ interview.<sup>104</sup> These three documents<sup>105</sup> and a number of other editions of Revolutionary Flag and Revolutionary Youth<sup>106</sup> included on the Document List were admitted into evidence in Case 001. As noted above, all editions of the Revolutionary Flag and Revolutionary Youth are practically identical. As such, the characteristics of reliability of the documents identified or authenticated by witnesses and / or admitted into evidence in Case 001 are shared by all other editions of these publications on the Document List.

<sup>99</sup> As noted above, documents IS 11.1 (document 98) and IS 11.5 (document 109) are summaries of different editions of the Revolutionary Flag and Revolutionary Youth and therefore do not contain markings. In addition; Document D243/2.1.20 (document 100) is missing its front and back cover pages. However, it contains all other consistent markings.

<sup>100</sup> 23 editions of the Revolutionary Flag; 17 editions of the Revolutionary Youth; and the two summary documents were provided to the OCP by DC-Cam during the course of the preliminary investigation. The outstanding one edition of the Revolutionary Flag and 11 editions of the Revolutionary Youth were provided to the OCIJ by DC-Cam during the course of the judicial investigation.

<sup>101</sup> See DC-Cam database available at <http://www.d.dccam.org/Database/Index.htm>.

<sup>102</sup> Two of the Revolutionary Youth editions (D243/2.1.20 and D243/2.1.21) are recorded as having been collected from "HUN SEN". Two of the Revolutionary Flag editions (D243/2.1.17 and IS11.1) are recorded as having been collected from "H". See DC-Cam database available at <http://www.d.dccam.org/Database/Index.htm>.

<sup>103</sup> See D311/2 Written Record of Interview of Chhang Youk; 6 October 2009 at p9 referring to IS 11.10; D243/2.1.13 (document 152) and IS 11.11 (document 153).

<sup>104</sup> The witness confirms that IS 11.9 (document 123) is a document of the CPK, discusses the policies stated in the document, states that the Revolutionary Flag was authored by members of the Central Committee including Pol Pot, Nuon Chea and Ieng Sary; and states that the document was distributed at a Party Congress in 1976, and that party members were told to keep it confidential. See D123/3 Written Record of Witness Interview ([REDACTED]), 29 July 2008 at pages 5-7

<sup>105</sup> IS 11.9; D123/3.1 (document 123) was admitted as E3/51; IS 11.10; D243/2.1.13 (document 152) was admitted as E3/29; IS 11.11 (document 153) was admitted as E3/70).

<sup>106</sup> D288/5.36 (document 121; admitted as E3/36); D2-15.4 (document 143; admitted as E3/82); IS 11.14 (document 161; admitted as E3/35).

*CPK Directives*

42. There are eight documents comprising CPK directives on the Document List.<sup>107</sup> However, there are two versions each of two different documents.<sup>108</sup> The title or signature block of all of these documents confirms that they were issued by the CPK Central Committee (also known as Committee 870) or by Office 870.<sup>109</sup> One of the documents is issued by Son Sen (alias Khieu) on behalf of Committee 870.<sup>110</sup>
43. The purpose of the documents is to communicate known CPK policies such as the identification and killing of “traitors”<sup>111</sup>, reporting to the centre<sup>112</sup> and ongoing struggle against the “Yuon enemy”.<sup>113</sup> The documents also use distinctive terminology associated with the CPK such as “smash” “hidden enemy” and “bad elements”. Two of the documents conclude with the salutation “With warmest revolutionary fraternity”<sup>114</sup>
44. DC-Cam director Youk Chhang identified four of the documents in an interview conducted by the OCIJ.<sup>115</sup> Witness [REDACTED] has authenticated a directive from Office 870 dated 03 January 1978 and confirmed that it contains handwritten annotations by Pol Pot.<sup>116</sup> This is a colour copy of one of the documents identified by Youk Chhang.<sup>117</sup> Witness Sao Sarun confirms that he received a copy of the directive from the Central Committee dated 20 June 1978 regarding different categories of traitors<sup>118</sup> at a congress presided over by the Central Committee in late 1978. He states that the guideline was announced by Pol Pot at the Congress and that participants were instructed to read the guideline at meetings at the base, unit and cooperative level.<sup>119</sup> Witness [REDACTED] confirms that he heard announcements of “a similar meaning and substance” to the announcement by Office 870 dated 1 January 1979 regarding

<sup>107</sup> IS 6.3 (document 115); D366/7.1.139 (document 131); DI08/50/1.7 (document 146); IS 6.6 (document 154); D200/2.12 (document 155); D248/3.3; D189.1 (document 162); D366/7.1.142 (document 169); IS 6.5 (document 170).

<sup>108</sup> D200/2.12 (document 155) is a colour copy of IS 6.6 (document 154) and contains handwritten annotations. D366/7.1.142 (document 169) at page 2 is the same document as IS 6.5 (document 170).

<sup>109</sup> The source of IS 6.3 (document 115) is not indicated on the face of the document.

<sup>110</sup> DI08/50/1.7 (document 146).

<sup>111</sup> IS 6.3 (document 115) and D248/3.3; D189.1 (document 162).

<sup>112</sup> IS 6.3 (document 115);

<sup>113</sup> D200/2.12 (document 155) and IS 6.6 (document 154); D366/7.1.142 (document 169) and IS 6.5 (document 170).

<sup>114</sup> D366/7.1.139 (document 131) and DI08/50/1.7 (document 146).

<sup>115</sup> See (D311/2) Written Record of Interview (Chhang Youk), 6 October 2009 p.3 in relation to IS 6.3 (document 115) and D248/3.3, D189.1 (document 162); p.4 in relation to IS 6.5 (document 170) and IS 6.6 (document 154).

<sup>116</sup> D200/2.12 (document 155)(see p7). See also D200/2 Written Record of Interview ([REDACTED]), 14 February 2009, p9-10.

<sup>117</sup> IS 6.6 (document 154).

<sup>118</sup> D248/3.3, D189.1 (document 162).

<sup>119</sup> See D232/30 Written Record of Interview (Sao Sarun), 20 October 2009 at pages 3-4.



continuing struggle against the Vietnamese. He states that “all this wording” recorded in the document “was used in announcements [to] troops”.<sup>120</sup>

45. All but one<sup>121</sup> of the documents were collected by DC-Cam from different sources, including the Tuol Sleng Archives,<sup>122</sup> Ben Kiernan,<sup>123</sup> and David Hawk.<sup>124</sup> Three of the documents were obtained by OCP from DC-Cam during the preliminary investigation and attached to the Introductory Submission;<sup>125</sup> three were obtained by the OCP from DC-Cam and placed on the Case File after the Introductory Submission,<sup>126</sup> and two were placed on the Case File by the OCIJ during the judicial investigation.<sup>127</sup>
46. It is noted that two of these documents were admitted as evidence in Case 001.<sup>128</sup>

#### *Other CPK Publications*

47. There are 22 other CPK publications on the Document List. Many of these documents display markings that are common to the CPK documents and publications described above. In particular, nine documents contain the hammer and sickle symbol on either the front or back cover, or within the body of the publication.<sup>129</sup> This marking is frequently used in other official CPK publications, most notably *Revolutionary Flag* and *Revolutionary Youth*.
48. The documents conform to the common purpose of communicating and defining known CPK policies. Three documents explicitly focus on leadership issues,<sup>130</sup> three specifically detail or examine the four year plan,<sup>131</sup> and three are copies of CPK or CPK Youth League statutes.<sup>132</sup> The documents also use distinctive expressions that are

<sup>120</sup> See D234/9 Written Record of Witness Interview (██████████), 19 August 2009 at page 6.

<sup>121</sup> D200/2.12 (document 155) does not have a DC-Cam number in the top right corner.

<sup>122</sup> D366/7.1.139; D108/50/1.7; IS 6.5; IS 6.6. See DC-Cam database at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number)

<sup>123</sup> IS 6.3 (document 115). See DC-Cam database at <http://www.dccam.org/Database/Lod/details.php?keyword=D00693&numRecords=100&lang=eng&page=1&idnum=D00693>

<sup>124</sup> D248/3.3, D189.1 (document 162). See D311/2 Written Record of Interview (Chhang Youk), 6 October 2009, p2-3

<sup>125</sup> IS 6.3 (document 115); IS 6.6 (document 154); and IS 6.5 (document 170).

<sup>126</sup> See D366 Co-Prosecutors' Request to Place Additional Evidentiary Material on the Case File, 12 February 2010 in relation to D366/7.1.139 (document 131) and D366/7.1.142 (document 169) and D189.1 Request for Admission of June 1978 CPK Central Committee Policy Directive regarding Executions and August 1977 Revolutionary Flag, 31 July 2009 at para 3. in relation to D248/3.3, D189.1(document 162).

<sup>127</sup> D200/2.12 (document 155); D108/50/1.7 (document 146).

<sup>128</sup> IS 6.6 (document 154) was admitted as E3/525 and IS 6.3 (document 115) was admitted as E3/13. As noted earlier, the document D200/2.12 (document 155) is a different version of the document IS 6.6.

<sup>129</sup> D366/7.1.229 (document 88); D366/7.1.53 (document 89); D366/7.1.132 (document 94); D366/7.1.134 (document 96); D267/3.36 (document 102); IS 9.1 (document 110); D366/7.1.188 (document 111); D366/7.1.61 (document 120); D366/7.1.459 (document 150).

<sup>130</sup> D366/7.1.229 (document 88); D366/7.1.53 (document 89); D366/7.1.19 (document 92).

<sup>131</sup> IS 6.4 (document 125); IS 18.23 (document 136); D366/7.1.56 (document 137).

<sup>132</sup> D366/7.1.188 (document 111); D366/7.1.187 (document 97); IS 9.1 (document 110)

- commonly associated with the CPK and in keeping with CPK ideology such as “American imperialists”<sup>133</sup> and “smash.”<sup>134</sup>
49. The contents of the document entitled *Announcement of Steady and Absolute Combat Against the Yuon Enemy Aggressors and Expansionist Land Grabbers*<sup>135</sup> issued by Office 870 was corroborated by witness [REDACTED] in an interview conducted by the OCIJ. He stated that he “heard announcements of a similar meaning and substance”, and confirmed that “this wording was used in announcements to troops”.<sup>136</sup>
50. In another interview conducted by the OCIJ, DC-Cam director Chhang Youk identified four of the documents and described the circumstances of their discovery.<sup>137</sup> He testified that two of the documents were found in Tuol Sleng<sup>138</sup> and the other two were provided to DC-Cam by Ben Kiernan.<sup>139</sup> The DC-Cam database records that fourteen other documents in this sub-category were collected by DC-Cam from Tuol Sleng Archives (TSL) in 1999<sup>140</sup> and one other was collected from the Ministry of Interior in 1999.<sup>141</sup> The chain of custody of documents from the TSL collection and Ministry of Interior has been addressed earlier.<sup>142</sup> Information on the Case File indicates that another document was located and copied by Ben Kiernan at the Institute of Social Science, Phnom Penh.<sup>143</sup> The name “Ben Kiernan” appears in handwriting in the top right corner of the first page of this document.
51. Finally it is noted that three of the documents in this subcategory were admitted as evidence in Case 001.<sup>144</sup>

<sup>133</sup> D366/7.1.229 (document 88); D366/7.1.133 (document 95); D366/7.1.134 (document 96); D267/3.36 (document 102); D366/7.1.61 (document 120); IS 18.23 (document 136); *New ERN* 00079290- 317 (document 164).

<sup>134</sup> D366/7.1.133 (document 95); D366/7.1.134 (document 96); D267/3.36 (document 102).  
<sup>135</sup> IS 6.5 (document 170).

<sup>136</sup> See D234/9 Written Record of Witness Interview ([REDACTED]), 19 August 2009, p4.

<sup>137</sup> D 311/2 Written Record of Witness Interview (Chhang Youk), 6 October 2009 at pp.2-4, 6 in relation to documents IS 6.5 (document 170); IS 6.4 (document 125); IS 6.2 (document 104); IS 9.1 (document 110).

<sup>138</sup> IS 6.5 (document 170) and IS 9.1 (document 110). See also DC-Cam database available at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number).

<sup>139</sup> IS 6.4 (document 125); IS 6.2 (document 104). See also DC-Cam database available at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number).

<sup>140</sup> D366/7.1.134 (document 96); D366/7.1.132 (document 94); D366/7.1.188 (document 111); D366/7.1.187 (document 97); D366/7.1.459 (document 150); D366/7.1.54 (document 91); D366/7.1.229 (document 88); D366/7.1.53 (document 89); D366/7.1.56 (document 137); D366/7.1.133 (document 95); D366/7.1.60 (document 118); D366/7.1.61 (document 120); D366/7.1.57 (document 103); D267/3.36 (document 102).

<sup>141</sup> *New ERN* 00079290- 317 (document 164). See DC-Cam database at <http://www.dccam.org/Database/Lod/details.php?keyword=d02180&numRecords=100&lang=eng&page=1&idnum=D02180>

<sup>142</sup> See section I above.

<sup>143</sup> IS 18.23 (document 136). See English version at ERN 00103994 describing the provenance of the document.

<sup>144</sup> IS 6.5 (document 170) admitted as E3/103; IS 18.23 (document 136) admitted as E3/67; IS 9.1 (document 110) admitted as E3/28.

## 6. DK Biographies

52. There are nine documents on the Document List categorised as “DK Biography”.<sup>145</sup> This category is primarily made up of S-21 Prisoner biographies and of DK biographies (self-criticism) by Ministry of Foreign Affairs (MFA) cadres. It also includes the biography of Leng Malis, Secretary of Ministry of Commerce.<sup>146</sup>
53. The four S-21 Prisoner biographies<sup>147</sup> record biographical information of prisoners who had previously been targeted for elimination. This practice accords with known CPK policy of systematically identifying and purging “enemies” or bad elements.
54. The S-21 Prisoner biographies are consistent with regard to form. All use the same pre-formatted template which is always entitled “Biography of the Prisoner in Detention” appearing in the top centre and a prisoner photo was usually stuck at the top right corner. The content included: original name, alias, age, sex, nationality, place of birth (village, commune, district, sector), Ministry and Position since the date joined revolution until present / Ministry and Position prior to the liberation of Phnom Penh and current Ministry and Position, father's name and occasionally occupation, spouse's name and birth place, present residence, number of sons and daughters, place of arrest, (usually) date of arrest, house number, and size of room (where prisoner was kept). Finally identifying information was included at the bottom (height, torso).
55. The biographies from the MFA cadres<sup>148</sup> are largely consistent in content. Whilst some contain more detail than others, they almost all contain information regarding political views and standpoints as well as any organisational involvement before joining the Revolution. They detail the author's role and contribution to the revolution before examining the strengths and weaknesses of the author's own behaviour as well as how any anti-revolutionary behaviour has been/will be changed.
56. Three of the four S-21 prisoner biographies and the biography of Leng Malis were obtained by the OCP from DC-Cam during the preliminary investigation and attached to the Introductory Submission. DC-Cam collected one S-21 prisoner biography at the Ministry of Interior in 1995,<sup>149</sup> and two S-21 prisoner biographies<sup>150</sup> and the biography of Leng Malis<sup>151</sup> at Tuol Sleng in 1998.

<sup>145</sup> Documents 171-179 on the Document List.

<sup>146</sup> IS 3.3 (document 172)

<sup>147</sup> There are four S-21 Prisoner Biographies on the Document List: IS 3.6 (document 176); IS 3.5 (document 179); D288/5.464/2 (document 177); IS 3.1, D279/7.8 (document 178).

<sup>148</sup> There are four self-criticisms by Ministry of Foreign Affairs cadres on the Document List: D366/7.1.830 (document 174); D366/7.1.829 (document 173); D366/7.1.831 (document 175) and Biography of LONG Narin (document 171). The latter is not yet on the Case File but is available on the SMD.

<sup>149</sup> IS 3.6 (document 176). See DC-Cam database at <http://www.dccam.org/Database/Lod/details.php?keyword=I09004&numRecords=100&lang=eng&page=1&idnum=I09004>

57. The remaining S-21 biography<sup>152</sup> was filed by the Victims Unit as an attachment to a civil party application. According to the DC-Cam database, this document was also collected by DC-Cam from the Ministry of Interior in 1995.<sup>153</sup> The chain of custody of documents collected from the Ministry of Interior has been addressed earlier.<sup>154</sup>
58. The four biographies from the MFA cadres were obtained by the Office of the Co-Prosecutors from DC-Cam and placed on the Case File or Shared Materials Drive (SMD) following the preliminary investigation. According to the DC-Cam database, these biographies were collected at the Ministry of Interior.<sup>155</sup>
59. The biography of Thlork Luon alias Yan, one the MFA cadres, was admitted into evidence in Case 001.<sup>156</sup> In addition, a further 12 DK biographies were admitted in Case 001.<sup>157</sup>

### 7. DK Commerce Records

60. There are 169 documents on the Document List categorised as “DK Commerce Records”<sup>158</sup>. These documents consist of various reports, communications, price lists and ledgers relating to routine trade and commerce matters.
61. Witness Sakim Lmut<sup>159</sup>, who worked in the Overseas Commercial Bank of Cambodia under the supervision of the Ministry of Commerce, identified and discussed 14 commerce documents during the course of interviews conducted by the OCIJ.<sup>160</sup> He

<sup>150</sup> IS 3.5 (document 179); IS 3.1, D279/7.8 (document 178). See DC-Cam database available at: <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam document number or title)

<sup>151</sup> IS 3.3 (document 172). See DC-Cam database at <http://www.dccam.org/Database/Lod/details.php?keyword=K07887&numRecords=100&lang=eng&page=1&idnum=K07887>

<sup>152</sup> D288/5.464/2 (document 177).

<sup>153</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=I08990&numRecords=100&lang=eng&page=1&idnum=I08990>

<sup>154</sup> See section I above.

<sup>155</sup> See DC-Cam database available at: <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam document number or title).

<sup>156</sup> D288/5.464/2 (document 177) admitted as E3/464/2.

<sup>157</sup> D22/175.3, D 22/174.5 (admitted as E3/476/2); D288/5.470/2 (admitted as E3/470/2); D288/5.469/2 (admitted as E3/469/2); D2-15.37 (admitted as E3/77); D2-15.33 (admitted as E3/76); D288/5.471/2 (admitted as E3/471/2); D2-15.36 (admitted as E3/74); D108/26.58 (admitted as E3/75); D22/22/3 (admitted as E3/468/3); D22/17/2 (admitted as E3/503/2); D22/15/2 (admitted as E3/478/2); D2-15.34 (admitted as E3/078). These documents are all on E9/31 Co-Prosecutors' Rule 80(3) Trial Document List, 19 April 2011.

<sup>158</sup> It is noted that D161/1.32 (document 298) and D366/7.1.213 (document 299) are different copies of the same document with the former having been obtained by the OCIJ from the National Archives directly and the latter by the OCP from DC-Cam.

<sup>159</sup> TCW 583 (identified as Sar Kimlomouth in E131/17 Witness Summons, 24 November 2011).

<sup>160</sup> D161/1.28 (document 319); D161/1.30, D279/6.5 (document 180); D161/1.31, D279/6.2 (document 334); D279/6.3 (document 341); D161/1.7, D279/6.4 (document 332); D161/1.9, D279/6.13 (document 263); D161/1.25, D279/6.10 (document 303); IS 21.142, D279/7.7 (document 323); D161/1.21, D279/6.9 (document 276); D161/1.27 (document 328); D161/1.20, D279/6.8 (document 272); D161/1.13, D279/6.7 (document 257); D279/7.4 (document 345) D161/1.14, D279/6.6 (document 246). See D279/6

identified the handwriting and signature of Van Rith, DK Secretary of Commerce, on 11 of these documents.<sup>161</sup> The handwriting and signature of Van Rith, as authenticated by Sakim Lmut, appears on a total of 107 other documents in the collection.<sup>162</sup>

62. The documents have numerous internal characteristics of reliability. There are 35 reports from ministry officials of trade negotiation meetings with delegations from foreign countries.<sup>163</sup> These documents follow a near identical format, recording time and date of the meeting, attendees from the DK and foreign delegation teams followed

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Written Record of Interview of SÂKIM Lmut alias Mey, 18 December 2009 at pp.9-10; D279/7 Written Record of Interview, 19 December 2009 at pp.5,7.

<sup>161</sup> D161/1.28 (document 319); D161/1.30, D279/6.5 (document 180); D161/1.31, D279/6.2 (document 334); D279/6.3 (document 341); D161/1.7, D279/6.4 (document 332); D161/1.25, D279/6.10 (document 303); D161/1.21, D279/6.9 (document 276); D161/1.27 (document 328); D161/1.20, D279/6.8 (document 272); D161/1.13, D279/6.7 (document 257); D161/1.14, D279/6.6 (document 246).

<sup>162</sup> D366/7.1.823 (document 181); IS 10.3 (document 182); IS 18.16 (document 191); IS 18.51 (document 201); D366/7.1.487 (document 202); New (document 203); D366/7.1.148 (document 206); New (document 207); IS 21.25 (document 209); D161/1.18 (document 214); IS 21.30 (document 213); IS 21.34 (document 215); D366/7.1.160 (document 217); IS 10.7 (document 216); IS 18.50 (document 219); IS 21.38 (document 220); IS 18.53 (document 222); IS 21.49 (document 224); D161/1.17 (document 223); D366/7.1.806 (document 225); D366/7.1.509 (document 226); D366/7.1.510 (document 227); D366/7.1.511 (document 228); D161/1.48 (document 229); IS 21.72 (document 230); IS 21.75 (document 231); IS 18.57 (document 234); D161/1.11 (document 235); IS 21.82 (document 239); D161/1.52 (document 240); IS 21.85 (document 242); IS 21.89 (document 243); D161/1.15 (document 245); IS 21.88 (document 244); IS 21.90 (document 247); IS 21.92 (document 250); IS 21.93 (document 249); D161/1.12 (document 251); D366/7.1.514 (document 253); IS 21.95 (document 254); IS 21.97 (document 256); D161/1.10 (document 258); IS 21.98 (document 255); D366/7.1.813 (document 260); D366/7.1.517 (document 261); D161/1.9, D279/6.13 (document 263); IS 21.103 (document 264); D161/1.8 (document 267); D161/1.19 (document 266); IS 21.104 (document 268); IS 21.110 (document 270); D119.1 (document 271); IS 21.114 (document 273); IS 21.119 (document 275); D161/1.23 (document 277); IS 21.120 (document 278); D366/7.1.519 (document 279); IS 21.128 (document 280); D366/7.1.520 (document 281); D161/1.22 (document 282); IS 21.129 (document 283); D366/7.1.521 (document 284); D161/1.47 (document 286); D366/7.1.523 (document 287); IS 21.132 (document 289); IS 21.131 (document 288); D161/1.24 (document 290); D366/7.1.524 (document 292); D366/7.1.818 (document 293); D161/1.3 (document 296); IS 21.135 (document 294); D161/1.4, D200/3.3, D279/7.5 (document 295); D366/7.1.525 (document 297); D366/7.1.213 (document 299); D161/1.32 (document 298); D366/7.1.526 (document 300); D366/7.1.819 (document 301); IS 21.136 (document 302); D161/1.46 (document 304); D366/7.1.527 (document 305); D161/1.43 (document 306); D366/7.1.528 (document 307); D161/1.45 (document 308); D366/7.1.530 (document 309); D366/7.1.531 (document 310); IS 21.137 (document 311); D161/1.16 (document 312); D366/7.1.532 (document 313); IS 18.68 (document 314); IS 21.139 (document 317); IS 10.15 (document 318); D161/1.34 (document 320); IS 21.143 (document 324); D161/1.26 (document 330); New (document 327); IS 21.145 (document 331); D366/7.1.533 (document 333); D161/1.33 (document 336); D366/7.1.534 (document 337); D366/7.1.535 (document 338); D161/1.37 (document 339); New (document 340); D161/1.29 (document 342); D161/1.36 (document 343); D366/7.1.537 (document 344); D161/1.35 (document 346); D366/7.1.541 (document 348).

<sup>163</sup> D248/6.1.12 (document 238); D366/7.1.806 (document 225); D366/7.1.345 (document 248); IS 18.21 (document 195); D366/7.1.353 (document 259); D366/7.1.782 (document 196); D366/7.1.347 (document 262); D366/7.1.350 (document 269); IS 18.51 (document 201); D366/7.1.341 (document 233); D366/7.1.339 (document 198); D366/7.1.351 (document 236); IS 18.11 (document 187); IS 18.19 (document 193); IS 18.20 (document 194); D366/7.1.160 (document 217); D366/7.1.344 (document 326); IS 18.50 (document 219); D366/7.1.823 (document 181); D366/7.1.789 (document 204); D366/7.1.348 (document 265); D366/7.1.342 (document 237); D366/7.1.784 (document 197); D366/7.1.486 (document 200); D366/7.1.511 (document 228); IS 18.12 (document 188); D248/6.1.11 (document 212); D366/7.1.349 (document 274); IS 18.53 (document 222); D279/7.4 (document 345); D248/6.1.10 (document 205); D366/7.1.346 (document 252); D366/7.1.343 (document 241); D366/7.1.509 (document 226); D366/7.1.510 (document 227).

- by a summary of the main items of discussion including “opinions” and /or “suggestions” expressed by each side. The reports are variously addressed to Khieu Samphan (referred to by his revolutionary name “Hem”), Docun (Seua Vasi alias Chhoeur Doeun) or the Commerce Committee and contain detailed information regarding the meetings that could only be known to officials within the ministry. The documents consistently use distinctive expressions and terminology associated with the CPK. For example, the expression “respected and beloved” is commonly used in the address line and most of the documents end with the salutation “with warm revolutionary fraternity” (or a variation thereof). Van Rith is recorded as having attended 17 of the meetings<sup>164</sup> and Sakim Lmut is recorded as having attended seven of the meetings.<sup>165</sup> Sakim Lmut has testified that when meetings were about “finance and economy” matters he was usually asked to attend.<sup>166</sup>
63. There are approximately 54 ledger entries regarding the use of “140 million Yuan” credit. These entries follow a near identical format recording total costs of goods exported and payments made followed by a detailed breakdown of the relevant goods. Witness Sakim Lmut has authenticated one of these ledger entries.<sup>167</sup> He further confirmed that China provided credit to the DK government to establish the Overseas Commercial Bank and explained that the bank was required to prepare regular reports recording goods that were exported or imported using this credit.<sup>168</sup>
64. There are also regular communications to the Ren Fung Company in Hong Kong sent by the Commerce Committee or FORTRA (Democratic Kampuchea Khmer Company for Foreign Trade). These documents are consistent in format and structure.<sup>169</sup> The documents display code numbers to indicate the sequential number of the communication, along with an alphabetic designation to indicate Hong Kong and the year. They are addressed to Comrade Sok (Ing Sok alias San Sok) who was in charge of

<sup>164</sup> D248/6.1.12 (document 238); D366/7.1.806(document 225); D366/7.1.345 (document 248); D366/7.1.347 (document 262); D366/7.1.160 (document 217);; D366/7.1.344 (document 326);; IS 18.50 (document 219); D366/7.1.348 (document 265); D366/7.1.342 (document 237); D366/7.1.486 (document 200); D366/7.1.511 (document 228); D248/6.1.11 (document 212); D366/7.1.349 (document 274); IS 18.53 (document 222); D279/7.4 (document 345); D366/7.1.346 (document 252); D366/7.1.343 (document 241); D366/7.1.510 (document 227).

<sup>165</sup> D366/7.1.160; IS 18.50; D366/7.1.348; D248/6.1.11; IS 18.53; D366/7.1.509; D366/7.1.510.

<sup>166</sup> D297/7 Written Record of Witness Interview (Sakim Lmut), 19 December 2009 at p.5.

<sup>167</sup> See D279/6 Written Record of Interview (SĀKIM Lmut alias Mey), 18 December 2009 at pp.8-9, stating that document D161/1.9 was “produced within the ministry”.

<sup>168</sup> Ibid.

<sup>169</sup> IS 21.26 (document 210); IS 21.27 (document 211); IS 21.39 (document 221); IS 21.147, D279/7.9 (document 347); D161/1.3 (document 296); D161/1.45 (document 308); D161/1.37 (document 339); IS 21.72 (document 230); D161/1.35 (document 346); D161/1.43 (document 306); D161/1.4, D200/3.3, D279/7.5 (document 295); D161/1.47 (document 286); D161/1.36 (document 343); D161/1.46 (document 304); D161/1.48 (document 229).

the office or to Comrade Krin (Tuch Rin alias Krin) who replaced Comrade Sok following his arrest and execution in late 1978.

65. A large number of the documents (101) are distinctively typed on the reverse side of stationary of businesses that had operated in Cambodia prior to the DK period. This includes most commonly the stationary of *Société Nationale d'Assurances*<sup>170</sup>, *Chrun You Hats & Family S.A.*<sup>171</sup>, *Société Khmère De Transports*,<sup>172</sup> and *Henry Wiengartner & Co Inc.*<sup>173</sup> Ten of the documents typed on the reverse side of stationary have been identified by Sakim Lmut,<sup>174</sup> of which all but two<sup>175</sup> bear the handwriting and signature of Van Rith. A further 71 of the 101 typed on the reverse side of stationary also annotations by and/or the signature of Van Rith.<sup>176</sup>
66. Forty-six of the DK Commerce documents were obtained by the OCIJ and placed on the case file during the judicial investigation.<sup>177</sup> Of these, 39 were obtained from the National Archives pursuant to a rogatory letter.<sup>178</sup>

<sup>170</sup> See, for example, D161/1.28 (document 319).

<sup>171</sup> See, for example, D366/7.1.341 (document 233).

<sup>172</sup> See, for example, IS 21.134 (document 291).

<sup>173</sup> See, for example, IS 21.98 (document 255).

<sup>174</sup> D161/1.28 (document 319); D161/1.31, D279/6.2 (document 334); D161/1.9, D279/6.13 (document 263); D161/1.25, D279/6.10 (document 303); IS 21.142, D279/7.7 (document 323); D161/1.21, D279/6.9 (document 276); D161/1.27 (document 328); D161/1.20, D279/6.8 (document 272); D161/1.13, D279/6.7 (document 257); D161/1.14, D279/6.6 (document 246).

<sup>175</sup> D161/1.9, D279/6.13 (document 263); IS 21.142, D279/7.7 (document 323).

<sup>176</sup> D161/1.48 (document 229); IS 21.129 (document 283); D366/7.1.819 (document 301); D366/7.1.806 (document 225); IS 21.132 (document 289); D161/1.32 (document 298); IS 21.89 (document 243); IS 21.104 (document 268); D161/1.16 (document 312); IS 21.98 (document 255); D161/1.46 (document 304); D161/1.17 (document 223); IS 21.82 (document 239); IS 21.131 (document 288); IS 21.38 (document 220); IS 21.49 (document 224); D161/1.29 (document 342); D161/1.36 (document 343); IS 21.103 (document 264); D161/1.11 (document 235); D161/1.19 (document 266); D119.1 (document 271); D161/1.24 (document 290); IS 21.92 (document 250); D161/1.12 (document 251); IS 21.95 (document 254); D161/1.8 (document 267); D366/7.1.813 (document 260); D366/7.1.534 (document 337); D161/1.47 (document 286); D161/1.18 (document 214); IS 21.135 (document 294); IS 10.7 (document 216); D161/1.26 (document 330); D161/1.4, D200/3.3, D279/7.5 (document 295); D161/1.23 (document 277); IS 21.30 (document 213); IS 21.136 (document 302); IS 21.85 (document 242); D366/7.1.818 (document 293); D161/1.15 (document 245); D366/7.1.537 (document 344); IS 21.137 (document 311); IS 21.34 (document 215); IS 21.114 (document 273); IS 21.93 (document 249); IS 21.128 (document 280); D366/7.1.160 (document 217); IS 21.97 (document 256); IS 18.50 (document 219); D161/1.43 (document 306); IS 21.110 (document 270); IS 21.90 (document 247); D161/1.35 (document 346); D366/7.1.511 (document 228); IS 21.120 (document 278); D366/7.1.510 (document 227); IS 18.53 (document 222); D366/7.1.213 (document 299); IS 21.72 (document 230); IS 21.144 (document 329); D366/7.1.509 (document 226); D161/1.10 (document 258); IS 21.119 (document 275); D161/1.37 (document 339); IS 21.75 (document 231); IS 21.88 (document 244); D161/1.22 (document 282); D161/1.52 (document 240); D161/1.45 (document 308); D161/1.34 (document 320).

<sup>177</sup> D119.1 (document 271); D248/6.1.10 (document 205); D248/6.1.11 (document 212); D248/6.1.12 (document 238); D279/6.12 (document 325); D279/6.3 (document 341); D279/7.4 (document 345); D161/1.30, D279/6.5 (document 180); D161/1.18 (document 214); D161/1.17 (document 223); D161/1.48 (document 229); D161/1.11 (document 235); D161/1.52 (document 240); D161/1.14, D279/6.6 (document 246); D161/1.15 (document 245); D161/1.12 (document 251); D161/1.10 (document 258); D161/1.13, D279/6.7 (document 257); D161/1.9, D279/6.13 (document 263); D161/1.19 (document 266); D161/1.8 (document 267); D161/1.20, D279/6.8 (document 272); D161/1.21, D279/6.9 (document 276); D161/1.23 (document 277); D161/1.22 (document 282);

67. The remaining DK Commerce documents were obtained from DC-Cam by the OCP. In particular, sixty-five of the documents were obtained from DC-Cam during the preliminary investigation and attached to the Introductory Submission.<sup>179</sup> A further set were obtained following the Introductory Submission. Fifty-one of these were placed on the Case File at the OCP's request in February 2010.<sup>180</sup> A further seven "new" documents collected by the OCP from DC-Cam have not yet been placed on the Case File but are available on the SMD.<sup>181</sup>

### 8. DK Government Statements

68. There are seven documents on the Document List categorised as "DK Government Statements"<sup>182</sup> This category consists of official statements or documents issued by the Government of Democratic Kampuchea.
69. The documents are contemporaneous records of the events they purport to record, ranging in date from 5 January 1976 to 13 December 1979. The documents are consistent with regard to form, all bearing physical characteristics attesting to their authenticity. The DK organ responsible for the emission of the document is indicated on the first page of each document. An official seal appears on the first page of three<sup>183</sup> of the seven documents. Two<sup>184</sup> documents expressly claim to emanate from the Minister of Foreign Affairs of Democratic Kampuchea. Another<sup>185</sup> includes the inscription "Mission du Gouvernement du Kampuchea Démocratique en France" as well as contact information along the bottom of the first page. The pages are numbered in an almost identical fashion on the mid-centre of each document and the address from where the

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D161/1.47 (document 286); D161/1.24 (document 290); D161/1.4, D200/3.3, D279/7.5 (document 295); D161/1.3 (document 296); D161/1.32 (document 298); D161/1.25, D279/6.10 (document 303); D161/1.46 (document 304); D161/1.43 (document 306); D161/1.45 (document 308); D161/1.16 (document 312); D161/1.28 (document 319); D161/1.34 (document 320); D161/1.26 (document 330); D161/1.27 (document 328); D161/1.7, D279/6.4 (document 332); D161/1.31, D279/6.2 (document 334); D161/1.33 (document 336); D161/1.37 (document 339); D161/1.29 (document 342); D161/1.36 (document 343); D161/1.35 (document 346).

<sup>178</sup> Documents with reference code beginning with "D161". See D161 Rogatory Letter, 27 January 2009.

<sup>179</sup> Documents with reference code beginning with "IS".

<sup>180</sup> Documents with reference code beginning with "D366". See D366 Co-Prosecutors' request to place additional evidentiary material on the case file, 12 February 2010.

<sup>181</sup> New (document 183); New (document 186); New (document 199); New (document 203); New (document 207); New (document 327); New (document 340);

<sup>182</sup> Documents 345-355 on the Document List. The DK Government Statements are: D313/1.2.319 (document 351); IS 12.16 (document 350); D115/2.2, D313/1.2.361 (document 353); D56-Doc. 187 (document 355); D366/7.1.821 (document 354); IS 19.38 (document 352); IS 9.2 (document 349).

<sup>183</sup> D56-Doc. 187 (document 355); IS 9.2 (document 349); IS 12.16 (document 350).

<sup>184</sup> D313/1.2.319 (document 351); IS 19.38 (document 352)

<sup>185</sup> IS 12.16 (document 350)



- document originated (*i.e.* Phnom Penh) is printed at the bottom of four<sup>186</sup> of the seven documents.
70. There is a degree of consistency in the contents of all documents in that they employ terminology typical of the CPK such as “American imperialists”<sup>187</sup>, “annexionists”<sup>188</sup> and “aggression”.<sup>189</sup>
71. Five of the seven documents were obtained from DC-Cam and either attached to the Introductory Submission or subsequently placed on the Case File at the OCP’s request.<sup>190</sup> DC-Cam director Chhang Youk identified one of these documents<sup>191</sup> during an OCIJ interview and confirmed that DC-Cam holds the original of this document.<sup>192</sup> Another<sup>193</sup> was authenticated by witness [REDACTED] during an OCIJ interview.<sup>194</sup> Both of these documents were admitted into evidence in Case 001.<sup>195</sup>
72. The outstanding two documents<sup>196</sup> were also placed on the Case File by the OCP and can be traced back to the UN Economic and Social Council whose name, logo and contact information appears at the top of the first page.

### 9. DK Media Reports

73. There are 30 documents on the Document List categorised as “DK Media Report”.<sup>197</sup> This category is made up of news bulletins published by the DK Government and international publications of DK news reporting.

#### *News bulletins published by the DK Government*

74. There are eight reports<sup>198</sup> in this category all of which emanate from various organs of the DK Government (*i.e.* DK Embassy in Beijing, Ministry of Foreign Affairs of Democratic Kampuchea, Permanent Mission of Democratic Kampuchea in Geneva and Democratic Kampuchea Press-Agency). They also range in date from 10 September

<sup>186</sup> D313/1.2.319 (document 351); IS 12.16 (document 350); D115/2.2, D313/1.2.361 (document 353); IS 19.38 (document 352).

<sup>187</sup> D313/1.2.319 (document 351); IS 12.16 (document 350); D115/2.2, D313/1.2.361 (document 353); D366/7.1.821 (document 354).

<sup>188</sup> D115/2.2, D313/1.2.361 (document 353);

<sup>189</sup> D313/1.2.319 (document 351); IS 12.16 (document 350); D115/2.2, D313/1.2.361 (document 353); D56-Doc. 187 (document 355); IS 19.38 (document 352); IS 9.2 (document 349).

<sup>190</sup> D313/1.2.319 (document 351); IS 12.16 (document 350); D115/2.2, D313/1.2.361 (document 353); D56-Doc. 187 (document 355); IS 9.2 (document 349).

<sup>191</sup> IS 9.2 (document 349).

<sup>192</sup> D311/2 Written Record of Interview (Chhang Youk) 6 October 2009 p3.

<sup>193</sup> IS 19.38 (document 352).

<sup>194</sup> See D233/2 Written Record of Witness Interview, 22 July 2009.

<sup>195</sup> Admitted as E3/756 and E3/27 respectively.

<sup>196</sup> D366/7.1.821 (document 354); D115/2.2, D313/1.2.361 (document 353).

<sup>197</sup> Documents 356-385 on the Document List.

<sup>198</sup> D56-Doc. 190 (document 384); D56-Doc. 146 (document 380); D56-Doc. 197, D56-Doc. 197/Corr-1 (document 385); D366/7.1.538 (document 381); D56-Doc. 186 (document 383); D56-Doc. 173 (document 382); D56-Doc. 142 (document 378); D56-Doc. 128 (document 377).

- 1978 to 28 June 1980 and are all contemporaneous records of the events they purport to record.
75. Three<sup>199</sup> of the reports are entitled '*Nouvelles du Kampuchéa.*' These documents are internally consistent with regards to form. The title appears on the first page in large decorative font in the top-centre followed by words to the effect that it is broadcast by "*La Voix du Kampuchéa Démocratique*" and then words to the effect that it is news reports published by the Press and Information Department of the Ministry of Foreign Affairs of Democratic Kampuchea. Underneath this, a number, date and summary also appears on the first page.
  76. Two<sup>200</sup> reports are entitled "*Bulletin d'Information*". These documents are internally consistent with regards to form. The first page contains the official DK seal followed by the words "*Kampuchéa Démocratique, Bulletin d'information*" in large print and the following publishing information underneath, "*Publié par l'Ambassade du Kampuchéa Démocratique – Beijing*". A number, date and table of contents appear on the first page. Another report<sup>201</sup> is also consistent with these two documents. Namely, the title 'News Bulletin' appears on the first page underneath the official DK seal and the words "Democratic Kampuchea." Underneath this, it is noted that the document is "issued by the Embassy of Democratic Kampuchea - Peking." Finally a number, date and table of contents also appear on the first page.
  77. The final two documents in this category both have internal characteristics of reliability. One contains the official seal in the top centre of the first page with the publisher and contact information printed to the left.<sup>202</sup> A table of contents, consistent with other DK News/Information Bulletins, appears on the second page. Similarly, the second document contains the name of the publisher underneath the title, "News Bulletin" which appears top centre of the first page.<sup>203</sup> A number, date and table of contents also appear on the first page, consistent with other DK News/Information Bulletins.
  78. All news bulletins published by the DK Government were placed on the Case File by the OCP. They were provided to the OCP by DC-Cam after being collected by DC-Cam from the so called *Swedish Collection* in February 2007.<sup>204</sup>

*International publications of DK news reporting*

79. There are 22 reports in this category, emanating from the BBC's Summary of Worldwide Broadcasts (*SWB*) or the CIA's Foreign Broadcast Information Service

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<sup>199</sup> D56-Doc. 146 (document 380); D56-Doc. 142 (document 378); D56-Doc. 128 (document 377).

<sup>200</sup> D56-Doc. 190 (document 384); D56-Doc. 186 (document 383).

<sup>201</sup> D56-Doc. 173 (document 382).

<sup>202</sup> D56-Doc. 197, D56-Doc. 197/Corr-1 (document 385).

<sup>203</sup> D366/7.1.538 (document 381).

<sup>204</sup> See DC-Cam database available at: <http://www.d.dccam.org/Database/Lod/index.php>.

- (*FBIS*). They are all contemporaneous records of the events they purport to record, ranging in date from 1 August 1975 to 31 August 1978.
80. There are four SWB reports<sup>205</sup>, three of which are identical with regards to form. The typeface and layout are standard across these documents. The acronym "SWB" is printed in the top left hand corner of each page and the date in the top right hand corner. In between these two indicia appears a string of numbers and letters beginning with the letters "FE" and followed by a 4 digit number, "A3" and a single number separated by forward strokes. There is one document which has a slightly different form in that it has the full text "Summary of World Broadcasts" printed in the top left hand corner.<sup>206</sup> The typeface and layout is still largely consistent with other documents of this type.
  81. There are 18 FBIS reports,<sup>207</sup> all of which are similar in form, typeface and layout. They each have the roman numerals "IV" and the date printed in the top left hand corner of each page. The word "Cambodia" and the page number (preceded by the letter H) are also printed across the top of each page.
  82. With regards to provenance, all reports in this category were placed on the Case File by or at the request of the OCP. The SWB reports were provided to the OCP by DC-Cam. All except one<sup>208</sup> of these documents is recorded in the DC-Cam database as having been obtained from the Swedish collection in February 2007.<sup>209</sup> The FBIS reports were obtained by OCIJ from Harvard University Library during the judicial investigation and placed on the SMD in June 2008. They were subsequently placed on the Case File at the OCP's request.<sup>210</sup>

### 10. DK Notes

83. There are 3 documents on the Document List categorised as "DK Notes."<sup>211</sup> The first set of notes was recorded by journalist Elizabeth Becker during a visit to Democratic Kampuchea in mid-December 1978.<sup>212</sup> The second set was recorded by a CPK cadre

<sup>205</sup> IS 12.24 (document 369); D56-Doc. 069 (document 364); D313/1.2.336 (document 370); D56-Doc. 143 (document 379);

<sup>206</sup> D313/1.2.336 (document 370).

<sup>207</sup> D262.29 (document 365); New (D262.36 excerpt) (document 372); D262.16 (document 357); D262.16 (document 357); D262.34 (document 368); D262.19 (document 359); D262.26 (document 362); D262.36, D262.36/Corr-1 (document 371); D262.42 (document 375); D262.21 (document 361); D262.44 (document 361); D262.27 (document 363); New (D196.12 excerpt) (document 374); D262.32 (document 367); D262.9 (document 356); D262.30 (document 366); D262.17 (document 358); D196.12 (document 373); D262.20 (document 360)

<sup>208</sup> D313/1.2.336 (document 370).

<sup>209</sup> See DC-Cam database available at: <http://www.d.dccam.org/Database/Lod/index.php>.

<sup>210</sup> Sixteen of the reports (*i.e.* those having a document reference number beginning with D262) were filed pursuant to D262 Co-Prosecutors' Request to Admit Foreign Broadcast Information Service Reports, 12 November 2009. The outstanding two reports were attached to the Co-Prosecutors' Supplementary Submission of 31 July 2009.

<sup>211</sup> Documents 386-388 on the Document List.

<sup>212</sup> D366/7.1.408 (document 388).

- during a political training session on 26 April 1978.<sup>213</sup> The third set was also recorded by a CPK cadre and includes notes on speeches, documents and meetings at the DK Ministry of Foreign Affairs, between 1976 and 1979.<sup>214</sup> Numerous comments in the document are attributed to “Van”, Ieng Sary’s revolutionary name.
84. The two sets of notes produced by CPK cadres both employ distinctive expressions such as “collective standpoint,” “secrecy is the main basis,” “1% to 5% are traitors,” “investigate biographies,” “three tons per hectare” and “revolutionary vigilance,” which are commonly associated with the CPK and in keeping with its ideology. The notes produced by the journalist are in her own hand, using her own form of abbreviations, and the notes record scenes and events which she subsequently described in her book about Democratic Kampuchea.<sup>215</sup>
85. Information on the Case File indicates that the notes from the DK Ministry of Foreign Affairs were originally discovered in 1979 at a house believed to have been used by accused person Ieng Sary.<sup>216</sup> The individual who discovered this document provided a copy to researcher Ben Kiernan in 1986, who in turn provided a copy to DC-Cam in 1995.<sup>217</sup> The OCP first obtained a copy from the DC-Cam during its preliminary investigation and attached it to the Introductory Submission.<sup>218</sup> A copy was subsequently obtained from DC-Cam by OCIJ investigators during the judicial investigation pursuant to a rogatory letter.<sup>219</sup>
86. The notes by a CPK cadre from a political training session were obtained by DC-Cam from Tuol Sleng Archives in 1999.<sup>220</sup> The notes by journalist Elizabeth Becker recording her visit to Democratic Kampuchea in December 1978 were obtained from the author by the OCP. They were placed on the Case File at the OCP’s request in 2010. The notes were in the author’s possession until she provided them to the OCP. Becker has been listed as a witness in the first trial in Case 002, and therefore can personally authenticate the notes in court if required.

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<sup>213</sup> New (document 387).

<sup>214</sup> IS 14.1, D267/5/1.1.25 (document 386).

<sup>215</sup> Elizabeth Becker, *When the War Was Over* (on Case File at IS 4.1).

<sup>216</sup> See foreword to English translation of the notebook: D267/5/1.1.25 at ERN 00003239.

<sup>217</sup> *Ibid.*

<sup>218</sup> IS 14.1 (document 386).

<sup>219</sup> D267/5/1.1.25 (document 386). See D267 Rogatory letter, 30 September 2009 and D267/5 Report of execution of rogatory letter, 17 December 2009.

<sup>220</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=D13676&numRecords=100&lang=eng&page=1&idnum=D13676>

## 11. DK Orders

87. There are 2 documents on the Document List categorised as “DK Orders.”<sup>221</sup> These two orders are both attributed to “Angkar” which in this context would refer to either Pol Pot or Nuon Chea. The first order concerns security issues as of late 1975.<sup>222</sup> The second order concerns economic issues as of January 1977.<sup>223</sup>
88. The first order is from Angkar to “Ya”, the alias of Men San who was the Northeast Zone Secretary at that time.<sup>224</sup> It contains queries about the situation on the ground as well as instructions on mustering and deploying combat forces to attack Vietnamese units which were bivouacked on Cambodian territory. This order employs distinctive expressions associated with the CPK and in keeping with its ideology. It begins with the greeting “to Beloved and Missed Comrade Ya,” ends with the salutation “with warmest Revolutionary camaraderie” and uses other expressions such as “grasp the enemy situation,” “secrecy must be maintained,” and “mobilize forces among the villagers.” Appended to the end of the order is a comment noting that Angkar has also received a telegram from Ya concerning “New People”, again a known term used by the CPK.
89. This document was obtained by the OCP from DC-Cam and placed on the case file during the judicial investigation at the OCP’s request.<sup>225</sup> According to the DC-Cam database, this document was collected by DC-Cam from the Ministry of Interior in 1997.<sup>226</sup> The document bears Ministry of Interior cataloguing marks.<sup>227</sup> The chain of custody of documents collected from Ministry of Interior has been addressed earlier.<sup>228</sup>
90. The second order is from Angkar to the Ministry of Commerce, conveying detailed instructions in response to a proposed plan for imports and exports.<sup>229</sup> This document was obtained by the OCP from DC-Cam in the course of the preliminary investigation and attached to the Introductory Submission. The DC-Cam database records this document as having been collected from the National Archives of Cambodia in 2002.<sup>230</sup> The document bears National Archives cataloguing marks.<sup>231</sup>

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<sup>221</sup> Documents 389 and 390 on the Document List.

<sup>222</sup> D366/7.1.136 (document 389).

<sup>223</sup> IS 18.25 (document 390).

<sup>224</sup> D366/7.1.136 (document 389).

<sup>225</sup> D366 Co-Prosecutors' Request to Place Additional Evidentiary Material on the Case File, 12 February 2010.

<sup>226</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=01043&numRecords=100&lang=eng&page=1&idnum=L01043>.

<sup>227</sup> Handwritten numbers appearing in parenthesis at the top right hand corner.

<sup>228</sup> See section I above.

<sup>229</sup> IS 18.25 (document 390).

<sup>230</sup> See DC-Cam database at

<http://www.dccam.org/Database/Lod/details.php?keyword=D20615&numRecords=100&lang=eng&page=1&idnum=D20615>

<sup>231</sup> Reference appearing in parenthesis and beginning with “ANC” in the top right hand corner of the page.

## 12. DK Reports

91. There are 32 documents on the Document List categorised as “DK Reports.”<sup>232</sup> These 32 documents fall into four subcategories, including seven Zone to Centre Reports, five Military Reports, five S-21 Reports and 15 Ministry Reports. All of these documents were obtained from DC-Cam who in turn obtained them from four sources, including the Ministry of Interior, the Tuol Sleng Archives (TSL), the National Archives of Cambodia, and historian Ben Kiernan. The chain of custody of documents from the TSL collection and Ministry of Interior has been addressed earlier.<sup>233</sup>
92. All but four of the documents were initially collected by the OCP and either attached to the Introductory Submission or placed on the Case File at the OCP’s request during the judicial investigation. The other four were collected and placed on the Case File by the OCIJ during the judicial investigation.<sup>234</sup>

### *Zone to Centre Reports*

93. The seven documents<sup>235</sup> in this subcategory are examples of the required weekly reporting regime from the zones to the Party Centre, with examples from the Northwest, Northeast, Central, East and Southwest Zones.
94. All of these documents are in standard CPK format, use standard CPK expression and ideological phrasing such as “internal enemies”, “missed Committee 870”, “sweep enemy cleanly away”. They contain standard DK code designations such as K-51 for the Ministry of Commerce or 560 for the Northwest Zone and reference known CPK/DK leaders from various units of organisation such as Ke Pauk, Son Sen, Ya, Duch, Nuon Chea and Ieng Sary.
95. With the exception of one report<sup>236</sup>, the contents of these documents relate primarily to topics known to be of particular concern to the CPK leadership, including “internal enemies,” “external enemies,” agricultural production and organisational development. One document, for example, concerns a 25 year old female “spy” and attaches her confession.<sup>237</sup> Another describes how Northwest Zone authorities had “destroyed” 32

<sup>232</sup> Documents 391-422 on the Document List.

<sup>233</sup> See section I above.

<sup>234</sup> D175/3.17 (document 409); D175/3.93 (document 410); D175/3.92 (document 411), D248/6.1.9 (document 398). The first three documents were collected pursuant to a rogatory letter dated 4 July 2008 (D175). The fourth document was collected pursuant to a rogatory letter dated 18 May 2009 (D248). It is noted that document IS 21.1 (document 391) was also collected by the OCIJ from DC-Cam pursuant to the rogatory letter dated 4 July 2008 (D175) and placed on the Case File as D175/6.8.

<sup>235</sup> IS 21.1, D175/6.8 (document 391), IS 21.7 (document 392), New ERN 00187831-00187837 (document 396), D366/7.1.845 (document 405), D175/3.17 (document 409), IS 18.42 (document 413) and D288/5.909 (document 422).

<sup>236</sup> New ERN 00187831-37 (document 396). This document is focused on trade with Thailand

<sup>237</sup> IS 21.1, D175/6.8 (document 391)

- “internal enemies” during the previous week, and how food shortages were widespread throughout the zone.<sup>238</sup>
96. The documents in the Zone to Centre Reports subcategory of DK Reports were obtained by DC-Cam from several sources. One document was collected from the National Archives of Cambodia in 2002.<sup>239</sup> Three of the documents were collected from Tuol Sleng between 1996 and 1999.<sup>240</sup> The reference “TS” or “TSL” appears in the top right hand corner of two of these documents.<sup>241</sup> The final three documents<sup>242</sup> were collected from the Ministry of Interior, and all three bear Ministry of Interior cataloguing marks.<sup>243</sup>
97. Finally it is noted that three of the seven documents in this subcategory were admitted into evidence by the Trial Chamber in Case 001.<sup>244</sup>

#### *Military Reports*

98. The five documents<sup>245</sup> in the second subcategory, Military Reports, primarily concern reports of combat with Vietnamese forces and/or the arrest and execution of Vietnamese nationals. Several of the reports also discuss progress in the search for internal enemies. For example, one report from Meas Mut, which was copied to Nuon Chea (“Uncle Nuon”) and Ieng Sary (“Brother Van”), describes the execution of 120 Vietnamese.<sup>246</sup> Another, also copied to Nuon Chea and Ieng Sary, describes military clashes in the East Zone.<sup>247</sup> A third, from Division 801 Secretary to Son Sen, describes problems with internal enemies in the Northeast Zone along with the arrest of seven Vietnamese.<sup>248</sup> The one exception is a report describing the arrest of five individuals from Division 450 and the Ministry of Commerce who were travelling without a *laissez-passer*.<sup>249</sup>
99. These documents have numerous indicia of reliability, such as standard DK format and typeface, as well as standard CPK expressions and code names. They were all written by, addressed to, or refer to well-known CPK/DK cadre such as So Saroeun, Di Thin, Son Sen, Ren, Pol Pot, Vorn Vet, Nuon Chea, and Ieng Sary. Two of the documents

<sup>238</sup> IS 21.124, D288/5.909 (document 422).

<sup>239</sup> New ERN 00187831-00187837 (document 396).

<sup>240</sup> IS 21.1, D175/6.8 (document 391), D366/7.1.845 (document 405), and D175/3.17 (document 409).

<sup>241</sup> IS 21.1, D175/6.8 (document 391) and D175/3.17 (document 409).

<sup>242</sup> IS 21.7 (document 392), IS 18.42 (document 413), and IS 21.124, D288/5.909 (document 422).

<sup>243</sup> Handwritten number appearing in parenthesis in top right hand corner.

<sup>244</sup> IS 21.7 (document 392) admitted as E3/808; IS 18.42 (document 413) admitted as E3/769; and IS 21.124, D288/5.909 (document 422) admitted as as E3/909.

<sup>245</sup> D366/7.1.483 (document 406), D175/3.93 (document 410), D175/3.92 (document 411), IS 18.59, D2-15.15 (document 420) and IS 18.61 (document 421).

<sup>246</sup> D2-15.15 (document 420).

<sup>247</sup> IS 18.61 (document 421).

<sup>248</sup> D175/3.93 (document 410).

<sup>249</sup> D366/7.1.483 (document 406).

addressed to Son Sen (aka uncle “89”) appear to have handwritten annotations by Son Sen himself.<sup>250</sup>

100. All five documents were collected by DC-Cam from the Ministry of Interior between 1997 and 1999.<sup>251</sup> All five documents bear Ministry of Interior cataloguing marks<sup>252</sup>, along with DC-Cam’s cataloguing marks.<sup>253</sup>
101. Two of the documents in this subcategory were admitted into evidence by the Trial Chamber in Case 001.<sup>254</sup>

#### *S-21 Reports*

102. The five documents<sup>255</sup> in the third sub-category are similar in content in that they are essentially lists of names of individuals who were under investigation by S-21. Three of these documents concern suspected enemies in various units of the Ministry of Commerce,<sup>256</sup> one concerns suspected enemies in several units of organization including the Ministry of Commerce, the North Zone and the West Zone,<sup>257</sup> and one concerns suspected enemies at “K1” and various other “K” units under the control of Office 870.<sup>258</sup>
103. The purpose and contents of these documents are consistent with other information on the Case File regarding the purges of organisational units. Four of these documents are related to the purge of the Ministry of Commerce following the arrest of Koy Thuon and his associates.<sup>259</sup> This series of events was discussed at great length by Duch during Case 001. The documents are dated contemporaneously with those events and they are all similar in style, format, typeface and other characteristics to numerous documents which were entered into evidence in Case 001 and which were authenticated by Duch.<sup>260</sup> The fifth document<sup>261</sup> concerns a later purge. The names and positions of a large number of personnel on this document was confirmed by witness [REDACTED]

<sup>250</sup> Documents D175/3.93 (document 410), and D175/3.92 (document 411) contain handwriting which is similar to handwriting which has been authenticated as Son Sen’s by Duch. See, for example, Transcript 27 April 2009 at pp. 57-58 referring to handwriting on document E3/20 (ERN 00172999).

<sup>251</sup> See DC-Cam database at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number)

<sup>252</sup> Handwritten number appearing in parenthesis in top right hand corner

<sup>253</sup> Handwritten number appearing in top right hand corner and preceded by the letter “D” or “L”.

<sup>254</sup> D2-15.15 (document 420) admitted as E3/91 and E3/779, and IS 18.61 (document 421) admitted as E3/780.

<sup>255</sup> IS 16.2 (document 399), IS 16.23 (document 400), IS 16.18 (document 408), IS 16.56 (document 412) and IS 18.56 (document 418).

<sup>256</sup> IS 16.2 (document 399), IS 16.23 (document 400), and IS 16.18 (document 408).

<sup>257</sup> IS 16.56 (document 412).

<sup>258</sup> IS 18.56 (document 418).

<sup>259</sup> IS 16.2 (document 399), IS 16.23 (document 400), IS 16.18 (document 408) and IS 16.56 (document 412).

<sup>260</sup> See, for example, E3/20, E3/86 and E3/416.

<sup>261</sup> IS 18.56 (document 418).



during an OCIJ interview.<sup>262</sup> This document was admitted into evidence by the Trial Chamber in Case 001.<sup>263</sup>

104. The five documents in this sub-category<sup>264</sup> were collected by DC-Cam from the Tuol Sleng Archives (TSL). They each bear DC-Cam and TSL cataloguing marks.

*Ministry Reports*

105. The fifteen documents<sup>265</sup> in the fourth and final subcategory, Ministry Reports, concern issues related to the operations of the Ministry of Commerce, the Ministry of Foreign Affairs, and the Ministry of Social Affairs. The majority of these reports are from the Ministry of Commerce,<sup>266</sup> with one each from the Ministry of Foreign Affairs<sup>267</sup> and the Ministry of Social Affairs.<sup>268</sup>
106. The Commerce Reports are split into two types, including four reports concerning technical issues such as stockpile management and organizational structure, and nine focusing on political issues, principally the search for internal enemies in the ministry and their dispatch to S-21. The Foreign Affairs Report describes a conference at the ministry which lauded success in having “smashed and swept cleanly away enemies” within the ministry, while urging vigilance in the search for more enemies in the ranks.
107. These documents all use standard format and typeface, contain standard CPK ideological language concerning “internal enemies,” “measures” to deal with “bad elements,” and so on, and use standard CPK code names, such as K-51 for the Ministry of Commerce, and “Phea,” the alias of Ieng Thirith.
108. These documents are consistent with the organizational responsibilities of their respective original sources. Some of the documents are specifically either addressed to or signed by CPK cadres known to have been responsible for the organizations in question, including Van Rith alias Reut at the Ministry of Commerce and Ieng Thirith at the Ministry of Social Affairs.<sup>269</sup> Three Ministry of Commerce documents<sup>270</sup>

<sup>262</sup> D91/9 Written record of interview of witness, 5 December 2007 at pp. 7-9.

<sup>263</sup> As E3/52.

<sup>264</sup> IS 16.2 (document 399), IS 16.23 (document 400), IS 16.18 (document 408), IS 16.56 (document 412) and IS 18.56 (document 418).

<sup>265</sup> IS 18.10 (document 393), New ERN 00187813-17 (document 394), D366/7.1.330 (document 395), D366/7.1.332 (document 397), D248/6.1.9 (document 398), D366/7.1.844 (document 401), D108/26.27 (document 402), D366/7.1.159 (document 403), IS 18.17 (document 404), New ERN 00187878-79 (document 407), New ERN 00187883-85 (document 414), New ERN 00187895-97 (document 415), New ERN 00187898-900 (document 416), IS 18.49 (document 417) and IS 21.102 (document 419).

<sup>266</sup> IS 18.10 (document 393), New ERN 00187813-17 (document 394), D366/7.1.330 (document 395), D366/7.1.332 (document 397), D248/6.1.9 (document 398), D366/7.1.844 (document 401), D108/26.27 (document 402), D366/7.1.159 (document 403), IS 18.17 (document 404), New ERN 00187878-79 (document 407), New ERN 00187883-85 (document 414), New ERN 00187895-897 (document 415) and New ERN 00187898-900 (document 416).

<sup>267</sup> IS 18.49 (document 417).

<sup>268</sup> IS 21.102 (document 419). This document is a request to the Ministry of Commerce.

<sup>269</sup> For example, IS 21.102 (document 419).

discussing the purge of a group of Commerce staff members are corroborated by the fact that those names appear in the OCP S-21 Prisoner List.<sup>271</sup> One of these documents was admitted into evidence by the Trial Chamber in Case 001.<sup>272</sup>

109. The documents in the Ministry Reports subcategory of DK Reports were discovered in a variety of locations. Eleven of these documents<sup>273</sup> were collected by DC-Cam from the National Archives of Cambodia in 1999 and 2002.<sup>274</sup> These documents all bear the National Archives' cataloguing marks.<sup>275</sup> Two of the documents were obtained by DC-Cam from the Tuol Sleng Archives<sup>276</sup> and bear TSL cataloguing marks. One document was found by DC-Cam at the Ministry of Interior in 1999.<sup>277</sup> The final document in this sub-category was provided to DC-Cam by historian Ben Kiernan in 1996.<sup>278</sup>

### 13. DK Telegrams

110. There are 62 documents on the Document List categorised as DK Telegrams.<sup>279</sup> All of the telegrams follow a defined and recognisable structure. Each telegram is numbered between 1 and 100 in accordance with CPK practice<sup>280</sup> and is then addressed to the specific office or person that is the recipient. The body of each telegram is consistently formed of separate paragraphs reporting on specific issues, (for example individual offences or discretions<sup>281</sup> and enemy activity<sup>282</sup>). Telegrams are signed off with salutations that are distinctive to the CPK and in accordance with CPK ideology, for example "wishing you happiness and victory"<sup>283</sup> or "with profound [or warmest]

<sup>270</sup> D108/26.27 (document 402), D366/7.1.159 (document 403), and IS 18.17 (document 404).

<sup>271</sup> See D288/6.68.1.

<sup>272</sup> IS 18.49 (document 417) as E3/176.

<sup>273</sup> New ERN 00187813-00187817 (document 394), D366/7.1.330 (document 395), D366/7.1.332 (document 397), D248/6.1.9 (document 398), D366/7.1.844 (document 401), IS 18.17 (document 404), New ERN 00187878-79 (document 407), New ERN 00187883-85 (document 414), New ERN 00187895-97 (document 415), New ERN 00187898-900 (document 416) and IS 21.102 (document 419).  
<sup>274</sup> See DC-Cam database, available at <http://www.d.dccam.org/Database/Index.htm> (searchable by DC-Cam number).

<sup>275</sup> Reference appearing in parenthesis and beginning with "ANC" in the top right hand corner of the page.

<sup>276</sup> D108/26.27 (document 402), and D366/7.1.159 (document 403).

<sup>277</sup> IS 18.49 (document 417). See DC-Cam database at <http://www.d.dccam.org/Database/Lod/details.php?keyword=D01791&numRecords=100&lang=eng&page=1&idnum=D01791>

<sup>278</sup> IS 18.10 (document 393). See DC-Cam database at : <http://www.d.dccam.org/Database/Lod/details.php?keyword=D00698&numRecords=100&lang=eng&page=1&idnum=D00698>

<sup>279</sup> Documents 423-484 on the Document List. One of these (D366/7.1.824 – document 484) is a compilation of the English translation of 9 Telegrams, some of which also appear on the Co-Prosecutors Document List.

<sup>280</sup> Witness Sao Sarun has explained the numbering system. See D201/5 Written Record of Witness Interview (Sao Sarun) 29 June 2009 at p.3.

<sup>281</sup> See, for example, IS 21.113 Telegram 54 (document number 477).

<sup>282</sup> See, for example, telegrams 324 (D200/2.11, document 472); 60 (D312.2.21, document 444) and 68 (IS 21.33, document 443).

<sup>283</sup> IS 21.33 Telegram 68 from Chhean to Mo 81, 30 August 1977 (document 443) and IS 21.13 Telegram 04 from KE Pauk to Pol Pot, 2 April 1976 (document 433).

- revolutionary fraternity”<sup>284</sup>. Each Telegram then lists recipients to receive a copy of the Telegram. Most telegrams are copied to Brother/Uncle Pol, Brother/Uncle Nuon, Brother Van and Brother Khieu.
111. A number of the telegrams have been authenticated or their contents corroborated by witnesses in interviews conducted by the OCIJ. Witness Sao Sarun, former secretary of sector 105, has confirmed that he was the author of *Telegram 54*,<sup>285</sup> dated 23 April 1978 concerning the arrest and detention of Comrade Sot.<sup>286</sup> He also confirmed that its recipient (only identified as “Brother”) was in fact Pol Pot.<sup>287</sup> It appears from a handwritten annotation that the telegram was also sent to Nuon Chea. Commenting on this issue, witness [REDACTED], states that the telegram would have been sent to Nuon Chea as it related to “internal affairs”.<sup>288</sup>
  112. [REDACTED], a former telegram operator in the new North Zone, confirmed that *Telegram 32*<sup>289</sup>, relating to the arrest of two combatants travelling without the correct permission slip, was signed by Ke Pauk and corroborated its contents.<sup>290</sup> He also authenticated *Telegram 02* and *Telegram 10* from Ke Pauk to Committee 870 describing them as “real”.<sup>291</sup>
  113. Witness [REDACTED] has inspected and identified the dates, handwriting and senders of a numerous telegrams including *Telegram 10*, *Telegram 11*, *Telegram 13*, and *Telegram 9* from Central Zone Secretary Ke Pauk,<sup>292</sup> *Telegram 08* from North East Zone Secretary Vy,<sup>293</sup> and *Telegram 02* from Ta Mok.<sup>294</sup> DC-Cam director Youk Chhang has also identified four of the telegrams, discussed the circumstances of their discovery and confirmed that DC-Cam retains the originals of these documents.<sup>295</sup>
  114. The content of many of the telegrams is consistent with independent historic records, which further confirms their reliability. For example, *Telegram 78* dated 26 January

<sup>284</sup> D161/1.2 Draft Telegram from Commerce Committee to Comrade Sokh, 22 July 1977 (document 441).

<sup>285</sup> IS 21.113 (document 477)

<sup>286</sup> See D201/5 Written Record of Witness Interview (Sao Sarun), 29 June 2009 at p. 6 and D201/6 Written Record of Witness Interview (Sao Sarun), 13 June 2009 at p. 3

<sup>287</sup> D201/6 Written Record of Witness Interview (Sao Sarun), 13 June 2009 at p. 4

<sup>288</sup> D200/2 Written Record of Witness Interview ([REDACTED]), 16 February 2009 at p.17.

<sup>289</sup> D248/2.3 (document 468).

<sup>290</sup> D232/8 Written record of Witness Interview of [REDACTED], 18 August 2009 at pp. 9-10

<sup>291</sup> D232/11 Written Record of Interview of [REDACTED], 21 August 2009 at pp.3-4 in relation to D175/5.7 (document 480) and IS 21.109 (document 473).

<sup>292</sup> D200/2 Written Record of Witness Interview ([REDACTED]), 16 February 2009 at p.16 in relation to D175/5.7 (document 480), D175/5.8 (document 481), D200/2.3 (document 482), and IS 21.118 (document 479).

<sup>293</sup> D200/2 Written Record of Witness Interview ([REDACTED]), 16 February 2009 at p.15 in relation to IS 21.112 (document 476).

<sup>294</sup> D200/2 Written Record of Witness Interview ([REDACTED]), 16 February 2009 at pp11-12 in relation to D175/5.4 (document 471).

<sup>295</sup> D311/2 Written Record of Interview of Chhang Youk, 6 October 2009, pp.8-9 in relation to IS 21.29 (document 442), IS 21.33 (document 443), IS 21.112 (document 476), and IS 21.116 (document 478).

1976<sup>296</sup> and *Telegram 79* dated 24 January 1976<sup>297</sup> are authored by Kheang Sim, a well-known DK official, and report on conflict in the North East Zone that is known to have occurred at this time. *Telegram 81* dated 29 January 1976,<sup>298</sup> also authored by Kheang Sim, is consistent with the known CPK policy of moving tribal minorities away from border areas. *Telegram 32*<sup>299</sup> dated 29 March 1978 identifies Comrade Met as the Secretary of Division 512. This information would only be known to prominent CPK cadres, and is an indication that the document is authentic.

115. All of the telegrams were collected, by the OCP or OCIJ, from DC-Cam during the course of the preliminary and judicial investigations. According to the DC-Cam database and testimony of Chhang Youk, fifty-nine Telegrams on the Document List were collected by DC-Cam from the Ministry of Interior in 1996.<sup>300</sup> The chain of custody of documents collected from the Ministry of Interior has been addressed earlier.<sup>301</sup> Two telegrams were obtained by DC-Cam from the National Archives,<sup>302</sup> and one was obtained by DC-Cam from Ben Kiernan.<sup>303</sup> These documents are numbered 423, 483 and 424 respectively on the Document List.
116. Thirty seven of the Telegrams on the Document List were admitted in Case 001.<sup>304</sup>

<sup>296</sup> IS 21.5 (document 425)

<sup>297</sup> D108/28.36 (document 426)

<sup>298</sup> D366/7.1.667 (document 427).

<sup>299</sup> D248/2.3 (document 468).

<sup>300</sup> D311/2 Written Record of Interview of Chhang Youk, 6 October 2009, pp8-9 and DC-Cam database available at: <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number).

<sup>301</sup> See section I above.

<sup>302</sup> D119.2 (document 423) and IS 21.146 (document 483). See DC-Cam database at <http://www.dccam.org/Database/Index.htm> (searchable by DC-Cam number).

<sup>303</sup> IS 21.2 (document 424) See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=D00679&numRecords=100&lang=eng&page=1&idnum=D00679>

<sup>304</sup> IS 21.2 admitted as E3/789 (document 424); IS 21.5 admitted as E3/786 (document 425); D108/28.36 admitted as E3/807 (document 426); IS 21.9 admitted as E3/811 (document 429); D108/28.36 admitted as E3/810 (document 428); IS 21.10 admitted as E3/791 (document 430); D108/28.1 admitted as E3/805 (document 431); IS 21.11 admitted as E3/114 (document 432); IS 21.13 admitted as E3/111 (document 433); IS 21.13 admitted as E3/68 (document 434); D2-15.23 admitted as E3/85 and E3/124 (document 436); IS 21.20 admitted as E3/819 (document 437); IS 21.19 admitted as E3/818 (document 438); IS 21.24 admitted as E3/823 (document 440); IS 21.29 admitted as E3/824 (document 442); IS 21.33 admitted as E3/828 (document 443); IS 21.48 admitted as E3/840 (document 446); D108/28.107 admitted as E3/796 (document 447); IS 21.52 admitted as E3/844 (document 450); D108/28.114 admitted as E3/844 (document 451); IS 21.68 admitted as E3/140 (document 455); IS 21.67 admitted as E3/863 (document 455); IS 21.66 admitted as E3/862 (document 453); IS 21.70 admitted as E3/861 (document 456) IS 21.74 admitted as E3/867 (document 457); IS 21.78 admitted as E3/871 (document 458); IS 21.79 admitted as E3/872 (document 460); IS 21.81 admitted as E3/874 (document 461); D108/28.193 admitted as E3/874 (document 462); D108/28.214 admitted as E3/890 (document 465); IS 21.101 admitted as E3/891 (document 466); D108/28.297 admitted as E3/911 (document 467); D108/28.225 admitted as E3/895 (document 470); IS 21.109 admitted as E3/900 (document 473) D108/28.245 admitted as E3/901 (document 475); IS 21.116 admitted as E3/904 (document 478); IS 21.118 admitted as E3/906 (document 179).

#### 14. FUNK/GRUNK PUBLICATIONS

117. There are 23 documents on the Document List categorised as “FUNK/GRUNK Publications”. This category is made up of four different types of documents, including: the *Nouvelles du Cambodge* newsletter; official publications of the Cambodian Ministry of Foreign Affairs based in France; FBIS re-publications; and other official publications from FUNK/GRUNK.
118. All 23 documents were created contemporaneously with the events they purport to record. The contents of these documents include reports on the activities of official members of FUNK/GRUNK, and policies and calls for support for FUNK/GRUNK.

##### *Nouvelles du Cambodge*

119. There are 13 editions of the *Nouvelles du Cambodge* newsletter published by the Kampuchea Information Agency.<sup>305</sup> Each of the documents from this source is identical in form and layout. The title (*Nouvelles du Cambodge*) and publisher (*Agence Kampuchéa d'Information*) is displayed in the centre of the top of the first page in a decorative font. Below that are words to the effect that it is distributed by the information agency of FUNK. A table of contents also appears on the first page. All of these documents were obtained from DC-Cam who in turn collected them from the so called Swedish collection in February 2007.<sup>306</sup> Eleven of the documents were obtained by the OCP during the preliminary investigation and attached to the Introductory Submission.<sup>307</sup> One was transferred from Case 001 onto the Case File by the OCIJ during the judicial investigation.<sup>308</sup> The final one, also obtained by OCP, has not yet been placed on the Case File but has been made available on the SMD.<sup>309</sup>

##### *Cambodian Ministry of Foreign Affairs*

120. There are four documents issued by the Cambodian Ministry of Foreign Affairs in France.<sup>310</sup> All the documents have the same page layout, form and typeface. Each document has the words “*Mission du Gouvernement Royal d'Union Nationale du Cambodge*” in the top left hand corner followed by the address and contact number of

<sup>305</sup> D108/43/4 (document 503), IS 12.9 (document 495), IS 12.1 (document 487), IS 12.2 (document 488), IS 12.4 (document 490), IS 12.10 (document 499) IS 12.8 (document 494), IS 12.3 (document 489), IS 12.6 (document 492), IS 12.5 (document 491), IS 12.7 (document 493), IS 12.13 (document 507), New document ERN S 00002195 (document 501).

<sup>306</sup> See DC-Cam database at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number).

<sup>307</sup> IS 12.9 (document 495), IS 12.1 (document 487), IS 12.2 (document 488), IS 12.4 (document 490), IS 12.10 (document 499), IS 12.8 (document 494), IS 12.3 (document 489), IS 12.6 (document 492), IS 12.5 (document 491), IS 12.7 (document 493), IS 12.13 (document 507).

<sup>308</sup> D108/43/4 (document 503). See D108 Note by the Co-Investigating Judges, 28 October 2008.

<sup>309</sup> New document ERN S 00002195 (document 501).

<sup>310</sup> D199/26.2.116 (document 505), D199/26.2.94 (document 502), D199/26.2.115 (document 504), IS 17.1 (document 506).

the embassy and then a document reference number. The documents also have an official seal displaying the words “*Mission du Gouvernement Royal d’Union Nationale du Cambodge (PARIS)*” on the bottom right hand side of the document. One of the documents was collected by OCP from DC-Cam during the initial investigation and attached to the Introductory Submission.<sup>311</sup> This document was obtained by DC-Cam from the Swedish collection in February 2007.<sup>312</sup> The other three documents were obtained and placed on the Case File by the OCIJ during the judicial investigation pursuant to an international rogatory letter.<sup>313</sup>

*FBIS re-publications*

121. There are two FBIS re-publications of FUNK/GRUNK broadcasts and publications.<sup>314</sup> One is a “clandestine” Voice of FUNK broadcast dated 26 February 1975 and the other a “clandestine” publication by the Cambodian Information Agency dated 15 January 1975. Both documents follow the standard FBIS layout, and form containing the Roman numeral “IV” in the top left corner followed by the date and the letter “H” followed by the page number on the top right corner.<sup>315</sup> The date of the document is displayed in the top-left corner and the word “CAMBODIA” in the top centre or top right corner.

*Other FUNK/GRUNK publications*

122. There are four documents from other publication of FUNK/GRUNK. These four documents were obtained by the OCP from DC-Cam.<sup>316</sup> Three of these were collected by DC-Cam from the Swedish collection in February 2007.<sup>317</sup>

**15. International Communications**

123. There are 10 documents on the Document List categorised as International Communications.<sup>318</sup> This category is primarily made up of telegrams between US and

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<sup>311</sup> IS 17.1 (document 506).

<sup>312</sup> See DC-Cam database at

<http://www.dccam.org/Database/Lod/details.php?keyword=D29041&numRecords=100&lang=eng&page=1&idnum=D29041>

<sup>313</sup> D199/26.2.116(document 505), D199/26.2.94(document 502), D199/26.2.115(document 504). See D199 International Rogatory Letter, 13 March 2009.

<sup>314</sup> D108/43/1 (document 500), New document ERN 00166706 (document 498).

<sup>315</sup> See further section 9 above in relation to FBIS reports.

<sup>316</sup> IS 19.129 (document 496); IS 18.1(document 486); D366/7.1.455 (document 485) D56-doc. 016 (document 497).

<sup>317</sup> IS 19.129 (document 496); D366/7.1.455 (document 485) D56-doc. 016 (document 497). See DC-Cam database at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number).

<sup>318</sup> Documents 508-517 on Document List. It is noted that document D2-15.1, D83-Annex-00011 (document 517), being an interview entitled “KE Pauk’s Autobiography”, was included in this document category in error.

French embassies and their respective governments.<sup>319</sup> It also includes a Report entitled "China and Cambodia" by Leon Trivière of Missions Étrangères de Paris to the China Section of the France-Asia exchange.<sup>320</sup>

#### *U.S. Telegrams*

124. There are four U.S. telegrams on the Document List. All telegrams represent internal communication between the U.S. government and various U.S. embassies. They range in date from 11 March 1975 to 7 November 1975 and all concern recent events in the Cambodian political climate. They are thus contemporaneous records of the events they purport to record.
125. The telegrams are consistent with regard to form. All state their classification, as well as list 'tags' and a subject before the main body of the telegram. They also list the sender, the chief recipient, and other recipients who receive a copy of the telegram (being either U.S. Embassies or U.S. Government departments). All the telegrams further provide an E.O. ('Executive Order') number, normally Executive Order 11652 which relates to the "Classification and Declassification of National Security Information and Material". Finally as transcriptions of the text of telegrams (rather than copies of original telegrams), they all have a final page entitled *Message Attributes* which provides exhaustive detail of each telegram (*i.e.* sender, recipient, confidentiality classification etc).
126. All US telegrams were placed on the Case File at the request of the OCP during the judicial investigation. They were obtained by OCP from a larger collection of records dating from 15 March 1973 to 22 December 1975 publicly released by the U.S.A National Archives and Records Administration.<sup>321</sup> They all therefore share the same provenance, being from official governmental record archives, and the chain of custody can therefore be readily established.

#### *French Telegrams and Reports*

127. There are four French telegrams on the Document List. All telegrams represent internal French governmental communication. They range in date from 18 April 1975 to 26 January 1978 and all concern recent events in the Cambodian political climate. They are thus contemporaneous records of the events they purport to record.

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<sup>319</sup> There are 8 Telegrams on the Document List: D313/1.2.92 (document 515); D313/1.2.74 (document 513); D199/26.2.212 (document 512); D199/26.2.153 (document 516); D199/26.2.201 (document 511); D313/1.2.52 (document 508); D199/26.2.199 (document 510); D313/1.2.56 (document 509).

<sup>320</sup> D199/26.2.28 (document 514).

<sup>321</sup> D313 Co-Prosecutors' request to place additional evidentiary material on the case file, 31 December 2009, at para. 11.

128. The telegrams are consistent with regard to form. All of the telegrams are printed on identical official letterhead headed *Ministère des Affaires Étrangères*, with a sub-heading reading *Télégramme à l'Arrivée*. The word *Déchiffrement* is usually printed in the top right hand corner, and the top left hand corner indicates the recipients of the telegram. The next body of text almost always indicates the date and classification of the telegram, and the pathway of its delivery, while the following line denotes the subject, which is then followed by the main body of the telegram.
129. Internal consistency between two of the telegrams also indicates reliability; namely D199/26.2.212 (document 512) refers in the first line of main body of text to telegram number 595, being D199/26.2.199 (document 510).
130. The French telegrams and the report by Leon Trivière were provided to the OCIJ by the French Foreign Ministry in response to a rogatory letter from the OCIJ.<sup>322</sup> They are therefore all official government records of the same provenance with an established chain of custody.

### 16. International Media Reports

131. There are 24 documents on the Document List categorised as “International Media Reports”.<sup>323</sup> This category is made up of media reports from various international publishers, primarily newsprint media, from the DK period and immediate periods on either side of the DK period.
132. The media reports variously describe diplomatic proceedings, including state visits, and speeches given by CPK leaders; events occurring in Cambodia, including the evacuation of Phnom Penh and executions of “traitors”; and reproduce interviews with senior leaders, including Ieng Sary.
133. All the media reports follow the typical structure of newspaper reports, or FBIS reports.<sup>324</sup> The publisher is identified on each of the 24 documents, and the individual author is identified for the majority of documents. The date is marked on each of the documents. Thirteen of the documents are in their original published form, typical newsprint typeface and layout.<sup>325</sup> Those documents which are not in their original

<sup>322</sup> D199/26 Note by the Co-Investigating Judges, 8 January 2010.

<sup>323</sup> Documents 518-541 on Document List

<sup>324</sup> There are three Foreign Broadcast Information Service (FBIS) reports on the Document List. D262.3 (document 521); D262.4 (document 522); D376.3 (document 532). FBIS reports are produced by the United States Central Intelligence Agency, and contain English translations of reports from publicly available media sources. The reports have been produced daily since World War II.

<sup>325</sup> See D29/I Attachement 15, D29-Attachement 36 (document 541 ); D262.3 (document 521 ); New (document 525 ); D56-Doc 006 (document 519 ); D262.4 (document 522 ); D366/7.1.278 (document 527 ); D376.3 (document 532 ); D313/1.2.370 (document 535); D56-Doc 119 (document 536 ); D56-Doc 019 (document 523 ); D56-Doc 020, D108/43/2 (document 524); New (document 528 ); D313/1.2.371 (document 526 ).



- published form, because they have been obtained from publisher's archives, all contain the publisher's trademark, logo or archive website detail.<sup>326</sup>
134. The nine media reports with handwritten numbers beginning with "D" in the top right hand corner and handwritten annotations regarding date or publisher were collected by DC-Cam.<sup>327</sup> The majority of these can be originally traced to the so-called "Swedish Collection".<sup>328</sup> The three FBIS reports were obtained by OCIJ from Harvard University Library during the judicial investigation and placed on the SMD in June 2008. Two were subsequently placed on the Case File at the OCP's request.<sup>329</sup> The other was placed on the Case File by the OCIJ on its own initiative.<sup>330</sup> Two of the media reports were collected by the OCP during the preliminary investigation and attached to the Introductory Submission.<sup>331</sup> The remaining 10 documents were obtained from public sources by the OCP following the Introductory Submission.<sup>332</sup>
135. One of the media reports on the Document List was admitted into evidence in Case 001.<sup>333</sup> In addition, over 200 other international media reports having similar characteristics and provenance to the media reports on the Document List were admitted in Case 001 as probative of the existence of an international armed conflict between Cambodia and Vietnam.<sup>334</sup>

<sup>326</sup> D56-Doc 18 (document 538 ); IS 19.52 (document 540); IS 19.230 (document 520 ); D56-Doc 062 (document 530 ); D56-Doc 118 (document 534 ); D56-Doc 432, D29-Attachment 48 (document 539 ); D365/1.1.11 (document 526 ); D56-Doc 005 (document 518 ); D56-Doc 078 (document 531 ); D56-Doc 109 (document 533 ); D56-Doc 041 (document 529 ).

<sup>327</sup> D366/7.1.278 (document 527 , DC-Cam number D28598); D313/1.2.370 (document 535 , DC-Cam number D42102); D56-Doc 019 (document 523 , DC-Cam number D27874); D56-Doc 020, D108/43/2 (document 524 , DC-Cam number D27881); New (document 528, DC-Cam number D28604); D313/1.2.371 (document 526 , DC-Cam number D42104) ; D56-Doc 119 (document 537, DC Cam number D30745); D56-Doc 006 (document 519 ; DC-Cam number D25911) ; New (document 525, DC-Cam number D28399).

<sup>328</sup> D366/7.1.278 (document 527 , DC-Cam number D28598); D56-Doc 019 (document 523 , DC-Cam number D27874); D56-Doc 020, D108/43/2 (document 524 , DC-Cam number D27881); New (document 528, DC-Cam number D28604); D56-Doc 119 (document 537, DC Cam number D30745) ; D56-Doc 006 (document 519 ; DC-Cam number D25911) ; New (document 525, DC-Cam number D28399). See DC-Cam database available at <http://www.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number).

<sup>329</sup> D262.3 (document 521); D262.4 (document 522); D376.3 (document 532). See D262 Request to Admit Foreign Broadcast Information Service Reports, 12 November 2009.

<sup>330</sup> D376.3 (document 532). See D376 Co-Investigating Judges' Note of Placement on Case File, 13 April 2010.

<sup>331</sup> IS 19.52 (document 540); IS 19.230 (document 520).

<sup>332</sup> See D56 Co-Prosecutors' Request to place additional evidentiary material on the case file, 31 December 2009, at para. 1 and D56-Annex A and Authorities in Support of Grounds for Provisional Detention of Suspects, 18 October 2007.

<sup>333</sup> IS 19.52 (document 540; admitted as E3/180).

<sup>334</sup> See E176 Decision on parties' requests to put certain materials before the chamber pursuant to Internal Rule 87(2), 28 October 2009 at para. 6 together with E61.1 (lines 24-248)

## 17. Map

136. There is one map on the Document List.<sup>335</sup> This document was sourced from the Virtual Vietnam Archive run by *The Vietnam Center* and accessible to the general public.<sup>336</sup> It was transferred to the Case File from the Case 001 case file by the OCIJ during the course of the judicial investigation.<sup>337</sup> This document was admitted into evidence in Case 001.<sup>338</sup>

## 18. Meeting Minutes

137. There are 27 documents on the Document List categorised as “Meeting Minutes”.<sup>339</sup> This category consists of 22 CPK Standing Committee meeting minutes,<sup>340</sup> two minutes of meetings of the DK Government,<sup>341</sup> one minute of a meeting between DK Government representatives and China’s international trade delegation,<sup>342</sup> one minute of a DK Government purchasing committee,<sup>343</sup> and one minute of a meeting of the DK People’s Assembly.<sup>344</sup>

### *CPK Standing Committee Meeting Minutes*

138. The CPK Standing Committee meeting minutes have a similar appearance and follow a generally consistent format. Most of the documents appear to have been typed on A4 sized paper with the same or similar type face. Eighteen of the 22 included minutes on the Document List include a record of attendees.<sup>345</sup> The minutes record the consistent attendance of known members (or *de facto* members) of the CPK Standing Committee, including Nuon Chea who is recorded as present at all 18 such meetings, Pol Pot who is recorded as present at 17,<sup>346</sup> Khieu Samphan who is recorded as present at 15,<sup>347</sup> and

<sup>335</sup> D108/50/1.2 (document 542).

<sup>336</sup> Item Number: MAP12090305. Available at <http://www.virtualarchive.vietnam.ttu.edu/starweb/virtual/vva/servlet.starweb?path=virtual/vva/virtual.web>.

<sup>337</sup> See D108 Note by the Co-Investigating Judges, 28 October 2008.

<sup>338</sup> Admitted as E3/344.

<sup>339</sup> Documents 543 -569 on Document List.

<sup>340</sup> IS 13.1 (document 543); IS 13.2, D323/8.3, D200/9.7, D279/6.1 (document 544); IS 13.3 (document 545); IS 13.4 (document 546); IS 13.6 (document 547); IS 13.5 (document 548); D251/1 (document 549); IS 13.8 (document 550); IS 13.7 (document 551); IS 13.10 (document 552); IS 13.9 (document 553); IS 13.11, D279/7.2 (document 554); IS 13.12 (document 556); IS 13.14, D279/7.1 (document 558); IS 13.15 (document 559); IS 13.16 (document 560); IS 13.18 (document 561); IS 13.19 (document 562); IS 13.20 (document 563); IS 13.21 (document 564); IS 13.23 (document 565); IS 13.24 (document 566).

<sup>341</sup> IS 13.43 (document 567) and D56-Doc. 148 (document 568)

<sup>342</sup> D56-Doc. 149, D279/7.10 (document 569).

<sup>343</sup> D248/6.1.3 (document 555).

<sup>344</sup> IS 13.13 (document 557).

<sup>345</sup> The following four (4) documents do not record the attendees: IS 13.1 (document 543); D251/1 (document 549); IS 13.2, D232/8.3, D200/9.7 (document 544); IS 13.14, D279/7.1 (document 558).

<sup>346</sup> Pol Pot is not recorded as present on IS 13.12 (document 556).

<sup>347</sup> Khieu Samphan is not recorded as present on IS 13.4 (document 546); IS 13.16 (document 560); or IS 13.23 (document 565);

Ieng Sary who is recorded as present at 10.<sup>348</sup> Khieu Samphan has confirmed the attendance of himself, Pol Pot, and Nuon Chea at some of these meetings. In his 2007 book he confirmed that himself, Pol Pot, and Nuon Chea were present at the meeting of 14 May 1976,<sup>349</sup> and stated that the minutes of another 1976 meeting recorded “thoughts raised by Pol Pot”.<sup>350</sup> In a 2007 hearing before the OCIJ, he testified that he attended “some” Standing Committee meetings.<sup>351</sup>

139. The subject matter of the CPK Standing Committee meetings is that which would concern the highest echelon of government and are consistent with known CPK policies. Foreign policy and national defense are the topics most frequently canvassed at meetings. Of the 22 CPK Standing Committee minutes on the Document List, only seven do not focus on either of these subjects.<sup>352</sup> The truth of the contents of two of the meeting minutes, which record meetings focusing on commerce<sup>353</sup> and the delegation of function and responsibility within various CPK committees,<sup>354</sup> have been corroborated in whole or in part by Sakim Lmut in an interview conducted by the OCIJ.<sup>355</sup> Further, the truth of the contents of the 14 May 1976 minutes has been confirmed and commented on by Khieu Samphan himself.<sup>356</sup>
140. In an interview conducted by the OCIJ on 6 October 2009, DC-Cam director Chhang Youk identified 4 of the CPK Standing Committee meeting minutes on the Document List and confirmed that DC-Cam holds the originals of these documents.<sup>357</sup> All other documents on the Document List are of a similar form and layout to those identified by Chhang Youk. In addition, two of the documents identified by him display the distinctive triangular formation of Khmer characters commonly used as a section

<sup>348</sup> Ieng Sary is not recorded as present on IS 13.4 (document 546); IS 13.8 (document 550); IS 13.9 (document 553); IS 13.12 (document 556); IS 13.19 (document 562); IS 13.21 (document 564); IS 13.23 (document 565); IS 13.24 (document 566).

<sup>349</sup> D213.2 Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea, Khieu Samphan, at ERN 00498263-4 in relation to IS 13.18 (document 561).

<sup>350</sup> *Ibid.* at ERN 00498285.

<sup>351</sup> C25 Written Record of Adversarial Hearing of Khieu Samphan, 19 November 2007 at p.5.

<sup>352</sup> The following documents do not review foreign policy or military/national defense: IS 13.14, D279/7.1 (document 558); IS 13.23 (document 565); IS 13.2, D232/8.3, D200/9.7 (document 544).

<sup>353</sup> IS 13.11, D279/7.2 (document 554).

<sup>354</sup> IS 13.14, D279/7.1 (document 558).

<sup>355</sup> See D279/7 Written Record of Witness Interview (Sakim Lumut), 19 December 2009 at p.3 (with respect to IS 13.11 he confirms that it is a record of a Standing Committee meeting and that the contents are correct. With respect to IS 13.14 he verifies the organization of the Commerce Committee and the recorded members of some other committees.)

<sup>356</sup> D213.2 Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea, Khieu Samphan, at p. 44-6 in relation to IS 13.18 (document 561).

<sup>357</sup> D311/2 Written Record of Interview of Chhang Youk, 6 October 2009, p4 in relation to documents IS 13.1 (document 543); IS 13.24 (document 566); IS 13.5 (document 548); IS 13.2 (document 544).

- divider in CPK documents.<sup>358</sup> This symbol is also found on five (5) other Standing Committee minutes, including the document authenticated by Khieu Samphan.<sup>359</sup>
141. Of the 22 CPK Standing Committee Meeting Minutes on the Document List, 20 are recorded on the DC-Cam database as having been provided to DC-Cam by Ben Kiernan in 1996.<sup>360</sup> Chhang Youk has stated that Ben Kiernan obtained these documents from Khieu Kanharith, the Minister of Information, who originally obtained them from the PRK *Renakse* office following the People's Revolutionary Tribunal after 1979.<sup>361</sup> Khieu Samphan has authenticated at least one of the Standing Committee Meeting Minutes that came from Ben Kiernan's collection.<sup>362</sup> The two remaining documents were collected by DC-Cam from the Ministry of Interior in 1996.<sup>363</sup> The chain of custody of documents collected from the Ministry of Interior has been addressed earlier.<sup>364</sup> All but one of the documents were obtained by the Co-Prosecutors from DC-Cam during the preliminary investigation and were attached to the Introductory Submission. The outstanding document was placed on the Case File by the OCIJ during the course of its judicial investigation.<sup>365</sup>
142. Finally, it is noted that 17 of the 22 CPK Standing Committee meeting minutes on the Document List were admitted into evidence in Case 001.<sup>366</sup>

*DK Government Meeting Minutes*

143. One of the DK Government Meeting Minutes records a meeting between a Cambodian delegation, led by Ieng Sary, and a foreign commerce delegation from China.<sup>367</sup> The

<sup>358</sup> IS 13.1 (document 543) and 13.5 (document 548)

<sup>359</sup> IS 13.20 (document 563); 13.3(document 545); 13.18 (document 561); D251/1(document 549); 13.19(document 562).

<sup>360</sup> See DC-Cam, database, available at <http://www.dccam.org/Database/Index.htm>

<sup>361</sup> See D311/2 Written Record of Interview of Chhang Youk, 6 October 2009, p10 and D155.3

Documenting the Crimes of Democratic Kampuchea, John D. Ciorciari and Youk Chhang, page 228.

<sup>362</sup> D213.2 Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea, Khieu Samphan, at p. 44 stating that the minutes of 14 May 1976 (were "published in [their] entirety" in Ben Kiernan's book entitled "The Pol Pot Regime". The minutes at IS 13.18 (document 561) are consistent with the minutes referenced in Ben Kiernan's book.

<sup>363</sup> IS 13.1 (document 543) and IS 13.12 (document 556). With respect to the provenance of document IS 13.1 see D311/2 Written Record of Interview of Chhang Youk, 6 October 2009 at p.5. With respect to the provenance of IS 13.12, see DC-Cam database at

<http://www.dccam.org/Database/Lod/details.php?keyword=L01174&numRecords=100&lang=eng&page=1&idnum=L01174>.

<sup>364</sup> See section I above.

<sup>365</sup> D251/1 (document 549). See D251 Note of Placement of Documents, 30 November 2009 stating that the document was taken from the SMD (DC-Cam collection).

<sup>366</sup> Documents IS 13.16, 13.16/Corr-1 (admitted as E3/175); IS 13.15 (admitted as E3/186); E13.1 (admitted as E3/81); IS13.6 (admitted as E3/84); IS 13.12 (admitted as E3/751); IS 13.4 (admitted as E3/749); IS 13.10 (admitted as E3/89); IS 13.7 (admitted as E3/100); IS 13.3 (admitted as E3/748); IS 13.18 (admitted as E3/752); IS 13.24 (admitted as E3/178); IS 13.5 (admitted as E3/750); IS 13.19 (admitted as E3/88); IS 13.8 (admitted as E3/44); IS 13.2, D232/8.3, D200/9.7, D279/6.1 (admitted as E3/14); IS 13.23 (admitted as E3/101); IS 13.14, D279/7.1 (admitted as E3/55).

<sup>367</sup> D56-Doc. 148 (document 568).

truth of the contents of this document has been corroborated by Sakim Lmut.<sup>368</sup> The document was obtained from DC-Cam by the OCP and placed on the Case File following the Introductory Submission. According to the DC-Cam database, this document was originally collected from (current) Prime Minister Hun Sen in September 1995.<sup>369</sup>

144. The other document records a meeting between a Cambodian delegation, lead by Ieng Sary, and a Chinese communication delegation.<sup>370</sup> The document is of a form and layout that is substantially the same as other Standing Committee meeting minutes that have been authenticated by Youk Chhang<sup>371</sup> and Khieu Samphan.<sup>372</sup> The document was obtained from DC-Cam by the OCP during the preliminary investigation and attached to the Introductory Submission. According to the DC-Cam database, DC-Cam obtained it from the National Archives in 2002.<sup>373</sup>

*DK People's Assembly Meeting Minutes*

145. Document IS 13.13 is a record of Conference I of Legislature I of the People's Representative Assembly of Kampuchea, 11-13 April 1976. The content of the document is consistent with CPK policy and ideology, and uses phrases, such as "American imperialist," that are particular to the CPK. The document is in booklet form, and the layout and typeface is substantially the same as Revolutionary Flag and Revolutionary Youth publications. DC-Cam director Youk Chang has confirmed that this document was obtained from Tuol Sleng by DC-Cam in 1999.<sup>374</sup> The content of the document is corroborated by a 14 April 1976 FBIS article entitled "Hu Nim Announces People's Assembly Press Communique" which reproduced excerpts of the same document as broadcast by the Phnom Penh Domestic Services.<sup>375</sup> The document was provided to the Co-Prosecutors during the course of their preliminary investigation and

<sup>368</sup> See Written Statement of Interview (Sakim Lmut), 19 December 2009 (D279/7), p. 5

<sup>369</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=D00127&numRecords=100&lang=eng&page=1&idnum=D00127>

<sup>370</sup> IS 13.43 (document 567)

<sup>371</sup> D311/2 Written Record of Interview (Chhang Youk), 6 October 2009, p4 in relation to documents IS 13.1, IS 13.24, IS 13.5, IS 13.2.

<sup>372</sup> D213.2 Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea, Khieu Samphan, at p. 44 stating that the minutes of 14 May 1976 (were "published in [their] entirety" in Ben Kiernan's book entitled "The Pol Pot Regime". The minutes at IS 13.18 (document 561) are an identical copy of the minutes published in Ben Kiernan's book.

<sup>373</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=D20448&numRecords=100&lang=eng&page=1&idnum=D20448>

<sup>374</sup> See D311/2 Written Statement of Interview (Youk Chhang), 6 October 2009, p.4.

<sup>375</sup> D262.17 (document 358), 14 April 1976, at ERN 00167623-626.

attached to the Introductory Submission. This document was admitted into evidence in Case 001.<sup>376</sup>

#### *Other Meeting Minutes*

146. Document D248/6.1.3 is a set of minutes of a purchasing committee meeting dated 17 March 1976. The document is of a form and layout that is substantially the same as other Standing Committee meeting minutes that have been authenticated by Youk Chhang or Khieu Samphan. According to the DC-Cam database, this document was obtained by DC-Cam from Ben Kiernan in 1996.<sup>377</sup> It was added to the Case File by the OCIJ during the course of its judicial investigation, having been obtained pursuant to a rogatory letter.<sup>378</sup>
147. Document “D56-Doc.149, D279/7.10” is a minute of a meeting between Cambodian and Chinese trade delegations. The document is in a form substantially the same as other CPK minutes, and displays the distinctive triangular formation of Khmer characters commonly used as a section divider in CPK documents.<sup>379</sup> The occurrence of this meeting has been confirmed by Sakim Lmut,<sup>380</sup> and Ieng Sary and Khieu Samphan are listed as recipients of copies of the minutes. The document was obtained from DC-Cam by the OCP and placed on the Case File following the Introductory Submission. According to the DC-Cam database, this document was originally collected from Hun Sen in September 1995.<sup>381</sup>

### 19. Photographs

148. There are 63 photographs on the Document List.<sup>382</sup> Fifty-seven of the photographs were collected by the OCP and were all taken during the DK period. As such they represent contemporaneous records of the events the document purports to record.
149. Forty-five photographs came from the collection of former S-21 photographer, Nhem En and were given to the OCP by Stephen Heder, during the preliminary investigation,<sup>383</sup> or by DC-Cam.<sup>384</sup> These photographs form part of a larger collection

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<sup>376</sup> Admitted as E3/43.

<sup>377</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=D00692&numRecords=100&lang=eng&page=1&idnum=D00692>

<sup>378</sup> See D248 Rogatory Letter, 18 May 2009

<sup>379</sup> This symbol also appears in other meeting minutes: IS 13.1, 13.5, 13.3, 13.18, D251/1, and 13.19.

<sup>380</sup> See Written Statement of Interview (Sakim Lmut), 19 December 2009 (D279/7),

<sup>381</sup> See DC-Cam database at:

<http://www.dccam.org/Database/Lod/details.php?keyword=D00132&numRecords=100&lang=eng&page=1&idnum=D00132>

<sup>382</sup> Documents 570-632.

<sup>383</sup> D313/1.2.196 (document 585); D313/1.2.233 (document 613); D313/1.2.214 (document 610); D313/1.2.200 (document 601); D313/1.2.234 (document 573); D313/1.2.231 (document 584); D313/1.2.235 (document 571); D313/1.2.206 (document 609); D313/1.2.221 (document 597); D313/1.2.226 (document 612); D313/1.2.232 (document 592); D313/1.2.197 (document 589);

purchased from Nhem En by the Phnom Penh Post. A further 9 photographs were sourced from DC-Cam,<sup>385</sup> of which two were originally collected from the Tuol Sleng Archives.<sup>386</sup> The final three photographs were recently obtained by the OCP and have been placed on the SMD.<sup>387</sup> Two of these were sourced from Lao News Agency Photo Archive via Martin Rathie.

150. The outstanding 6 photographs were filed by the OCIJ and obtained pursuant to Rogatory Letter.<sup>388</sup>

## 20. Rogatory Report

151. There is one document on the Document List categorised as a “Rogatory Report.”<sup>389</sup> This document is an official record prepared by Office of the Co-Investigating Judges reporting on the completion of a rogatory letter.
152. The document is internally consistent with others from this source. Namely the standard format includes the official seal at the top of the first page with “Kingdom of Cambodia” to the right. The Case File number, Office of Co-Investigating Judges and date, reference, expiry date and names of investigators printed underneath the seal. The title of the document, “Rogatory Letter Completion Report”, appears to the right and the Court’s contact details appear in the footer on each page.

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D313/1.2.212 (document 581); D313/1.2.216 (document 596); D313/1.2.192 (document 615); D313/1.2.222 (document 598); D313/1.2.236 (document 574); D313/1.2.195 (document 587); D313/1.2.228 (document 621); D313/1.2.201 (document 604); D313/1.2.230 (document 600); D313/1.2.204 (document 599); D313/1.2.229 (document 622); D313/1.2.199 (document 611); D313/1.2.186 (document 594); D313/1.2.190 (document 580); D313/1.2.237 (document 572); D313/1.2.187 (document 595); D313/1.2.193 (document 603); D313/1.2.225 (document 602); D313/1.2.202 (document 607); D313/1.2.191 (document 614); D313/1.2.185 (document 591); D313/1.2.207 (document 608); D313/1.2.227 (document 620); D313/1.2.158 (document 590); D313/1.2.171 (document 605); D313/1.2.157 (document 588); D313/1.2.168 (document 586); D313/1.2.170 (document 606); D313/1.2.169 (document 617); D313/1.2.160 (document 616); D313/1.2.173 (document 593); D313/1.2.163 (document 582). See D313 Co-Prosecutors' Request to Place Additional Material on the Case File, 31 December 2009 at para. 20.

<sup>384</sup> D366/7.1.415 (document 578).

<sup>385</sup> D366/7.1.420 (document 579); D366/7.1.422 (document 619); D366/7.1.442 (document 625); D366/7.1.429 (document 618); D366/7.1.449 (document 624); D366/7.1.443 (document 626); D366/7.1.438 (document 623); D313/1.2.166 (document 575); D313/1.2.164 (document 583).

<sup>386</sup> D313/1.2.166 (document 575); D313/1.2.164 (document 583). See D313 Co-Prosecutors' Request to Place Additional Material on the Case File, 31 December 2009.

<sup>387</sup> *Photograph depicting KHIEU Samphan, IENG Sary and IENG Thirith* (document 577); *Photograph depicting KHIEU Samphan, IENG Sary and IENG Thirith* (document 576); *Two photographs, one depicting Ieng Sary and one of Nuon Chea giving speeches at a reception* (document 570).

<sup>388</sup> D200/3.10 (document 627); D200/9.8 (document 631); D200/3.9 (document 628); D200/9.9 (document 632); D200/9.12 (document 630); D200/9.11 (document 629) (See D200 Rogatory Letter for Witness Interview, 27 January 2009).

<sup>389</sup> D208/2 (document 633).

## 21. S-21 Confessions

153. There are 103 documents on the Document List categorised as “S-21 Confession[s]”.<sup>390</sup> Confessions were written either by S-21 prisoners themselves, or transcribed by an interrogator if the prisoner could not write. Typed copies were also made by the S-21 Typewriting Unit. As noted in the Case 001 judgment, confessions were taken in order to confirm the CPK’s suspicions of treason, and to reveal the names of other enemies, thus providing the pretence for further arrests.<sup>391</sup> According to Duch, they were the “core work” of S-21.<sup>392</sup>
154. The reliability of these documents is demonstrated by various indicia in the confessions themselves. Many confessions employ distinctive expressions such as “Angkar”, “Santebal” and “hot methods”, which are commonly associated with S-21 and the CPK, and which are in keeping with its ideology.<sup>393</sup> Although confessions were, as stated above, both handwritten and typed, the format and content of such documents were substantially consistent. In particular, confessions often include lists of implicated cadres, which as discussed above, facilitated further mass arrests by the Centre.<sup>394</sup> Duch has acknowledged that it was standard practice to include such lists.<sup>395</sup>
155. There are also a number of distinctive markings associated with S-21 confessions. They typically commenced with a cover page with a title boxed in a solid or dotted outline, dated in the bottom right corner. Some cover pages also bore a distinctive mark consisting of a Khmer “S” (ស) enclosed in a circle”.<sup>396</sup> Duch has stated that this is an abbreviation of the Khmer word “som-ngut” (សម្បត្តិ) meaning “secret”, and was applied by him to particular confessions.<sup>397</sup> This is consistent with the policy of secrecy surrounding S-21.<sup>398</sup> Further markings may be found in the body of confessions, in particular: (1) dates and signatures in the left margin of the text; and (2) dates and signatures at the conclusion of the confession. In particular, there were frequently two sets of dates and signatures at the end of the text, that on the left belonging to the

<sup>390</sup> Documents 634-736 on the Document List. Five of these documents are not confessions but summaries thereof prepared by DC-Cam or Dr Stephen Heder: D108/31.20 (document 646); *New* ERN 00223111 (document 667); *New* ERN 00223125 (document 669); *New* ERN 00294991-92 (document 678); *New* ERN 00223122-23 (document 686).

<sup>391</sup> E188 Judgment, 26 July 2010, paras. 177-179.

<sup>392</sup> D121/6.2 Duch’s written comments and answers to written questions, 20 November 2009 at para. 24.

<sup>393</sup> See, for example, IS 5.65 (document 638), at ERN 00290113-14.

<sup>394</sup> See, for example, IS 5.28 (document 698), at ERN 00005185-91, 00746209-12.

<sup>395</sup> D120 Written Record of Interview of Duch by CIJ, 27 November 2008, at pp. 5, 9; D121/6.2 Duch’s written comments and answers to written questions, 20 November 2009 at pp. 12-13.

<sup>396</sup> See, for example, D43/IV-Annex 21 (document 697), at ERN 00173973.

<sup>397</sup> D227 Written Record of Interview of Duch by CIJ, 21 October 2009, ERN 000398204-11, at p. 7.

<sup>398</sup> See D121/6.2 Duch’s written comments and answers to written questions, 20 November 2009, ERN 00434334-49, at p. 13.



- interrogator, and that on the right belonging to the prisoner and often being accompanied by a thumbprint.<sup>399</sup>
156. Many confessions also contain summaries by interrogators, and annotations and marking up by Duch,<sup>400</sup> Son Sen alias Khieu,<sup>401</sup> and Nuon Chea.<sup>402</sup> Duch has authenticated the handwriting for each of these persons.<sup>403</sup> The annotations included directions on topics to pursue or avoid in further interrogation, the use of torture, and the forwarding of confessions to Pol Pot and unit heads. This practice comported with the CPK's broader policy regarding communication of security-related information to the Centre, in which context S-21 occupied a special position as a prison reporting directly to members of the Standing Committee.<sup>404</sup> In some cases, names or sections of text were crossed out. Duch has stated that this was done to avoid implicating certain figures.<sup>405</sup> This practice was in keeping with the Centre's use of confessions as a basis for arrests when it was politically expedient.
157. Corroboration may be provided by other evidence confirming that the prisoner was detained and questioned at S-21. For example, Duch has provided a list of security cadres sent to S-21, including, amongst others, Nhim Chhon *alias* Hang, the author of one of the confessions in the Document List.<sup>406</sup> There are also a number of confessions which Duch has commented on in circumstances which indicate that the document is genuine. For example, Duch has viewed the confession of Lean Sereivuth and stated that it is a "copy", which demonstrates that such a confession was taken and that he viewed a genuine copy of it.<sup>407</sup>
158. Confessions may also be corroborated by the signature of known S-21 interrogators, where that signature matches that on a document which Duch has confirmed as genuine. For example, the confession of Lean Sereivuth, referred to above, is signed by S-21 interrogator Oeun.<sup>408</sup> This signature is also found in the confession of Long Muy *alias*

<sup>399</sup> See, for example, IS 5.28 (document 698), at ERN 00005160, 00746208.

<sup>400</sup> See, for example, D108/31.42 (document 692), at ERN 00174502.

<sup>401</sup> See, for example, D43/IV-Annex 80 (document 663), at ERN 00174862.

<sup>402</sup> See, for example, D43/IV-Annex 41 (document 707), at ERN 00174100.

<sup>403</sup> See, for example, Transcript 27 April 2009 at pp. 57-58 identifying Son Sen's handwriting on D43/IV Annex 18 (document 649) admitted in case 001 as E3/20 ; D260 Written Record of Interview of Duch by CIJ, 3 December 2009, at pp. 2-3, identifying the handwriting of himself, Son Sen and Nuon Chea on D108/31.42 (document 692), at ERN 00174502.

<sup>404</sup> D1 Closing Order, 15 September 2010, paras. 422, 456.

<sup>405</sup> See D121/6.2 Duch's written comments and answers to written questions, 20 November 2009, at paras. 27, 31, and pp. 13, 15. See also D86/24 Written Record of Interview of Duch by CIJ, 2 April 2008, at p. 5-6; D119 Written Record of Interview of Duch by CIJ, 28 November 2008 at p.5.

<sup>406</sup> D86/28 Written Record of Interview of Duch, 6 May 2008, ERN 00209168-83; D159/5.53 (document 681).

<sup>407</sup> D121/6.2 Duch's written comments and answers to written questions, 20 November 2009, ERN 00434334-49, at p. 5, referring to IS 5.46 (document 706).

<sup>408</sup> IS 5.46 (document 706), at ERN 00024551.

Chuon dated 2 September 1977.<sup>409</sup> The appearance of the same mark in each document, one of which has been authenticated by Duch, further confirms that both are genuine S-21 confessions.

159. The confessions in the Document List were obtained from DC-Cam who in turn collected them from either S-21 itself, or the Ministry of the Interior. The chain of custody of documents from the TSL collection has been addressed earlier.<sup>410</sup> Thirty-six of the confessions were obtained by the OCP during the preliminary investigation and annexed to the Introductory Submission.<sup>411</sup> Of the remainder, two were annexed to supplementary submissions by the OCP,<sup>412</sup> ten were placed on the Case File at the request of the OCP,<sup>413</sup> 42 were placed on the Case File pursuant to orders of the CIJ's,<sup>414</sup> and 11 are new documents, yet to be placed on the Case File but available to

<sup>409</sup> D43/IV-Annex 74 (document 691), at ERN 00174753.

<sup>410</sup> See section I above.

<sup>411</sup> IS 5.115 (document 704); IS 5.65 (document 638); IS 5.100 (document 730); IS D2-15.45, D196.15; IS 5.74 (document 722); IS D2-15.39, D288/5.72, D312.2.23 (document 724); IS 5.55 (document 721); IS 5.113 (document 666); IS 5.13 (document 733); IS 5.79 (document 636); IS 5.108 (document 705); IS 5.39 (document 653); IS 5.34 (document 732); IS 5.46 (document 5.46); IS 5.61 (document 652); IS 5.2 (document 694); IS 5.10 (document 734); IS 5.88 (document 715); IS 5.104 (document 658); IS 5.112 (document 713); IS 5.97 (document 640); IS 5.50 (document 693); IS 5.96 (document 711); IS 5.109 (document 682); IS 5.92 (document 660); IS 5.1 (document 684); IS 5.31 (document 637); IS 5.25 (document 650); IS 5.86 (document 718); IS 5.28 (document 698); IS 5.71 (document 674); IS 5.117.(document 670); D2-15.41, D83-Annex-00004 (document 664); D83-Annex-00004 (document 736); D2-15.44, D2-15.44/Corr-1 (document 725).

<sup>412</sup> D83-Annex-00002 (document 654); D196.13 (document 720).

<sup>413</sup> D366/7.1.78 (document 729); D366/7.1.90 (document 657); D366/7.1.95 (document 688); D366/7.1.93 (document 672); D366/7.1.116 (document 709); D366/7.1.77 (document 635); D366/7.1.119 (document 710); D366/7.1.122 (document 712); D366/7.1.88 (document 647); D366/7.1.85 (document 643). All documents entered on Case File pursuant to D366 Co-Prosecutors' Investigative Request to place additional evidentiary material on the Case File, 12 February 2010.

<sup>414</sup> D43/IV-Annex 58 (document 661); D43/IV-Annex 41 (document 707); D43/IV-Annex 18 (document 649); D43/IV-Annex 21 (document 696); D43/IV-Annex 80 (document 663); D43/IV-Annex 86 (document 642); D43/IV-Annex 74 (document 691); D43/IV-Annex 63 (document 700); D43/IV-Annex 47 (document 719); D43/IV-Annex 69 (document 655); D43/IV-Annex 50, D43/IV-Annex 50/Corr-1 (document 662); D43/IV-Annex 54 (document 699); D43/IV-Annex 34 (document 676); D43/IV-Annex 38 (document 668); D43/IV-Annex 07 (document 683); D43/IV-Annex 60 (document 651); D43/IV-Annex 50, D43/IV-Annex 50/Corr-1 (document 662); D82/II-Annex 14 (document 689); D82/II-Annex 43 (document 703); D82/II-Annex 25 (document 665); D82/II-Annex 42 (document 644); D82/II-Annex 06 (document 716); D108/31.23 (document 656); D108/31.24 (document 659); D108/31.43 (document 695); D108/31.20 (document 646); D108/31.13 (document 641); D108/31.42 (document 692); D108/31.22 (document 648); D159/5.43 (document 727); D159/5.50 (document 701); D159/5.24 (document 690); D159/5.10 (document 671); D159/5.18 (document 735); D159/5.6 (document 714); D159/5.3 (document 708); D159/5.98 (document 675); D159/5.5 (document 681); D159/5.36 (document 717); D159/5.53 (document 681); D159/5.37 (document 731); D175/3.77, D175/3.77/Corr-1 (document 687); D312.2.24 (document 728); D312.1.58 (document 723). All documents entered on Case File pursuant to D43 Rogatory Letter for Documents at DC-Cam, 7 December 2007; D82 Rogatory Letter for Documents at Tuol Sleng Genocide Museum, 29 January 2008; D108 CIJ Note on the transfer of documents from Case File 001 to Case File 002, 28 October 2008; D159 Rogatory Letter for Documents at Tuol Sleng Genocide Museum, 4 July 2008; D175 Rogatory Letter for Documents at DC-Cam, 4 July 2008; D312 CIJ Note on placement of documents on Case File 002, 13 January 2010.

the parties on the SMD.<sup>415</sup> Thirteen of the confessions were admitted in evidence during trial proceedings in Case 001.<sup>416</sup>

## 22. S-21 Execution Logs

160. There are 10 documents on the Document List categorised as “S-21 Execution logs”.<sup>417</sup> Execution logs were maintained by the S-21 documentation unit alongside other documents such as prisoner lists, interrogation logs, and photographs in order to comply with a broader S-21 policy of meticulously recording the receipt, interrogation and death of prisoners. This practice also comported with the CPK’s broader policy regarding communication of security-related information to the Center, in which context S-21 occupied a special position as a prison reporting directly to members of the Standing Committee. The execution logs, in particular, record the final realization of the CPK policy of “smashing” enemies of the regime.
161. The execution logs all employ distinctive expressions such as “combatant”, “smash”, “Yuon secret force”, “new worker” and “old worker”, which are commonly associated with the CPK and in keeping with its ideology. The execution logs also follow a format which is substantially consistent, with all logs listing the name, alias, origin, and position of those executed. Prisoner number, gender, age, entry date, execution date, interrogation group and interrogator is also listed depending on the log.<sup>418</sup>
162. The DC-Cam document database indicates that all of the execution logs originate from the Tuol Sleng Archive (TSL) collection. The chain of custody of documents collected from the TSL collection has been addressed earlier.<sup>419</sup> Eight of the ten execution logs were provided to the OCP by DC-Cam during the preliminary investigation and

<sup>415</sup> S-21 Confession of Nhim Chhon alias HANG, date unknown, ERN 00694354; S-21 Confession of Men San alias Ney Saran alias Ya (9th), 26 September 1976, ERN 00227110-39 (Khm); S-21 Confession of Em Min alias SEN, 11 May 1977 ERN 00257986-8112 (Khm); S-21 Confession of Em Min alias SEN, 4 May 1977, ERN 00223104-05; S-21 Confession of TANN Try alias CHHOEURN, 8 May 1977, ERN 00233528-29; S-21 Confession of KOAM Chan alias CHORN, 3 December 1977 ERN 00658631-33; S-21 Confession of KOAM Chan alias CHORN, 21 October 1977 ERN 00215657-5848 (Khm); (the following documents are not confessions, but summaries prepared by DC-Cam) S-21 Confession of Yung Peou alias Yang Pov, 24 April 1977, ERN 00223125; S-21 Confession of Eng Meng Heang alias Chhon (summary of confessions), 7 May 1977, ERN 00294991-92; S-21 Confession of Kun Thon Thanarak alias Penh, 21 April 1977, ERN 00223111; S-21 Confession of Bou Keo alias KHAV, 12 July 1977, ERN 00223122.

<sup>416</sup> D43/IV-Annex 58 (document 661, admitted as E3/416); IS 5.115 (document 704, admitted as E3/401); IS 5.65 (document 638, admitted as E3/372, E3/377); IS 5.100 (document 730, admitted as E3/182); D159/5.37 (document 731, admitted as E3/125); IS D2-15.45, D196.15 (document 722, admitted as E3/119); IS 5.74 (document 726, admitted as E3/80); IS D2-15.39, D288/5.72, D312.2.23 (document 724, admitted as E3/72); IS 5.55 (document 721, admitted as E3/71); D83-Annex-00004 (document 736, admitted as E3/65); D2-15.41, D83-Annex-00004 (document 664, admitted E3/64); D43/IV-Annex 41 (document 707, admitted as E3/21); D43/IV-Annex 18 (document 649, admitted as E3/20).

<sup>417</sup> Documents 737-746 on the Document List.

<sup>418</sup> See e.g. IS 16.38, D312.1.7 (document 99).

<sup>419</sup> See section I above.

annexed to the Introductory Submission. The remaining two documents were placed on the Case File by the OCIJ during the judicial investigation.<sup>420</sup> One was placed on the Case File at the request of the OCP following the Introductory Submission,<sup>421</sup> and the remaining one was transferred from Case File 001

163. During Case 001 trial proceedings, Duch authenticated one of the execution logs on the Document List, confirming that it bore annotations by himself and Mam Nai.<sup>422</sup> This document and one other on the Document List were admitted in evidence by the Trial Chamber in Case 001.<sup>423</sup> The Trial Chamber further noted in its judgment that it relied on prisoner, interrogation and execution lists in determining the prisoner population of S-21.<sup>424</sup>
164. The contents of S-21 execution logs may be corroborated by comparison with other documents. For example, the list of prisoners whose executions were postponed in January 1977 refers to a number of prisoners whose detention in S-21 at that time is confirmed by confessions or other logs.<sup>425</sup> Similarly, the execution log for 2 December 1978 is consistent with a photograph of Pavn soldier Le Van Nam, which also records his receipt at S-21 on 25 July 1978, and with a confession given shortly before the date of his execution in the execution log.<sup>426</sup>

### 23. S-21 Interrogation Logs

165. There are 99 documents on the Document List categorised as “S-21 Interrogation Log[s]”.<sup>427</sup> Interrogation logs were maintained by the S-21 documentation unit alongside other documents such as prisoner lists, execution logs, and photograph in compliance with a broader S-21 policy of meticulously recording the process of receipt, interrogation and execution. Interrogation logs, in particular, recorded the progress of interrogation, the goal of which was to obtain a complete confession from the prisoner which information would then be communicated to the Centre.

<sup>420</sup> D108/26.140, D312.1.13 (document 743) and D312.1.34, D366/7.1.146 (document 741). See D108 Note by the Co-Investigating Judges, 28 October 2008 and D312 Note by the Co-Investigating Judges, 13 January 2010.

<sup>421</sup> See D366 Co-Prosecutors' Request to Place Additional Evidentiary Material ON the Case File, 12 February 2010.

<sup>422</sup> E1/35.1 Transcript of Proceedings – “Duch” Trial – 22 June 2009 at p. 27.

<sup>423</sup> IS 16.46, D312.1.25 (document 738; admitted as E3/370); IS 16.76 (document 742; admitted as E3/432).

<sup>424</sup> E188 Judgment, 26 July 2010 at paras. 140-142.

<sup>425</sup> IS 16.46, D312.1.25 (document 738; admitted as E3/370), at pp. 2 (listing MEAS Vung as a prisoner), 00185361 (listing SOENG Krin as a prisoner), and 16 (listing HENG Pich *alias* Chhan as a prisoner); cf. IS 16.49 S-21 Execution Log, 4 March 1977, at p. 4 (indicating that MEAS Vung was executed a short time later); D43/IV-Annex 72 Excerpts of the Confession of SOENG Krin, 25 January 1977; D108/31.22 Confession of HENG Pich *alias* Chhan, 15 January 1977, ERN 00178177-78 (incorrectly identified on the Case File as the confession “Pich Peou *alias* Chhan”).

<sup>426</sup> IS 7.6 (document 746), at p. 1; cf. D108/32.3 P3949 S-21 Photograph of LE Van Nam, 25 July 1978, ERN P 00004001; D108/50/1.48 Confession of LE Van Nam, 10 August 1978, ERN 00168953-55.

<sup>427</sup> Documents 747-845 on the Document List.

166. The interrogation logs employ distinctive expressions such as “combatant”, “Yvon spies”, “new worker”, and “old worker”, which are commonly associated with the CPK and in keeping with its ideology.<sup>428</sup> The logs also follow a highly consistent format. They list basic details about the prisoner and interrogation process including name, alias, position, interrogation status, arrest date and interrogator. Prisoners are typically broken down by the responsible interrogation unit, and then by organizational class (e.g. Zone or Ministry). The logs also record miscellaneous information, such as the age and gender of prisoners, and whether the prisoner is “old” (“base”) or “new”, a distinction which is also in keeping with a CPK policy of discriminating against “new people”.<sup>429</sup>
167. The contents of the S-21 interrogation logs may be corroborated by comparison with each other. For example, the prisoner Sao Sarun alias Saran or Ran is consistently listed as an “old person”, as the Secretary of Battalion or Regiment 116 of Sector 23 (East Zone), and as having been arrested on 26 March 1978.<sup>430</sup> Another East Zone prisoner, Chhouk Lim alias Bol or Pol is consistently listed as an “old person”, as a member of the Division of Sector 20, and as having been arrested on 17 April 1978.<sup>431</sup> Interrogation logs can be further corroborated by comparison with prisoner names appearing in execution logs, prisoner lists, S-21 confessions or S-21 biographies.
168. The DC-Cam document database indicates that all of the interrogation logs originate from the Tuol Sleng Archives (TSL). The chain of custody of documents from the TSL collection has been addressed earlier.<sup>432</sup> Sixty-six of the interrogation logs were provided to the OCP by DC-Cam during the preliminary investigation and annexed to the Introductory Submission.<sup>433</sup> The remaining 33 were obtained from DC-Cam during the course of Case 001 and subsequently transferred by the OCIJ to Case File 002.<sup>434</sup>
169. Finally, it is noted that three of the interrogation logs on the Document List were admitted in evidence during Case 001.<sup>435</sup> The TC further noted in its judgment that it relied on prisoner, interrogation and execution lists in determining the prisoner population of S-21.<sup>436</sup>

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<sup>428</sup> See e.g. IS 16.87 (document 752).

<sup>429</sup> See e.g. IS 16.119 (document 769).

<sup>430</sup> IS 16.99, p. 1 (document 764); IS 16.115, p. 1 (document 784); D108/26.184, p. 1 (document 782); IS 16.121, p. 1 (document 788); IS 16.131, p. 1 (document 803).

<sup>431</sup> IS 16.115, p. 1 (document 784); D108/26.184, p. 1 (document 782); IS 16.121, p. 1 (document 788); D108/26.199, p. 1 (document 795); IS 16.131, p. 1 (document 803).

<sup>432</sup> See section I above.

<sup>433</sup> See documents with “IS” reference number.

<sup>434</sup> D108 CIJ Note on the Transfer of Substantive Documents from Case File 001 to Case File 002, 28 October 2008, ERN 00236076-77.

<sup>435</sup> IS 8.1, D312.1.30 (document 796, admitted as E3/454); IS 16.77 (document 801, admitted as E3/453); IS 16.119 (document 769, admitted as E3/452).

<sup>436</sup> E188 Judgment, 26 July 2010, ERN 00572517-797, paras. 140-142.

## 24. S-21 Prisoner List

170. There are 69 documents on the Document List categorised as “S-21 Prisoner List[s]”.<sup>437</sup> Prisoner lists were maintained by the S-21 documentation unit in order to record the persons detained in compliance with a broader S-21 policy of meticulously recording the receipt, interrogation and death of prisoners. Prisoner lists were employed alongside such other means as interrogation logs, execution logs and photographs taken upon receipt and execution.<sup>438</sup> This practice also comported with the CPK’s broader policy regarding communication of security-related information to the Centre, in which context S-21 occupied a special position as a prison reporting directly to members of the Standing Committee.<sup>439</sup>
171. A large proportion of the prisoner lists employ distinctive expressions such as “Yuon spies”, “new worker”, “old worker” and “Thieu-Ky”, which are commonly associated with the CPK and in keeping with its ideology.<sup>440</sup> The lists also follow a format which is substantially consistent. Although the type of information recorded varies, all logs list the name and position of the prisoners. Additional classes of information - building number, cell number, prisoner number, alias, age, gender, origin, entry date, and interrogation status – also appear in the vast majority of prisoner lists.<sup>441</sup>
172. All the prisoner lists were originally collected by DC-Cam from Tuol Sleng Archives (TSL). The chain of custody of documents from the TSL collection has been addressed earlier.<sup>442</sup> Four of the records were obtained in 1996 and the remainder in 1999.<sup>443</sup> Thirty-nine of the prisoner lists were obtained by the OCP during the preliminary investigation and annexed to the Introductory Submission. Of the remainder, all but one were placed on the Case File by the OCIJ during the judicial investigation. The other prisoner list has not yet been placed on the Case File but has been made available to the parties on the SMD.<sup>444</sup>
173. Prisoner lists of a similar type to those on the Document List were admitted into evidence during Case 001.<sup>445</sup> The Trial Chamber further noted in its judgment that it

<sup>437</sup> Documents 846-914 on Document List. Note: one of the documents (D2-15.32, document 912) is not a prisoner list, but a list of confessions. It was admitted in evidence in Case 001 as E3/192.

<sup>438</sup> E188 Judgment, 26 July 2010, paras. 145-149.

<sup>439</sup> *Ibid.*, para. 23; D1 Closing Order, 15 September 2010, paras. 422, 456.

<sup>440</sup> See e.g. IS 16.14 (document 905), at pp. 1-4.

<sup>441</sup> See e.g. IS 16.88 (document 896). Three documents unusually record only three or four classes of information: IS 16.6 (document 851); IS 16.7 (document 856); D108/26.247 (document 904).

<sup>442</sup> See section I above.

<sup>443</sup> See DC-Cam database at <http://www.d.dccam.org/Database/Lod/index.php> (searchable by DC-Cam number)

<sup>444</sup> Document 848 on the Co-Prosecutors’ List.

<sup>445</sup> D108/26.59 (admitted as E3/504); IS 18.31, D108/26.67 (admitted as E3/383); D108/26.296, D108/50/1.9 (admitted as E3/371); D108/26.186 (admitted as E3/435); IS 16.136 (admitted as E3/436); D81-Annex 1 (E3/38 Annex A, E3/508).

relied on prisoner, interrogation and execution lists in determining the prisoner population of S-21.<sup>446</sup>

174. Furthermore, the contents of S-21 prisoner lists may be corroborated by comparison with each other or with documents of other types. For example, the information contained in a list of Central Zone prisoners is consistent with a previous confession implicating a Central Zone medical cadre named “An”, who later appears in the list as Sam Ath *alias* An.<sup>447</sup> Similarly, the information contained in a list of Northeast Zone prisoners is consistent with civil party applications and witness statements showing that the cadres Chorn Yang and Mouy Pay were called to Phnom Penh and imprisoned at S-21 late in 1978.<sup>448</sup> Both prisoners also gave confessions shortly after the dates given for their arrest, further confirming their presence at S-21.<sup>449</sup>

## 25. Statements

175. There are 14 documents on the Document List categorised as “Statements”.<sup>450</sup> This category is primarily made up of Statements taken by DC-Cam but also includes Statements taken by the Office of the Co-Prosecutor, the School of Oriental and African Studies (SOAS), as well as five other statements from different sources.

### *DC-Cam Statements*

176. There are seven DC-Cam statements,<sup>451</sup> all of which were obtained by the OCP. The DC-Cam statements generally follow two different formats. The first is a question and answer format. The second is a biographical format written by the interviewer and following a narrative format. Both formats include a heading indicating the name, sex, age, location of interview, date of interview and name of interviewer.
177. One document<sup>452</sup> employs a somewhat different format taking the form of a 54 page book manuscript, originally in handwritten French. The contents of the 2 pages which have been translated into English are broadly consistent with contents of an OCIJ

<sup>446</sup> E188 Judgment, 26 July 2010, ERN 00572517-797, paras. 140-142.

<sup>447</sup> D108/26.114 (document 887), at p. 4; cf. IS 5.8 Confession of HANG Bou, 11 March 1977, ERN 00746208-12, at p. 3.

<sup>448</sup> D108/26.267 (document 906); cf. D22/42 Civil party application of Mr. Klan Fit, 24 June 2008, ERN 00346106-12, at p. 3; D208/3 Written Record of Interview (Civil Party, M. Roman Yun) 8 July 2009, ERN 00350300-08, at p. 5.

<sup>449</sup> D159/5.43 S-21 Confession of Muoy Pay, 4 December 78; D159/5.18 S-21 Confession of Chaun Maing *alias* Yang, 4 January 79.

<sup>450</sup> Documents 945-928 on Document List.

<sup>451</sup> IS19.10 (document 918); IS 3.9 (document 916); IS 19.141 (document 921); IS 20.35 (document 919); IS 19.225 (document 920). The documents *Statement of SENG Soeun* ERN 00059307-407 (Khm) (document 924) and *Statement of ROCHOEM Ton alias PHY Phuon* ERN 00660621-51 (document 928) are new.

<sup>452</sup> IS 3.9 (document 916)

interview conducted with the same witness in which Keat Chhon is also mentioned several times.<sup>453</sup>

*OCP Statements*

178. There are two statements taken by the OCP<sup>454</sup> during the preliminary investigation pursuant to Rule 50. Both are consistent as to form with the heading "Interview Notes" appearing on each page and "Office of the Co-Prosecutors" and "Preliminary Investigation" to the right underneath the heading on the first page. The cover page continues listing along the left the name of interview, name of investigator, name of translator, date and time of interview, location of interview and address of the interviewee. The pages are numbered identically at the bottom of the page.

*Other Statements*

179. There are five other statements from different sources.<sup>455</sup> One was taken by SOAS<sup>456</sup>. The statement is written in a biographical style by a person other than the subject and follows a standard narrative format. The heading at the top left of the first page contains the following detail: name of interviewee, age, address and date of interview. This statement was placed on the Case File during the course of the judicial investigation at the request of the OCP.
180. The document entitled *Statement of VAN Rith*<sup>457</sup> is comprised of an interview conducted by Steve Heder who is an established journalist and historian and former OCIJ consultant.<sup>458</sup> This document was obtained by OCP from the author and is available on the SMD. The statement of Norodom Sihanouk is a one page statement written in first person.<sup>459</sup> The original French version is signed. This statement was obtained during the preliminary investigation by the OCP and attached to the Introductory Submission. The outstanding two documents contain statements made by Pol Pot and witness Long Norin.<sup>460</sup> They were placed on the Case File at the request of the OCP during the judicial investigation.

<sup>453</sup> D91/26 (document 936)

<sup>454</sup> New *Statement of* [REDACTED] ERN 00210445-49 (document 927); New *Statement of* [REDACTED] ERN 00210441-44 (document 926).

<sup>455</sup> D366/7.1.503, D366/7.1.503/Corr-1 (document 915); IS 10.18 (document 925); D366/7.1.584 (document 917); D224.106 (document 923) and new document *Statement of VAN Rith* (document 922).

<sup>456</sup> D224.106 (document 923).

<sup>457</sup> IS 20.35 (document 919).

<sup>458</sup> IS 20.12 (document 31); IS 20.6, D29/I (document 35); IS 20.7 (document 37); IS 20.7 (document 38).

<sup>459</sup> IS 10.18 (document 925).

<sup>460</sup> D366/7.1.584 (document 917) and D366/7.1.503 (document 915)



## 26. Written Records

181. There are 50 documents on the Document List categorised as “Written Record”.<sup>461</sup> This category made up of written record of interviews with witnesses conducted by OCIJ and French police authorities.
182. The key internal features of these documents, in particular the source and formal features such as fingerprinting and/or signing in accordance with the Internal Rules and the affixing of the official court stamp provide *prima facie* proof of reliability.
183. Among the 50 written records, there are 46 official records prepared by the OCIJ of witness/civil party testimony.<sup>462</sup> After the statements were read out to the witnesses / civil parties, the documents were fingerprinted or signed by witness/civil party in accordance with Rule 55(7) and were further signed by the relevant OCIJ investigator. All but nine of these records were also signed by an interpreter.<sup>463</sup> An official court stamp is affixed to the first page of each document indicating that it is an original court document.
184. There are also 2 written records, prepared by French police officers of the Paris Investigation Section, of witness testimony made under oath.<sup>464</sup> These documents were also signed by the relevant witnesses in accordance with Internal Rule 55(7) as well as by the relevant police officer indicating that these too are official records. The consistency as to typeface and layout of these documents provide further proof that they are official records. They are each entitled *Rogatory Letter, Written Record of Witness Interview* which appears at the top right of the first page. To the left of this is a box with identifying information of the investigating police officer including address, contact number and year as well as other identifying numbers (eg. Unit Code). Additionally,

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<sup>461</sup> Documents 929-978 on Document List.

<sup>462</sup> D200/9 (document 948); D199/22 (document 953); D143 (document 945); D107/3 (document 140); D166/177 (document 955); D232/9 (document 962); D232/59, D232/59/Corr-1, D232/59/Corr-2 (document 970); D233/9, D233/9/Corr-1 (document 967); D89 (document 938); D91/25 (document 935); D91/10, D91/10/Corr-1 (document 930); D91/3 (document 929); D91/26 (document 936); D166/159 (document 949); D232/8 (document 961); D208/3 (document 956); D246/6 (document 964); D166/176 (document 954); D232/53 (document 968); D247/1, D247/1/Corr-1 (document 969); D234/16 (document 973); D91/15 (document 933); D246/9 (document 965); D369/19 (document 977); D279/3 (document 966); D91/22, D91/22/Corr-1 (document 934); D232/14 (document 963); D200/3 (document 942); D147 (document 947); D234/15 (document 972); D91/21 (document 932); D91/14 (document 931); D279/7, D279/7/Corr-1, D279/7/Corr-2, D279/7/Corr-3 (document 975); D144 (document 946); D200/4 (document 944); D279/6, D279/6/Corr-1, D279/6/Corr-2, D279/6/Corr-3 (document 974); D234/8, D234/8/Corr-1 (document 960); D369/36 (document 978); D166/166, D166/166/Corr-1, D166/166/Corr-2 (document 950); D166/183 (document 959); D234/4, D234/4/Corr-1, D234/4/Corr-2 (document 957); D233/2 (document 958); D94/4, D94/4/Corr-1 (document 937); D125/160 (document 941); D369/4 (document 976).

<sup>463</sup> D234/8, D234/8/Corr-1 (document 960); D369/36 (document 978); D166/166, D166/166/Corr-1, D166/166/Corr-2 (document 950); D166/183 (document 959); D234/4, D234/4/Corr-1, D234/4/Corr-2 (document 957); D233/2 (document 958); D94/4, D94/4/Corr-1 (document 937); D125/160 (document 941); D369/4 (document 976).

<sup>464</sup> D199/18 (document 951); D199/20 (document 952).



although these documents were not prepared by the OCIJ it has stamped as well as signed and dated each endorsing them as “certified copies, consistent with the original.”

185. Finally D232/59.1 (document 971) is a diagram prepared by the witness, [REDACTED] and provided to OCIJ. It is annexed to the Written Record of Interview with this witness<sup>465</sup> and is dated the same date and signed by the witness as well as the relevant investigator. Similarly D200/3.8 (document 943) is a chart provided to the OCIJ by the witness, [REDACTED], as per the final two pages of the Written Record of Interview with this witness.<sup>466</sup> It is also signed by the witness.

### III. RELIEF REQUESTED

186. The Co-Prosecutors request the Trial Chamber to:
- (a) have regard to the indicia of reliability when considering defence objections to the 978 documents on the Document List; and
  - (b) thereafter, to admit the 978 documents on the Document List.

Respectfully submitted,

Date	Name	Place	Signature
23 December 2011	CHEA Leang Co-Prosecutor	Phnom Penh	
	Andrew CAYLEY Co-Prosecutor		

<sup>465</sup> D232/59 (document 970).

<sup>466</sup> D200/9 (document 948).