



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា  
Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

30 January 2013

Trial Day 154

Before the Judges: NIL Nonn, Presiding  
Silvia CARTWRIGHT  
YA Sokhan  
Jean-Marc LAVERGNE  
YOU Ottara  
THOU Mony (Reserve)  
Claudia FENZ (Reserve)

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KHIEU Samphan

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For Court Management Section:

UCH Arun  
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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. CHAN DARARASMEY	Khmer
MS. GUISSÉ	French
MR. KONG SAM ONN	Khmer
MR. KOPPE	English
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. SMITH	English
MR. VENG HUOT	Khmer

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1 P R O C E E D I N G S

2 (Court opens at 0918H)

3 MR. PRESIDENT:

4 Please be seated. The Court is now in session.

5 As the Chamber has already informed the parties to the  
6 proceedings that today's sessions are about the presentations of  
7 key documents concerning the roles of the Accused, documents  
8 proposed by the Co Prosecutors, and the sessions will also be  
9 meant for the objections from parties to the proceedings  
10 concerning the same topic.

11 [09.20.12]

12 Before we proceed to the Co Prosecutors, Ms. Se Kolvuthy is now  
13 instructed to report to the Chamber concerning the status of the  
14 parties to the proceedings as of today.

15 THE GREFFIER:

16 Good morning, Mr. President and Your Honours. All parties to the  
17 proceedings are present, except Mr. Karnavas who is absent due to  
18 his personal health concerns.

19 Mr. Ieng Sary is present in his holding cell due to his health  
20 concerns.

21 Mr. Nuon Chea is also absent due to his health concerns as he is  
22 still admitted to the hospital. The Accused has already submitted  
23 his waiver, document E258/2.

24 Mr. Khieu Samphan is also absent due to his health concern;  
25 however, yesterday, he, through his counsels, request to waive

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1 his presence during the proceedings today.

2 [09.21.30]

3 MR. PRESIDENT:

4 Thank you, Ms. Se Kolvuthy.

5 Concerning the absence of Mr. Nuon Chea, the Chamber still  
6 upholds its decision. Mr. Nuon Chea -- rather the decision has  
7 already been made at the beginning of the hearing, and the  
8 Chamber notes his health concerns and also notes that he is still  
9 being admitted to the hospital.

10 Mr. Khieu Samphan, as to this case, the Chamber wishes to recall  
11 the parties - the document - the public document that issued  
12 before the hearing session yesterday. At the conclusion of the  
13 hearing on the 29th of January 2013, the Khieu Samphan defence  
14 indicated the Accused's willingness to waive his presence during  
15 the presentation of documents considered most relevant to  
16 ascertaining the truth in Case 001/01 (sic).

17 [09.23.01]

18 The Chamber emphasizes the importance of the key documents  
19 hearing, the potential for inculpatory evidence to be discussed,  
20 and the consequence desirability of having the Accused present  
21 during the presentation of documents related to the Accused. The  
22 Chamber, however, notes the Accused only recently returned to the  
23 ECCC detention facility after being admitted to the Khmer Soviet  
24 Friendship Hospital and that he remains weak.

25 The Chamber is consequence - in consequence, grants the Accused

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1 request in part and permits his absence from the proceedings  
2 during the presentation of documents relevant to the accused,  
3 Ieng Sary and Nuon Chea; however, the accused, Khieu Samphan, is  
4 ordered to be present during the presentation of the documents  
5 relevant to his own conduct.

6 The Co Prosecutors have indicated that they will present key  
7 documents related to Khieu Samphan on the afternoon of Wednesday,  
8 the 30th of January, and the morning of Thursday, 31st of  
9 January. The Chamber therefore orders the Accused to participate  
10 in these sessions from the ECCC holding cell.

11 [09.24.37]

12 Next, we would like to hand over to the Co Prosecutors for this.  
13 The presentation of the Co Prosecutor is relevant to the roles of  
14 the Accused.

15 The Chamber notes Mr. Kong Sam Onn is on his feet. He may  
16 proceed.

17 MR. KONG SAM ONN:

18 Thank you, Mr. President. Before Co Prosecutors are to present  
19 the documents concerning the key roles of the Accused, may we ask  
20 that the Co Prosecutors be instructed to send or submit all the  
21 list of the documents to be presented during the proceedings to  
22 the defence counsels? We know that there are a lot of documents  
23 to be presented, and we perhaps have no time to read them all,  
24 but it would be of great assistance if the Co Prosecutors can do  
25 so, Your Honours. We are grateful.

4

1 MR. PRESIDENT:

2 Co Prosecutors, could you also advise the Chamber on this?

3 [09.25.48]

4 MR. SMITH:

5 Good morning, Mr. President. Good morning, gallery and counsel.

6 Your Honours, we would be happy to provide a list to the Defence.

7 Our difficulty has been, as you know, because of the fairly short

8 scheduling, people have been working late to work out what those

9 - what best documents could illustrate the cases, so we will

10 provide them as soon as possible. This is - Your Honour, this is

11 for the list of documents, is that right?

12 MR. PRESIDENT:

13 Yes, indeed, it is the list of the documents the Co Prosecutors

14 wish to present during these sessions. We hope that answered

15 counsel's question.

16 Counsel for Mr. Ieng Sary, you may now proceed.

17 MR. ANG UDOM:

18 Good morning, Mr. President and Your Honours. Good morning to

19 everyone in and around the courtroom.

20 [09.27.05]

21 Yesterday, the Co Prosecutors indicated that they were ready to

22 present the documents, and we have been waiting for the list of

23 the document to be delivered to us. We have not received it yet.

24 We also note that the Co Prosecutors stated that they could have

25 been doing their best to make sure that the Defence be offered

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1 the documents, but they should have been prepared. And as parties  
2 to the proceedings, they should be well prepared to know what  
3 kind of documents to be presented and to be shared with the  
4 learned colleagues, because we, as the defence counsels, may need  
5 some time to also review the documents and consult with our  
6 client respectively concerning what we are going to do with the  
7 documents. Unfortunately, the documents are going to be  
8 presented, although we have not been well informed.

9 (Judges deliberate)

10 [09.30.08]

11 MR. PRESIDENT:

12 The Chamber wishes to hand over to Judge Cartwright to respond to  
13 the remark made by counsel for Mr. Ieng Sary.

14 JUDGE CARTWRIGHT:

15 Thank you, President.

16 The Chamber does not accept the objections made by national  
17 counsel for the Khieu Samphan and Ieng Sary's teams. The  
18 prosecutor has indicated that he has done his best, and at the  
19 last segment of this document hearing it was obvious to the  
20 Chamber that the prosecutors and the Ieng Sary team were the only  
21 ones prepared for the document hearing and the Chamber considers;  
22 first, that it is inappropriate to criticize the prosecutor  
23 when teams themselves have not been prepared to the limits of  
24 their ability given the disadvantages that each team has  
25 encountered.

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1 And, secondly, all documents are on the case file and the parties  
2 must be able to follow reasonably, expeditiously everything that  
3 the prosecutor does. So the objections are not sustained. Thank  
4 you.

5 [09.31.45]

6 MR. PRESIDENT:

7 Counsel, do you have any new issue to raise? If it is the same  
8 issue, you are not allowed to raise it again, because it has  
9 already ruled upon, but if it is a new issue, you may do so. You  
10 may proceed.

11 MR. ANG UDOM:

12 Mr. President, I would like to correct myself. I did not mean to  
13 object against the document presentation. It is my pure  
14 observation concerning this presentation. I have no objection in  
15 respect to the document presentation.

16 MR. PRESIDENT:

17 Mr. Prosecutor, you may proceed.

18 MR. CHAN DARARASMEY:

19 Good morning, Mr. President. Good morning, Your Honours. Good  
20 morning to everyone in the courtroom and members of the public in  
21 the gallery.

22 [09.32.35]

23 This morning, I am going to present some of the key documents  
24 concerning the role and responsibility of Mr. Ieng Sary he held  
25 during the period of the Democratic Kampuchea, as well as during



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1 the period when the Communist Party of Kampuchea ruled Cambodia,  
2 and I would like to present some of those key documents in order  
3 as follows.

4 The prosecutor will make use of the time allocated by the Chamber  
5 to present 29 documents and eight videoclips, which evidence the  
6 roles of Mr. Khieu Samphan – rather, Mr. Ieng Sary when he was in  
7 power. These documents will reveal to the public, as well as the  
8 Court, the various evidence concerning the activities of the  
9 Democratic Kampuchea under the jurisdiction of this tribunal, and  
10 this document will be presented in order and it will take us two  
11 to three days to present these documents and videoclips.

12 [09.34.11]

13 And the documents that – and videoclips we are going to present  
14 are the key documents which reveal the various activities,  
15 speeches, and other statements made by Mr. Ieng Sary. And we will  
16 also bring to the attention of the Chamber, telegrams as well as  
17 minutes of the meeting, and we are going to present the  
18 compilation of those documents in a compendium in sequential  
19 orders. And these documents will be presented in chronological  
20 order so that we will be able to show to the Court and the public  
21 the truth of what happened during the Democratic Kampuchea  
22 period.

23 When I say the Democratic Kampuchea period, we also mention some  
24 preceding activities that Mr. Ieng Sary did before the Democratic  
25 Kampuchea leadership took power. And as for the key evidence that

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1 we are going to present, we are going to select only a few  
2 documents and then I will hand over to Mr. William Smith, who  
3 will present additional documents. And I believe that the  
4 evidence that we are going to present, both the documentary  
5 evidence as well as the videoclip, will assist the Court to  
6 ascertain the truth. And the prosecutor will also -- we will not  
7 present the testimony of witnesses or experts for this  
8 presentation.

9 [09.36.22]

10 And I would like to seek leave from the Chamber to - for Mr.  
11 William Smith to present these document and videoclips. May I ask  
12 your leave, Mr. President, so that my colleagues can present  
13 these documents and videoclips?

14 MR. PRESIDENT:

15 Yes. International Prosecutor, you may proceed.

16 MR. SMITH:

17 Thank you, Mr. President.

18 Your Honours, as my colleague has just mentioned, we will be  
19 presenting four types of documents. The first type will be  
20 documents in relation to Ieng Sary's connection to the CPK as an  
21 ordinary member. Secondly, we'll present documents that are  
22 connected to Ieng Sary in his role as a Standing Committee  
23 member. And third, documents will be presented in connection to  
24 his role as the Minister of Foreign Affairs. And finally, a group  
25 of documents will be interviews with the Accused in relation to

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1 his role, both shortly before, during the period, the Democratic  
2 Kampuchea period, and afterwards.

3 [09.37.40]

4 And if I can begin with the first document; it is in fact the few  
5 agreed facts that were agreed to by Mr. Ieng Sary at the  
6 beginning of this trial to understand his role during the period.  
7 Those facts as to his activities prior to 1975 are essential to  
8 understanding the documents and how they related to him during  
9 the CPK period.

10 Your Honours, if I can refer to E9/21.3 -- that's Annex A --  
11 that's E00656964 to 81. This is a copy of the indictment  
12 paragraphs, and they were sent to Mr. Ieng Sary and his defence  
13 team, and they highlighted the facts in relation to his role  
14 prior to 1975 that he agreed with, with some short commentary on  
15 a few facts which he disagreed.

16 [09.38.58]

17 If we look at paragraph 995 of the indictment, Mr. Ieng Sary has  
18 agreed that in 1950 he moved to Paris to study.

19 At paragraph 996, he agreed he returned to Phnom Penh in 1957. He  
20 agreed he was a professor of history and geography at  
21 Kampucheabot Private High School until he went into hiding in  
22 1963. He agreed that in 1960 he participated in the First Party  
23 Congress of the Workers' Party of Kampuchea, the new name for the  
24 KPRP. He was a member of the Central Committee and was made a  
25 full-rights member of the Standing Committee at that time.

10

1 He agreed that "in April 1963, after being named by Sihanouk as  
2 one of the 34 known 'leftists', he fled to the Vietnamese border,  
3 around the same time as Son Sen, to join Pol Pot." He agreed in  
4 1966 he and other members moved to -- of the CPK -- moved to  
5 Ratanakiri in the Northeast where a new Central Committee  
6 headquarters was established and Ieng Sary then became the  
7 Northeast Zone Secretary.

8 [09.40.40]

9 "In 1970, Ieng Sary travelled to Hanoi where he organized the  
10 'Voice of FUNK' radio station, then managed by Ieng Thirith. From  
11 Hanoi, Ieng Sary flew to Beijing to liaise with the Chinese  
12 Communist Party. From 1971, he was given a permanent base in  
13 Beijing."

14 He concurrently became special envoy of the Internal Resistance  
15 in Beijing, and was placed in charge of relations with Norodom  
16 Sihanouk. He agreed that during this period he returned to  
17 Cambodia twice, once in 1973 when he accompanied Norodom Sihanouk  
18 to visit the liberated zones, and again in 1974. He returned to  
19 Cambodia permanently in April 1975. That's at paragraph 999 of  
20 the indictment. He also agreed that during the CPK regime, he  
21 used the revolutionary alias of Van.

22 [09.41.47]

23 Your Honours, I would now ask that we show a video. It's E/2348R.  
24 Now, this video depicts the meeting or records the meeting of  
25 Norodom Sihanouk and Ieng Sary with the other leaders of the CPK,

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1 including Pol Pot, Khieu Samphan, Hu Nim in the Liberated Zone,  
2 and including a visit to Angkar Wat in March 1973. This is the  
3 visit that he has agreed to in the agreed facts.

4 At the same time the video is being played, Pol Pot is narrating  
5 about how he became the leader of the Party. It's 1 minute and 35  
6 seconds, and with Your Honours' leave, I would ask that that be  
7 played.

8 MR. PRESIDENT:

9 You may proceed.

10 AV technician, please play this videoclip as per the request by  
11 the prosecutor.

12 [09.43.45]

13 (Presentation of audio-visual document, interpreted from Khmer)

14 "It was my character when - since I was young. I did not speak  
15 much. Another author interviewed Mr. Jacques Vergès, and Vergès  
16 told this author that Vergès had known me for about 20 to 30  
17 years, and according to him, I was a young man who was polite,  
18 discrete, and cheerful.

19 "I did not want to appear as a leader, and friends asked me about  
20 my past, but I told them that; firstly, I worked a great deal and  
21 then fortune played a major part in my life, so just when I  
22 became the Secretary of the Party. There was no one else, so they  
23 gave me the job. I said I didn't - I did not want the position."

24 (End of presentation)

25 [09.45.11]

1 MR. SMITH:

2 Thank you, Your Honour. Your Honours obviously saw Ieng Sary in  
3 that videoclip with the other leaders.

4 Turning back to the facts agreed by Ieng Sary. At paragraph 33,  
5 he agreed, "as of the 17th of April, the CPK was governed by a  
6 Statute which had been initially adopted at the Party's first  
7 Congress in September 1960."

8 [09.45.40]

9 At paragraph 20, he agreed that the 1960 Congress, at which the  
10 KPRP became a "Workers party", the real starting point of the  
11 Cambodian communist movement.

12 He agreed, at paragraph 35, that "both the Central Committee and  
13 the Standing Committee were comprised of 'full-rights' and  
14 'candidate' (or 'reserve' members). Candidate status was a lower  
15 ranking than full-rights."

16 He then agreed a candidate member was allowed to participate in  
17 meetings without the right of decision-making.

18 At paragraph 42, he agreed that "Pol Pot was the highest  
19 authority in the CPK as a secretary of the Standing Committee."

20 He agreed that to "talk to Pol Pot it was the same as talking to  
21 the Party."

22 At paragraph 43, he agreed "Nuon Chea was second in the Standing  
23 Committee hierarchy followed by Ta Mok." He agreed in Pol Pot's  
24 absence, Nuon Chea would preside over meetings of the Standing  
25 Committee.

1 [09.46.57]

2 At paragraph 22, he agreed: "After the disappearance in 1962 of  
3 the Secretary of the Workers Party, Tou Samouth, (whose  
4 disappearance was never elucidated), a Second Party Congress was  
5 held in late February 1963. Saloth Sar became the new secretary  
6 and Nuon Chea became deputy secretary. This Congress was held in  
7 Phnom Penh, and the participants were again a small group that  
8 included Ieng Sary and So Phim (both of whom were elected  
9 full-rights members of the Standing Committee), Ta Mok, Vorn Vet  
10 and Ros Nhim. A few months later, after the government published  
11 a list of 34 known 'leftists', Pol Pot and a number of the other  
12 named Party leaders, including Ieng Sary and Son Sen, fled the  
13 capital. They took refuge at a Vietnamese base on the border,  
14 where they later established an office known as Office 100."  
15 He agreed: "By 1965, they were joined by their spouses, Khieu  
16 Ponnary, Ieng Thirith, and Yun Yat. Nuon Chea, whose identity had  
17 remained secret and hence was not on the 'list of the 34', stayed  
18 in Phnom Penh and assumed responsibility for Party operations in  
19 the capital and most of the zones."

20 [09.48.33]

21 He agreed at paragraph 23, that, "In 1967, several Party leaders  
22 agreed to launch a general uprising in 1968." He agreed a Central  
23 Committee Headquarters, also called Office 100, was relocated to  
24 Ratanakiri, a few kilometres away from Office 102, the Northeast  
25 Zone Office used by Ieng Sary (who had been appointed Zone

1 Secretary).

2 Your Honours will note on the screen where there's a yellow  
3 comment bubble, that's where the -- Ieng Sary has disagreed and  
4 put in an alternative word. And I'm reading in the word that was  
5 agreed by him.

6 At paragraph 25, "On the 18th of March 1970", he agreed that  
7 "Prince Norodom Sihanouk was overthrown by General Lon Nol and  
8 Prince Sirik Matak, who established a regime which was later  
9 called the 'Khmer Republic'. On the 23rd of March 1972 -- 1970,  
10 Sihanouk announced the formation of the National United Front of  
11 Kampuchea, and called on his countrymen to rise up against the  
12 new government."

13 [09.49.58]

14 At paragraph 27, he agreed he went to Hanoi in early 1991 (sic)  
15 "to organize the radio (the 'Voice of FUNK'), which was placed  
16 under the authority and control of Ieng Thirith until May 1975.  
17 Thereafter, in April '71 -- 1971, he travelled to Beijing to  
18 serve as a 'special emissary of the resistance movement'. At his  
19 villa in Beijing, Ieng Sary had a direct telegraph link to Office  
20 100."

21 The existence of the Communist Party of Kampuchea was not  
22 officially announced until September 1977, that's what he agreed  
23 to, at paragraph 18.

24 Your Honour, they are the agreed facts that -- in relation to the  
25 role of Ieng Sary prior to 1975, and I think they're particularly



15

1 relevant in understanding what positions he took up once the CPK  
2 gained power and the extent and scope of those roles.

3 [09.51.27]

4 Your Honour, the next document I would like to refer to is  
5 E3/214. This is the Statute of the Communist Party of Kampuchea  
6 of 1976. Your Honours have heard evidence that the Statute came  
7 into existence from 1960 and changes were made over time. But  
8 bearing in mind the Statute's early origins, in proceeding in a  
9 chronological format, I think it's appropriate to discuss this  
10 document now.

11 Your Honour, this document is highly probative evidence of the  
12 functions of the Party and its members. The Statute legislates on  
13 the purpose of the Party, its organizational structure and  
14 responsibilities, its organizational principles, the rights and  
15 duties of Party members, Party discipline and criteria for Party  
16 leadership positions, amongst other matters.

17 To assist in understanding Ieng Sary's role during the DK period,  
18 there are a number of provisions that are particularly relevant.

19 If I can direct Your Honours to ERN, 00184024; Khmer, 0053009,  
20 this is the commencement of the Statute where it lays out the  
21 fundamental principles and political stances of the Party during  
22 the new era of socialist revolution and the construction of  
23 socialism.

24 [09.53.15]

25 If we move down to page 2 of the Khmer under the section, it

1 briefly states the goals of the Party --

2 "The current new strategic principles and stances of the  
3 Communist Party are to totally and permanently achieving the  
4 National Democratic Revolution and after having taken major  
5 strides in Socialist revolution, is to continue to make and to  
6 achieve Socialist revolution in Kampuchea and to move forward  
7 towards Communism in Kampuchea in the future. In this historical  
8 framework, the Communist Party of Kampuchea must defend the  
9 results of the Revolution and defend and construct the country as  
10 well.

11 "The Party arms itself with and holds correct and strong  
12 proletarian world views and life views, absolutely struggles  
13 against non proletarian world views and life views; and opposes  
14 the revolution of the petty bourgeoisie, the capitalists, the  
15 feudalists, the imperialists, and all reactionaries.

16 "Followinging these stances, the Communist Party of Kampuchea  
17 absolutely fights and opposes idealism, experimentalism,  
18 dogmatism, and liberalism."

19 [09.54.47]

20 As Your Honours would know, this Statute has very similar  
21 rhetoric in the principle section as in other sections relating  
22 to Party members. So I would now like to turn to Article 2 - or  
23 perhaps before I do that, I would like to refer to the last two  
24 paragraphs of fundamental principles at paragraph 6 at page 6 and  
25 7 of the Khmer and read:

1 "The Communist Party of Kampuchea clearly understands its  
2 extremely heavy task, its highest task. Every member of our Party  
3 must strive to build and to consolidate the internal solidarity  
4 and unity of the Party to make it stronger politically,  
5 ideologically, and organizationally at all times, and must always  
6 be on the offensive, forging himself in the heat constantly,  
7 always agitating, attacking and pushing constantly, inside the  
8 great, hot, and deep revolutionary movement of the popular masses  
9 and the worker-peasants in the unions and cooperatives and the  
10 Revolutionary Army, making socialist revolution and constructing  
11 socialism successfully as quickly as possible, keeping on moving  
12 forward towards Communism in our most-beloved Kampuchea, and  
13 through this, making an important contribution inside the world  
14 revolutionary movement."

15 [09.56.32]

16 Your Honours, now moving to the duties of a member of a - of the  
17 Party, the duties that people took up when they joined the Party.  
18 That starts to outline and fill out, perhaps, the roles of any  
19 Party member in the CPK, and in particular, of course, Ieng Sary  
20 and the Accused -- the other Accused.

21 If we look at Article 2, where it states, "The duties of Party  
22 members", it states:

23 "Every Party member has the following duties:

24 "Duties among the popular masses;

25 "A. To proselytize the popular masses on Party politics,

1 ideology, and organization, and mingle closely with the popular  
2 masses, the worker-peasants in the unions and cooperatives, and  
3 the Revolutionary Army. Must be highly responsible to the popular  
4 masses, serve the popular masses with all the heart and  
5 unconditionally, be polite with the popular masses, and strive to  
6 learn from the popular masses."

7 [09.57.49]

8 "B. Agitate the popular mass movement, especially the  
9 worker-peasant popular masses in the unions and cooperatives, and  
10 always be connected with the tasks of national defence and  
11 building Democratic Kampuchea in the direction of socialist  
12 revolution and building socialism."

13 It then states the internal duties of the Party member:

14 "A. Have a life inside a Party Branch organization regularly,  
15 once monthly. Every Party member, no matter how high his duty,  
16 even all the way up to the highest, must be in a Party Branch and  
17 have a regular Branch life;

18 "B. Respect Party organizational discipline unconditionally, with  
19 the highest awareness;

20 "C. Always strive to build Party political, ideological, and  
21 organizational stances, to absorb them ever more firmly, in order  
22 to implement the Party politics, ideology, and organization ever  
23 better, and ever more efficiently."

24 [09.59.04]

25 "D. Always and absolutely strive well and closely to consolidate

1 internal Party solidarity and unity;

2 "E. Always and absolutely strive to maintain Party secrecy with a  
3 high stance of revolutionary vigilance;

4 "F. Strive to implement the regime of criticism and  
5 self-criticism, the regime of inspection of revolutionary life  
6 views properly, carefully, and actively, in order to build  
7 oneself and the internal Party as good examples, and always  
8 actively fight in the work of national defence and building the  
9 country of Democratic Kampuchea according to the Party's  
10 direction of socialist revolution and building socialism;

11 "G. Must have solid principles and stances of proletarian  
12 patriotism and building -- and proletarian internationalism."  
13 [10.00.04]

14 "H. Strive to study culture, technology, science, in order to  
15 increase capabilities to serve the work of the national defence  
16 and national construction of Democratic Kampuchea in the  
17 direction of the socialist revolution and the building of  
18 socialism, ever better, ever more efficiently."

19 Article 3 deals with the rights of Party members, which also  
20 relates to the role of Ieng Sary.

21 "Every full-rights Party member has the following rights:

22 "A. To consider and discuss and join in decision-making on all  
23 Party affairs, doing this according to the principle of  
24 democratic centralism."

25 [10.00.49]

1 If we look at Article 4, Party discipline, it states:

2 "1. In order to maintain and to consolidate internal Party  
3 solidarity and unity to be always good, the Party has designated  
4 and raised the principle of respect for Party discipline and  
5 organization. Party discipline is very firm, but stands on the  
6 principle of awareness of each individual Party member. Each  
7 Party member, regardless of position, must absolutely respect and  
8 follow Party discipline.

9 "Respecting Party discipline and organization is respecting the  
10 Party political line, Party ideological principles and stances,  
11 Party ideological stance - organizational stances, and Party  
12 statutes.

13 "2. Any Party member or any Party echelon opposing the Party  
14 political line, Party ideological stances, Party organizational  
15 stances, and Party Statute, causes fractures in internal Party  
16 solidarity and unity, creates groups to carry out activities to  
17 destroy the Party, the revolution, and the people, abandons the  
18 duty of the Party member, causes a break in secrecy, endangers  
19 the Party, the revolution, and the people and Party property,  
20 acts immorally, or does not participate in Branch lifestyle  
21 meetings for three consecutive months, commits Party discipline  
22 violations which are punishable, lightly or severely as follows:"

23 [10.02.36]

24 "A. Criticism or warning;

25 "B. Change of duties -- removal from duty;

1 "C. Rejection from the Party -- Various punishments according to  
2 whether the violations were activities opposing the Party, part  
3 of a continuous chain of such violations, or was treason against  
4 the Party.

5 "Implementation of Party discipline is done through detailed  
6 examination, analysis, and deliberation standing on the principle  
7 of absolute collectivity."

8 To further understand Ieng Sary's role and the other Accused, if  
9 we look at Article 7, particularly in relation to Ieng Sary, it  
10 sets up the structure of the Party and the way in which it would  
11 organize itself. And I'll just read the first part. It states:

12 [10.03.38]

13 "Article 7: Party organizational lines are as follows -- second  
14 part, paragraph 1:

15 "During the period of time between one" -- I'll slow down -

16 "During the period of time between one General Conference to  
17 another, the highest operational unit throughout the country is  
18 the Central Committee."

19 Your Honours, I won't read that down further, as we all can see  
20 it relates to the structure -- administrative structure that was  
21 in existence at the time or legislated for, but the important  
22 point was the Central Committee was the highest operational unit  
23 throughout the country.

24 If then we move to the Central Committee tasks, and the reason  
25 why I do this, of course, is that Ieng Sary admits that he was on

1 the Central Committee and the Standing Committee, in fact, which  
2 we'll talk about later.

3 Article 23 established the tasks of the Central Committee, which  
4 relates to the role of Ieng Sary.

5 [10.04.56]

6 "The tasks of the Central Committee are:

7 "1. Implement the Party political line and statute throughout the  
8 Party;

9 "2. Instruct all Zone and Sector -- city organizations and Party  
10 organizations responsible for various matters to carry out  
11 activities according to the political line, and ideological and  
12 organizational principles and stances in accordance with the task  
13 of national defence and building Democratic Kampuchea and in  
14 accordance with the Party direction of socialist revolution and  
15 building socialism."

16 [10.05.34]

17 "3. Govern and arrange cadres and Party members throughout the  
18 entire Party, along with all core organizations, by constantly,  
19 clearly, and closely arming them politically -- sorry -- clearly  
20 and closely, grasping personal histories, political, ideological,  
21 and organizational stances, and closely and constantly arming  
22 them politically, ideologically, and organizationally;

23 4. Act in the name of the Party in contacts with all  
24 brother-sister, Marxist-Leninist parties."

25 [10.06.18]



1 Article 9 and 10 is particularly relevant to Ieng Sary in terms  
2 of his roles and responsibilities in that Article 9 relates to  
3 branches, and it states:

4 "Every revolutionary cooperative, factory, military company-level  
5 unit, worksite, and Ministry-Office may organize a Party branch,  
6 provided there are three or more Party members."

7 I will now go down to the tasks of the Party branch at Article  
8 10, and you can see those tasks are very similar to the duties  
9 that an individual member has to the Party in terms of converting  
10 the popular masses to their revolutionary ideas and agitate  
11 popular masses for revolution. Very similar wordings in the  
12 statutes, so I won't read that again, but the reason why I  
13 mention it because it adds an extra level of responsibility for  
14 an individual running a Party branch and extra tasks.

15 And if we look at Article 6, "Organizational Principles of the  
16 Party", that article, in fact, assists in understanding the role  
17 of Ieng Sary and the other Accused because it relates to how  
18 decision-making should be done and it relates to how reporting  
19 should happen and how it should happen.

20 If we look at Article 5, Organizational Principles of the Party -  
21 it's Article 6, sorry - it states:

22 [10.08.24]

23 "The Communist Party of Kampuchea takes the principle of  
24 democratic centralism as its organizational foundation, that is:  
25 "All Party leadership organizations must implement collective

1 leadership and have specific persons holding responsibility.

2 "All the various decisions of the Party must be made  
3 collectively.

4 "All echelons of Party leadership organizations must be  
5 collectively appointed."

6 In relation to reporting up and down echelons, 6.4 states --  
7 sorry, I haven't got to that, but in relation to decision-making  
8 --

9 "The minority respects the majority. Lower echelon respects upper  
10 echelon. The individual respects the collective. The private  
11 respects the organization. And the various echelon organizations  
12 respect the central organization.

13 "At the designated times, the lower echelon must report to the  
14 upper echelon on the situation and on work done.

15 "Also at each designated time, the upper echelon must report to  
16 the lower echelons regarding the general situation and regarding  
17 instructions which they must carry out."

18 [10.10.12]

19 That clearly defines the supervisory reporting, monitoring  
20 responsibilities of a Communist Party member, and particularly, a  
21 member in the central organization and it clearly stipulates that  
22 decisions must be made collectively at each particular echelon  
23 level. That, Your Honour, we believe is highly relevant to Ieng  
24 Sary's role on the Standing Committee, the Central Committee, and  
25 as Minister of Foreign Affairs with -- that has CPK branches

1 within it.

2 The last article I'll refer to, before I move on, is just  
3 briefly, Chapter 2, Article 5, it states there's 10 criteria for  
4 selection into the various Party leadership organizations, and  
5 those criteria seem to be criteria that requires a strong --  
6 stronger determination or a stronger stance than the regular  
7 members in order to participate in a leadership organization.

8 You'll see at (1) it states:

9 [10.11.45]

10 "The criteria for leadership you must have a strong revolutionary  
11 stance on the Party line;

12 "2. You must have a strong Party revolutionary stance on  
13 proletarian ideology;

14 "3. A senior leader must have a strong revolutionary stance on  
15 Internal Party solidarity and unity;

16 ""4. A strong revolutionary stance on the lines of organization,  
17 leadership, and work for the Party;

18 "5. A strong Party revolutionary stance on revolutionary  
19 vigilance, maintaining secrecy, and defending revolutionary  
20 forces;

21 "6. A strong revolutionary stance on independence, mastery,  
22 self-reliance, and self-mastery;

23 "7. A strong revolutionary stance in making and examining  
24 personal histories and revolutionary life views;

25 "8. A strong revolutionary stance on class;

1 "9. A strong revolutionary stance on clean life morals, and  
2 politically clean;

3 "10. The capability to build oneself and be receptive to future  
4 leadership."

5 [10.13.03]

6 Your Honour, to conclude, on this document the Statute provides  
7 compelling evidence that Party members in their respective  
8 positions within the Party were obligated to continue to defend  
9 and make a socialist revolution. To achieve this, members were  
10 required to convert the population to this political ideology and  
11 agitate the population to participate in the Revolution. Within  
12 the Party, the Statute required them to participate in criticism  
13 and self-criticism sessions, respect Party discipline, build  
14 their ideological stance in line with the Party, strive for Party  
15 unity and solidarity, and maintain secrecy with vigilance.  
16 The Statute, in summary, at the level of senior leadership  
17 created obligations and duties that were more onerous. At the  
18 highest administrative level, as identified in the Statute, the  
19 Central Committee had the most responsibility to ensure that the  
20 political line was implemented throughout the country. Taken in  
21 its entirety, this Statute legislates a behavioural template for  
22 which Party members had to work in both their private and public  
23 lives during the DK period. This document, therefore, is central  
24 to understanding the role and behaviour of Ieng Sary and the  
25 other accused during the period.

1 [10.14.48]

2 Your Honour, if I now move to the next document, and  
3 particularly, E3/597, which is an interview with Ieng Sary  
4 entitled, "Interview with a Cambodian Revolutionary", which was  
5 reported in "le Monde" newspaper on the 15th of January 1972.

6 In the interview, amongst other matters relating to military and  
7 political developments by the United National Front in Cambodia,  
8 Ieng Sary provides evidence of the extent of his role before '75  
9 in the Communist Movement, his views on the United States, and  
10 the CPK practice and importance of working with the population,  
11 and organizing power through a disciplined hierarchy through  
12 committees at different levels.

13 At Khmer, 00744036; and at French, 00722245; and at English,  
14 00003963, he was asked: "How, practically, do you organize the  
15 power of the people?"

16 "In the vast liberated zone, we have applied the FUNK program. It  
17 rests on the principle by which 'the people are the source of all  
18 power'. At all administrative levels, from hamlets, villages,  
19 districts, provinces, committees are functioning as the state  
20 apparatus."

21 [10.16.35]

22 Further down, at Khmer, 00744036, he states:

23 "Each task is simplified to the maximum at each echelon. The  
24 number of functionaries is kept low to assure a disciplined  
25 political force among the people [...] Our cadres go into the

1 villages to live with the people and direct the task of  
2 political, cultural and military education. They take part in  
3 production without receiving any pay and live frugally."

4 In relation to the extent of his work, or the extent of his role,  
5 as he entered into the DK period, as Standing Committee member,  
6 he states -- he answers this question: "A people's war isn't  
7 improvised. Now, yours must have become -- begun very recently.  
8 What stage of organization have you reached?"

9 "Since 1951 we have followed step by step the criminal actions of  
10 American imperialism and its Cambodian servants. We have learned  
11 to understand the nature of this imperialism which we have always  
12 fought and whose intrigues have tended towards destruction of the  
13 independence and neutrality of Cambodia in order to transform her  
14 into a base for American aggression against the countries of  
15 Southeast Asia and China. We had, for a long time, foreseen the  
16 coup d'état.

17 "We view that the revolution -- the evolution, sorry -- of the  
18 situation in Cambodia and South Vietnam would inevitably lead  
19 American imperialism and the Phnom Penh clique to commit the  
20 heinous crime of March the 18th, 1970. In developing this  
21 analysis, we have over a long period carried out intense  
22 political work among the people so they could understand the  
23 profound nature of imperialism and its servants. Thus, long  
24 before the coup d'état, we had achieved the political  
25 mobilization of the masses with a view to leading a long-term war

1 of resistance. So, on the whole, our people weren't totally  
2 surprised by the events of 1970.

3 [10.19.23]

4 "These last 20 years of struggle against French colonialism and  
5 American imperialism have taught our people, that, in order to  
6 make the revolution triumph, it is indispensable to have at each  
7 echelon a guiding core composed of men firm in the principles of  
8 our political line, and who know how to apply them in a creative  
9 way in concrete national conditions, with very precise  
10 objectives. These men must be tightly bound to the people. The  
11 struggle must rely firmly on the most hard-working of the masses  
12 -- the workers and the peasants."

13 [10.20.13]

14 Your Honours, if I move to the next document, E3597, this is one  
15 other extract that I submit puts Ieng Sary's role in context in  
16 terms of his beliefs as he enters into the CPK, the DK period in  
17 1975. The document is E3/11 and it's an interview with Ieng Sary,  
18 published in "The Vietnam Courier" on the 31st of January 1972,  
19 and he answers questions about the progress of the FUNK and GRUNK  
20 resistance movement in Cambodia, with particular reference to  
21 agricultural reforms in liberated areas. These statements, Your  
22 Honours, provide insight at the time as to how people and land  
23 would be used if a full socialist revolution was achieved by the  
24 CPK. If I can take Your Honours to Khmer ERN 00711428 to 29; in  
25 English, 00762415 to 16; and French, 00738624. This is how he

1 responded to this question:

2 [10.21.56]

3 "Insofar as the peasantry is concerned, have you carried out  
4 democratic reforms, chiefly regarding land?" Sub-question: "How  
5 is agricultural production organized?"

6 "The agrarian problem is of paramount importance. We have taken  
7 many democratic measures to mobilize the poor peasants, the main  
8 force of our resistance war, to free them from old social  
9 structures and raise production.

10 "The landowners, by the -- the land owned by the traitors  
11 totalling several thousand hectares has been confiscated and  
12 become the" -- excuse me, I just lost it -- "and become" --  
13 sorry, I just lost my page, Your Honour -- "and become the common  
14 of the peoples' power or distributed to lack-land peasants  
15 according to local conditions.

16 "The land whose owners are absent for reason other than treason  
17 has been temporarily entrusted to the peoples' power to be either  
18 farmed by the State, or if not, distributed to lack-land peasants  
19 for a given period, or rented to them.

20 [10.23.37]

21 "Part of the proceeds from the State-tilled land is laid aside  
22 for its owners, in consideration of their political attitude  
23 toward the resistance war waged by FUNK.

24 "Fallow land of proprietors taking part in the resistance are  
25 cultivated by lack-land peasants against payment of a small rent.



1 With regard to virgin land, having no owners, it is farmed by  
2 poor peasants.

3 "On the whole, the land rents which exceed even 50 per cent of  
4 the production cost, have been sharply cut. The interest rates  
5 which surpassed even 50–60 per cent per year are forbidden.

6 "To bring to fruition that agrarian policy in accordance with the  
7 FUNK Political Program, we are carrying out:

8 "Intensive agitation work among the peasants, rich and poor in  
9 order to drive home to them that policy for its strict  
10 implementation. Those who eagerly apply it are staunch fighters  
11 in our war for national salvation.

12 [10.24.54]

13 "The organization of all the peasants who approve the agrarian  
14 reform into a patriotic peasants' association.

15 "We've encouraged the establishment of producers' cooperatives  
16 and consumers' cooperatives to eliminate middlemen. In  
17 agricultural production, the mutual aid movement has been largely  
18 expanded among the peasants. In each FUNK committee at all  
19 administrative levels, a responsible cadre is appointed to see  
20 the development of production, whose main objective is to cater  
21 for our resistance war. Parallel to political education and the  
22 mutual aid movement, the peasants have been endeavouring to  
23 improve two rice crops per year. In anticipation of a prolonged  
24 war, we attach great importance to subsidiary crops and the  
25 rearing of pigs and poultry."

1 [10.25.56]

2 Your Honour, I would now like to move to 1975, and by doing so I  
3 would ask that we play a video, which is E3/3051R. Your Honour,  
4 this is a video footage showing Pol Pot, Nuon Chea, Ieng Sary,  
5 Son Sen and other leaders of the CPK, leading a rally at the  
6 Olympic Stadium with thousands of cadre in attendance, and tens  
7 of thousands of others. The video, we submit, demonstrates the  
8 power and authority of Ieng Sary and the other leaders possessed  
9 as a group.

10 Your Honour, the exact date of this footage is not known, so it  
11 could have occurred at any point during the DK period, but it's  
12 certainly reflective of a number of those rallies that we've  
13 heard about in evidence.

14 So, Your Honour, I seek leave to be able to play that. It's four  
15 minutes and 12 seconds.

16 MR. PRESIDENT:

17 You may proceed.

18 AV booth officers are now instructed to ensure that the videoclip  
19 is now put up on the screen.

20 MR. SMITH:

21 Just to be clear, Your Honour, this video has no sound.

22 (Presentation of video document)

23 [10.31.55]

24 MR. SMITH:

25 Thank you, Your Honour.

33

1 Your Honour, the next document would be – or video, would be a  
2 five minutes and 32 seconds, and that relates a bit more to Ieng  
3 Sary's role as Minister of Foreign Affairs. Albeit it's -- they  
4 can't really be split. If Your Honour would like to see that  
5 video before the break, or shall we break now?

6 Your Honour, the document number is E3/3201R, and it demonstrates  
7 Ieng Sary's role with international delegations in matters  
8 relating to significant state affairs, such as relationships with  
9 Vietnam.

10 This is a video of a Vietnamese delegation and we do know the  
11 date of this, this is on 27th of July 1975. It's from a document  
12 entitled "Socialist Republic of Vietnam, of a Visit by a  
13 Vietnamese Delegation to Cambodia". It shows the Vietnamese  
14 delegation arriving, meeting, touring, and dining with Ieng Sary,  
15 Pol Pot, Nuon Chea, Khieu Samphan, Vorn Vet, and others around  
16 that date.

17 [10.33.26]

18 The point that we would like to note is that what seems to be,  
19 from this and other videos that will be shown, is that when  
20 international delegations came the central committee, or the  
21 standing committee seemed to meet together with them. If we can  
22 play that video, Your Honour, with your leave.

23 MR. PRESIDENT:

24 You may proceed.

25 AV booth officers are now directed to play back this videoclip as

1 requested by the Co-Prosecutor.

2 MR. SMITH:

3 And, Your Honour, I should have mentioned, this one does have  
4 sound.

5 [10.34.28]

6 (Presentation of audio-visual document, interpreted from Khmer)

7 "Comrade Saloth Sar, who was the secretary of CPK, along with the  
8 other numerous comrades leading the Party and state work arrived  
9 at Pochentong airport waiting for welcome to the Vietnamese  
10 Labour Party delegates with closely friendship, solidarity, and  
11 warmest fraternity. This is the first visit of senior delegates  
12 of the Vietnamese Labour Party to Cambodia since Cambodia was  
13 totally liberated.

14 "There were thousands of Cambodian people and military personnel  
15 welcomed tremendously to the delegates of our Party who were the  
16 close combatants of Cambodian people.

17 [10.35.34]

18 "In two days' meeting and talking in Phnom Penh, Vietnamese  
19 Labour Party delegates addressed warmth, acknowledgement from  
20 Vietnam for the valuable aiding and assistance with national  
21 reconciliation by the ruling of Communist Party Cambodian people  
22 on the 17th of April 1975 and brought peace back to the nation.  
23 It has changed. Essentially, the struggling of people in three  
24 countries brought an enormous victory. The ground of  
25 revolutionary of people within three countries in Indo-China

1 entered. Under the ruling of warmest congratulated for the  
2 glorious victory about visions of the brotherhood of Cambodian  
3 people.

4 "After the victory, Cambodian people tried to work hard with  
5 diligence and braveness and only a few months after the victory,  
6 they had received huge success in expanding as brotherhood about  
7 the numerous issues which both parties focused on.

8 [10.37.22]

9 "Vietnamese delegates and delegates from Cambodia Communist Party  
10 entirely agreed. With around 200,000 square metres was being  
11 reminded of the historical glorious national building of Cambodia  
12 and strong relationship between Vietnamese and Cambodian and to  
13 collapse by its way. In order to leave souvenir of this  
14 historical meeting, Central Committee, or Vietnamese Labour Party  
15 gave an excellent drawing, and a set of classical teacups, and a  
16 picture decorated by letter, solidarity, relations, combating,  
17 and friendship between Vietnamese Labour Party and CPK. Same  
18 house. Every hand while shaking together attempted to return back  
19 to Indo-China again after working together by heart for the  
20 ground of revolutionary to both countries and the world."

21 [10.38.56]

22 "On the 29th of July 1975, Vietnamese Labour Party delegates said  
23 goodbye to comrades with a deep sentiment and a memory of -- and  
24 to maintain the consequences of the revolutionary, and try to  
25 work and build the lonely nation - rather, lovely nation for

1 friendly relationship. For this great relationship between two  
2 nations, where the Vietnamese Communist determined to implement  
3 entirely on the valuable message of Ho Chi Minh by trying to use  
4 all physical energy and heart to strengthen and expand  
5 relationship between Cambodian and Vietnamese, along with Laos  
6 people, as brotherhood on the basis of equal confidentiality and  
7 mutual obligation for common interests for each nation."

8 [10.40.05]

9 MR. PRESIDENT:

10 Since it is now appropriate moment for the adjournment, the  
11 Chamber will adjourn for 20 minutes. The next session will be  
12 resumed by 11 o'clock.

13 (Court recesses from 1040H to 1101H)

14 MR. PRESIDENT:

15 Please be seated. The Court is now back in session.

16 And we would like to now hand over to the Co-Prosecutor to  
17 continue presenting the documents.

18 Counsel for Mr. Ieng Sary, you may now proceed first.

19 MR. ANG UDOM:

20 Thank you, Mr. President and Your Honours. Very good morning,  
21 again.

22 May I request that Co-Prosecutor refrain from raising the  
23 documents relevant to the agreed facts? The facts that Mr. Ieng  
24 Sary has already agreed and it is not useful to do that now. The  
25 Trial Chamber issued an order asking parties to prepare documents

37

1 to be examined during the trial proceedings, and according to the  
2 request by the prosecutor on the 24th of March 2011, we also  
3 responded by pinpointing the agreed facts by Mr. Ieng Sary. These  
4 can be found in document E9/21.3. I cannot talk on behalf of  
5 other accused, but I am here on my feet to only assert our  
6 position concerning the agreed facts, and that these documents  
7 should not be read out now in the Court.

8 [11.04.26]

9 Nonetheless, even - the Co-Prosecutors wish to also reiterate the  
10 agreed facts in the courtroom, I will not take issue with it. But  
11 I know it is good that it should not be read as it's already been  
12 agreed.

13 MR. SMITH:

14 Your Honour, you can be rest assured I'm not going to read them  
15 again. But the purpose of having those agreed facts read out this  
16 morning, because the Chamber has advised us, one of the main  
17 purposes of this hearing was to demonstrate to the public and  
18 illustrate the documentary evidence. And by fracturing documents  
19 and evidence and not allowing some to be talked about and some  
20 others, then that clear picture doesn't come out, and that was  
21 the reason why it was done. But rest assured I won't be reading  
22 it out again.

23 [11.05.28]

24 Your Honour, shall I move to the video?

25 Your Honours, as my colleague has said, we've --we're trying to

38

1 go through the documents in relation to Ieng Sary in a  
2 chronological order in a way, and then when we get to a certain  
3 type of document then we would stop and discuss all of those  
4 documents; for example, standing committee meeting minutes, which  
5 we'll discuss shortly. But in a way, we're still in 1975 with the  
6 presentation and I would like to show a videoclip with your  
7 leave, it's E3/2384R, and it's a clip, a video of Ieng Sary  
8 talking to a journalist in 1975 about the reasons why he says  
9 Phnom Penh was evacuated. So I'll - it's two minutes and three  
10 seconds. There is a small part that continues on from that with  
11 Steve Heder for about 20 seconds, but it's the same video and  
12 it's all been admitted. If we can play that videoclip, please,  
13 Your Honour.

14 MR. PRESIDENT:

15 You may proceed.

16 And AV booth officers are now directed to play this videoclip.

17 [11.07.14]

18 (Presentation of audio-visual document)

19 "[Interpreted from Khmer:] As you have known, this problem was  
20 before liberation I suppose that there were only about 2 million  
21 people had to be evacuated and worked. But obviously, soon after  
22 the liberation, people who lived in Phnom Penh and province  
23 increased up to about 3 million, in which we had prepared before.  
24 In the preparation -- can resolve the problem within five days  
25 for evacuating people in Phnom Penh and provinces, and people



1 agreed to leave the city, and as a result it was done smoothly,  
2 as we have seen. The other reasons that led us to evacuate  
3 people from Phnom Penh was that we knew clearly and received  
4 clear documents that before the liberation was done in January,  
5 it started fighting until January and June, the enemy aware that  
6 they lost when Mekong was separated. [End of interpretation from  
7 Khmer]

8 "[Interpreted from French:] The real reason for the evacuation  
9 was that it was a way to make Cambodia modern. The population had  
10 to be proletarianized by establishing semi-industrial peasant  
11 producer cooperatives that swept an entire urban population into  
12 a system of re-education that was controlled by peasants and by  
13 the Party through the poor peasantry.

14 Secondly, the evacuation of Phnom Penh served to thwart plans and  
15 plots to sabotage."

16 [11.09.37]

17 MR. SMITH:

18 Thank you, Your Honour. Just to be clear, that was the full  
19 length of the video, there wasn't cutting done to interpose Steve  
20 Heder with Ieng Sary. That's how the video appears.

21 Your Honours, also in 1995, published in "Newsweek" on the 8th of  
22 September -- sorry, 1975 -- Ieng Sary gave an interview to James  
23 Pringle. He was the "Newsweek's" Latin-American bureau chief. The  
24 document is E3/550. This interview was given by Ieng Sary at the  
25 Lima conference of Non-Aligned nations. It, as well, provides

1 some further insight into the reasons for Phnom Penh being  
2 evacuated from the mouth of Ieng Sary. The article, if it could  
3 be shown on the screen, English -- the English version 00087603  
4 to 04; and the Khmer, 00291035 to 00291038; and the French,  
5 00698732 to 34.

6 [11.11.17]

7 If I can start halfway down the article, James Pringle, or the  
8 journalist, is talking about a propaganda film that Ieng Sary  
9 played at the Lima conference, and the introduction to the  
10 questions are:

11 "What made the film particularly significant was that it provided  
12 the outside world with a first glimpse of Cambodia. Indeed the  
13 presence of Lima of newly appointed Cambodian Deputy Premier,  
14 Ieng Sary, who is believed to be among the top two or three  
15 leaders in the new Phnom Penh regime strongly suggested that new  
16 Cambodia was now ready to emerge from its shroud of mystery to  
17 seek wider international contacts."

18 And then the conversation begins. James Pringle asks Ieng Sary:

19 "Why did your forces evacuate the population of Phnom Penh after  
20 they captured the capital on April the 17th?"

21 And Ieng Sary replied: "There were two reasons, the first of  
22 which was food. We thought there were 2 million people in Phnom  
23 Penh, but when we entered we discovered 3 million. In the past,  
24 the U.S. had transported from 30,000 to 40,000 tonnes of food a  
25 month into Phnom Penh. We did not have sufficient transport to

1 move food into the capital, therefore, the people had to go where  
2 the food was. And we had to finish -- furnish this food with  
3 independence and dignity and without asking for help from any  
4 country."

5 [11.13.19]

6 "What was the second reason?"

7 Ieng Sary answered: "We discovered a document detailing a secret  
8 political military plan by the U.S. Central Intelligence Agency  
9 and the defeated Lon Nol regime to spread confusion after our  
10 victory. There were three points to the plan. First, if we are  
11 unable to solve the problem of feeding the population they would  
12 make trouble with agents infiltrated among the people. Second,  
13 many of the Lon Nol soldiers who waived white flags had, in  
14 reality hidden their arms. They intended to attack us after we  
15 had taken Phnom Penh. Third, they planned to corrupt our troops  
16 and weaken their spirit of struggle with loose women, alcohol,  
17 and money."

18 [11.14.21]

19 Next question: "Is Phnom Penh still deserted of population?"

20 Ieng Sary replied: "No, about 100,000 people have returned and  
21 others are returning little by little. Schools, hospitals, and  
22 factories have gradually resumed their activities. People can go  
23 back to Phnom Penh if they wish, or they can stay in the  
24 countryside. All of our people are working day and night to  
25 rebuild the country. Cambodia is like a giant workshop."

42

1 Further down the article, about five or six questions down, Ieng  
2 Sary is asked the question: "Does your government respect the  
3 Buddhist religion of Cambodia?"

4 He replies: "We respect the religious beliefs of everybody.  
5 People have the right to believe, but they must respect the state  
6 law. The pagodas in Cambodia are open."

7 [11.15.29]

8 Next question: "What happened to officers of the defected Lon Nol  
9 regime?"

10 "Today they participate in agricultural production. We all -- we  
11 will applaud them if they are sincere and they can participate in  
12 our Cambodian national life. In our administration, we are using  
13 persons of the previous regime who are sincere."

14 "Is former Prime Minister Long Boret alive or dead?"

15 Answer: "Dead or not dead, he is a traitor and was judged by the  
16 people and congress."

17 I've now finished with that article, Your Honours.

18 And if we can move to the topic of standing committee meeting  
19 minutes, which, as Your Honours have seen, are on the case file.

20 The first standing committee meeting minute that's on the case  
21 file is dated the 9th of October 1975.

22 [11.16.43]

23 But before I discuss that one, I'd like to refer Your Honours to  
24 the statement of Khieu Samphan at E3/27. In that statement at  
25 Khmer 00156619; and 00156750 of the English, Khieu Samphan

1 states: "In principle, the most important body was the Central  
2 Committee, but in practice it was the Standing Committee. We can  
3 compare this to parliament and the government in a parliamentary  
4 regime; it is the government that conducts the day-to-day  
5 business of state."

6 And on that same page, on the bottom, on Khmer 00156619, Khieu  
7 Samphan talks about how frequently the Standing Committee met.  
8 This is of course relevant in terms of determining the role of  
9 Ieng Sary and Nuon Chea, and obviously Khieu Samphan as well. He  
10 states:

11 "The Central Committee convened a meeting every six months from  
12 1970 onwards. The Standing Committee met frequently, probably  
13 about every 7 to 10 days or more regularly in emergencies."

14 [11.18.49]

15 As Your Honours are aware, on the case file we have 19 Standing  
16 Committee meeting minutes, and clearly not the copies for seven  
17 to 10 days over that three-and-a-half year period. But of those  
18 minutes that have been obtained, I would ask that we look at  
19 E3/27 - sorry, not that one - E3/182, which is the first Standing  
20 Committee meeting minute that we have on the case file. In that  
21 document, there's no record as to who was present. However, it's  
22 an important Standing Committee minute in that it designates the  
23 roles of Ieng Sary and other accused. And if we look at the first  
24 page - Khmer, 0019108; and English, 00183393 - we see that the  
25 delegation of work is listed in orders 1 to 13. And the first

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1 person delegated with work is "Comrade Secretary: the general  
2 responsibility of the military and the economy." The second is  
3 "Comrade Deputy Secretary: Party affairs, social action, culture,  
4 propaganda and education." And the third is "Comrade Van", which  
5 is "foreign affairs work, both Party and the state."

6 [11.20.35]

7 The documents generally show -- and other Standing Committee  
8 minutes generally show -- that the listing of Party or the  
9 Standing Committee members is often done in a sequential order,  
10 from Pol Pot to Nuon Chea to Ieng Sary. And we would submit that  
11 is significant in terms of trying to understand the hierarchy in  
12 the Party. What's also significant about this Standing Committee  
13 meeting minute, in terms of defining the role of Ieng Sary, is  
14 that he's being charged with foreign affairs work, "both Party  
15 and state". Not just external relations with state, but external  
16 relations in relations to parties. The other significant thing  
17 about these meeting minutes is that they are incredibly  
18 significant in their designating roles of CPK members in running  
19 the country. And it really, I would submit, is an indicator of  
20 how important the Standing Committee was. The fact that it's able  
21 to designate how the Party and how the country is run.  
22 If we look at page 3 in the Khmer, we can also see from these  
23 minutes that the Standing Committee is in fact the most important  
24 body in the CPK during that time. And if we look at Khmer  
25 00191090 and English 00183394 -- sorry, I haven't got the French

1 -- it states:

2 [11.22.42]

3 "But each person is not enough, and the committees must work to  
4 have their members absorb and join initiatives. If it is done  
5 like this, then it's a great force. If we are forgetful, they  
6 will arrange replacements. In bringing up projects, we must ask  
7 the Standing Committee's opinion so it may decide and approve.  
8 Must avoid trends..."

9 Over the page just following, it states:

10 "Asking only the Standing Committee: If it is done like this,  
11 there would be no concentrated democracy. The Standing Committee  
12 cannot run if everything comes here in entirety.

13 "Working in individual sectors -- without asking the Standing  
14 Committee. This is a mistake. Therefore, that is why we must  
15 solve [problems] by taking the Party's decisions and implementing  
16 them directly and well. In order to know what we have implemented  
17 well or what not well, that is [up to] whether the masses accept  
18 it, or not."

19 [11.23.58]

20 Further down, the power of the Standing Committee can be seen by  
21 this recorded discussion. It's at Khmer, 0001911 to 2. It states:

22 "Administratively, there must be mastery. The important objective  
23 is that minutes/records must be clear, what is asked must be  
24 known from decisions of the Centre of the Standing Committee,  
25 minutes documenting minutes of meetings of the Centre, what day,

1 what month, whatever needs to be done to make it clear is what  
2 must be done. If minutes are not clear, that will lead to  
3 difficulties in review. If this can be done, it will lighten the  
4 load. Now the work is still little. But in one year, in two more  
5 years, the work will keep increasing, like economic work, for  
6 example, Foreign Affairs work will be the same way. When a  
7 telegram comes in, immediately when it is received, the office  
8 must hand it to the responsible section immediately, so they can  
9 examine and consider it and make proposals to the Standing  
10 Committee. Some matters are urgent. Military matters are given to  
11 the military, commerce matters to Commerce, Party matters to the  
12 Party section. Therefore, if we move close together, this will  
13 facilitate concentrating our workforce."

14 [11.25.25]

15 Again, over the page, at 0019112, it states:

16 "When the Standing Committee meets, each person reports. In the  
17 past, all work was concentrated with Comrade Doeun. At a later  
18 date, they must be given to each section to consider, for  
19 example, Foreign Affairs work. At a later date, it all must  
20 considered. We do not want the work concentrated for Standing  
21 Committee. The Office of the Standing Committee makes contacts  
22 back and forth with each section. The Standing Committee monitors  
23 each section's implementation of the line. The office has the  
24 task of monitoring implementation."

25 [11.26.24]



1 That - I submit, Your Honour, that demonstrates the absolute, or  
2 the highest power in the CPK was possessed by the Standing  
3 Committee. Also, in this meeting, it was discussed at 0019121 to  
4 2:

5 "In making life view [meetings] must be cautious. If we use the  
6 word 'traitor', that is serious. He may have feared the enemy,  
7 and fled to find a place.

8 "We must closely grasp matters -- Party matters. Sometimes, it is  
9 too serious, leading to not be able to re-educate. The point for  
10 dissemination is that, in Party matters, he fought in -- in the  
11 organization he fought."

12 And they're there talking about a particular member. That quote  
13 is in English, 00183404. So, Your Honours, I submit it's  
14 significant that, at the Standing Committee meetings -- or  
15 certainly this one in particular -- the discussions of enemies  
16 and traitors was part of those meetings. And anyone that attended  
17 them would have been privy to those discussions, and been aware  
18 of the nature of that work.

19 Before I move on to a few more Standing Committee meeting minutes  
20 -- I've spoken that on the case file there's 19 -- the evidence  
21 -- by looking at those documents on the case file, we can see  
22 that Ieng Sary attended at least 10 of them. And, taking into  
23 account Khieu Samphan's evidence that the meetings were held  
24 every 7 to 10 days, it certainly appears that all of the meeting  
25 minutes have not been obtained.

1 [11.28.38]

2 Your Honours, the 10 Standing Committee minutes Ieng Sary is  
3 recorded to as attending are on 2nd of November, 1975, E3/227;  
4 the 22nd of February, 1976, E3/229, where national defence  
5 matters were discussed. On the 22nd of February 1976 -- again,  
6 the same day -- E3/230; on the 8th of March 1976, E3/231; the  
7 11th of March 1976, E3/217; the 13th of March 1976, E3/233 and  
8 234; and the 3rd of May 1976, E3/219; 7th of May 1976, E3/220;  
9 and the 14th of May 1976, E3/221.

10 The -- I'll briefly run through four other Standing Committee  
11 meeting minutes. And in these minutes as a whole, the topics  
12 discussed are foreign affairs policy, enemies within foreign  
13 affairs, countries that represent a threat to Cambodia, and  
14 individuals who threaten the Party, and key decisions on the  
15 acceptance and distribution of foreign aid.

16 [11.30.18]

17 If we look at E3/227, that's the minutes from the 2nd of November  
18 1975, Khmer page 0019127. If we look at the first page of those  
19 minutes, we can see the attendance records, and if it can come up  
20 on the screen, we can see that Comrade Pol Pot is listed first,  
21 Nuon Chea second, and Ieng Sary is listed third. And in these  
22 minutes, the issue of relations with Thailand and Vietnam; the  
23 preoccupation and discussion about threats from both of those  
24 countries, so significant matters of national security were  
25 discussed at that particular meeting.

1 And if we can now move to E3/230 -- this is a Standing Committee  
2 minute on the 22nd of February 1976. The Khmer version is  
3 0000711. And, again, if we look at that meeting minute, we can  
4 see -- if it could be shown on the screen, we can see that Pol  
5 Pot is listed first, Nuon Chea second, and then Ieng Sary is  
6 listed third. Just underneath that, it -- the meeting records  
7 that "Comrade Vorn, Comrade Thuch and Comrade Van brought up a  
8 number of matters relating to Industry, Commerce, and Transport,  
9 on the matter of Yugoslavia." And then it says that, "Angkar gave  
10 the following opinions and instructions" in relation to aid, salt  
11 production, etc. At that meeting, it's significant that point 5,  
12 which is Khmer 0000712 that -- at point 5, it states:

13 [11.32.49]

14 "Adding Force: That there was a proposal to use additional  
15 adolescent children from the base areas and handing them over to  
16 Industry for management."

17 From that -- from those meeting minutes, it's quite clear that  
18 Ieng Sary's role enabled him to bring matters -- significant  
19 matters, and he was present when discussions were had in relation  
20 to putting children to work.

21 If we look at the 28th of February 1976 meeting minutes, six days  
22 later, at E3/238, we can see that at that meeting, Ieng Sary was  
23 reporting. It states, "Reporting by Comrade Van". He talks about  
24 -- he discusses the aid from Sweden -- financial aid from Sweden  
25 -- and he discusses financial aid from Yugoslavia. And then, at

1 the end of the meetings, it states that -- "Analytical Opinions  
2 of Angkar". And then they provide their particular views.

3 [11.34.10]

4 At part B, which is Khmer 00072459, and French 00446631, the  
5 opinion of Angkar is stated as:

6 "Military and Economic Viewpoints: Also see that no force to  
7 invade us. We also make friends in the world.

8 "Normally, in capitalist countries, always has CIA or Soviet  
9 agents that sometimes its government is not aware of. But after  
10 monitoring their general policy, it is alright."

11 Again, discussion of issues of traitors and enemies at that  
12 particular meeting.

13 And the last one, Your Honours, that I would like to look at by  
14 way of example is the 17th of May 1976. And that is at French  
15 00323984. It's -- sorry -- E3/223. Khmer 0000829 and English  
16 00182708. At this meeting, Ieng Sary reported on the activities  
17 of the Ministry of Foreign Affairs to Pol Pot. You can see that  
18 on the first page. He further discusses, down the paragraphs:

19 "Our side has educated our brothers and sisters to hold meetings,  
20 keep confidentiality, [and] be vigilant".

21 [11.35.52]

22 I can see that -- in any event, that's the fourth paragraph down  
23 from "Diplomatic Relations in Phnom Penh". So it could be seen  
24 that Ieng Sary, who, again, is listed as third at that meeting,  
25 is discussing issues relating to vigilance and presumably in

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1 relation to vigilance -- and sort of, building the socialist  
2 revolution.

3 And if we look at page 00182711 in the English, and you can see  
4 French, 00323896; we can see that Ieng Sary reports, in relation  
5 to the embassies in Phnom Penh:

6 "To continue to educate male and female youths, who are in  
7 service, for them to upgrade the spirit of revolutionary  
8 vigilance, especially teach them how to report to the Ministry,  
9 and the Ministry in turn report to the Office."

10 It's clear that Ieng Sary is discussing issues relating to  
11 enemies in these meetings.

12 Your Honour, I've now finished with the Standing Committee  
13 minutes, and I would like to move to another topic, and that's  
14 the topic of telegrams.

15 [11.37.32]

16 And like the Standing Committee meeting minutes, telegrams are  
17 another group of documents which the evidence shows that Ieng  
18 Sary has been copied in on, on what is calculated from the case  
19 file, at least 100 occasions. I'd like to present the document  
20 E3/893. This is a telegram dated the 26th of January 1976. And  
21 I'd like to refer to the first two paragraphs of the telegram,  
22 where -- it's to "Brother 870 [Office 870] and Brother Vy with  
23 respect", and it states:

24 "We would like to report about the result of a 24 January meeting  
25 with the Vietnamese [delegation]: "1. There were six in the

1 delegation headed by Leu Yang, Deputy Chief of the Zone's  
2 military [Vietnamese side]. He told [us] that [his colleague  
3 named] Phu was sick and could not come. But we noticed that they  
4 [were supposed to have chief of their Zone's military head the  
5 delegation to meet us but] changed from the head of the  
6 delegation to Deputy Chief of the Zone's military] because we  
7 changed from Cadre to the Regiment to Chief of Zone's military.  
8 He is old, and has very deep thoughts."

9 [11.39.14]

10 Then the telegram goes on to discuss issues such as border  
11 incursion by the Vietnamese and the Cambodian, and disagreements  
12 there. And at paragraph 6, at the end -- close to the end of the  
13 telegram, at the bottom, it states:

14 "The argument was very difficult. They put a lot of pressure on  
15 us. But we managed to maintain our standpoint and we had much  
16 confidence because [our reasons] are superiors to them,  
17 especially after we showed them our map. We were able to keep the  
18 atmosphere of solidarity. We assumed that we achieved good  
19 success for the first step."

20 You can see, at the end of that telegram, it's copied to Pol Pot,  
21 Nuon Chea, Ieng Sary, Brother Vy, Brother Khieu, Brother Doeun.  
22 Brother Khieu being Son Sen. So, it's clear these telegrams  
23 demonstrate that Ieng Sary is being apprised of the military  
24 situation on a regular basis. Perhaps if we could look at the  
25 next telegram, which is E3/995, and it's dated the 19th of March

1 1978, later, during the DK period.

2 [11.40.45]

3 As a telegram from Kang Chap alias Sae, to Committee 870,  
4 especially -- particularly copied to Ieng Sary. And if we look at  
5 the end of the document, again, it's to "Uncle" -- assumed it's  
6 Pol Pot -- Nuon Chea, Ieng Sary, Brother Van, Brother Vorn -- who  
7 is Vorn Vet -- and Office 870, members of the Standing Committee.  
8 Now this telegram is a report on the enemy situation in the Zone,  
9 including the systematic purge in the North Zone. The paragraph  
10 that's relevant, in terms of how exposed and how Ieng Sary is,  
11 and other members are, to discussions about purging -- if we look  
12 at paragraph 00019202, this is what the telegram says:

13 "The situation of undercover enemies burrowing from within. This  
14 dry season, the enemy remnants raised their heads back up and  
15 conducted activities of opposition against us in the work sites.  
16 These enemy remnants made contact with police, soldiers and civil  
17 servants, all of whom disguised themselves as new people. It was  
18 only after they conducted activities of opposition against us  
19 that we clearly recognized their faces. In conjunction with this,  
20 we systematically swept them cleanly away. As of this day,  
21 undercover enemies burrowing from within situation has gone  
22 quiet."

23 [11.42.28]

24 "A number of soldiers, police and civil servants fled after we  
25 swept approximately 20 head of them cleanly away. We are

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1 continuing to take further measures to find and arrest them. As  
2 for the undercover enemies in Preah Vihear sector, they no longer  
3 exist after we took and are continuing to take further measures  
4 to sweep them cleanly away."

5 That's copied to Ieng Sary and the other Standing Committee  
6 members. We submit it's a very relevant and probative document --  
7 that type of document, in that Ieng Sary is participating  
8 through, in the knowledge chain -- of targeting of enemies.

9 [11.43.20]

10 The last telegram, Your Honours, is E3/157, which has just been  
11 used by way of an example of the telegrams being sent to Ieng  
12 Sary -- E3/157 -- it's a telegram from the 21st of April, from Um  
13 Neng alias Vy, the Northeast zone secretary. It's copied to Ieng  
14 Sary. It describes border clashes with Vietnam and the execution  
15 of internal spies and traitors. In particular, this telegram  
16 informed Ieng Sary that spies have entered locations twice.

17 "We smashed some, and some escaped. Internal traitors have been  
18 swept clean, and their responses have been extracted  
19 successfully."

20 [11.45.01]

21 In closing on the telegrams, Your Honour, we would submit that  
22 these few telegrams, of the hundred or so that's on the case  
23 file, illustrate that Ieng Sary had a monitoring role as a senior  
24 leader -- as a member of the Standing Committee -- as to the  
25 activities of CPK membership, and activities that included the



1 killing of enemies -- internal enemies within the country.  
2 Your Honours, I would now like to move back again, in the  
3 chronology, to the 30th of March 1976, because we're moving to a  
4 different type of decision. And it's E3/12, which is the -- a  
5 Central Committee decision on the 30th of March 1976, regarding  
6 the right to smash inside and outside the ranks. Your Honours,  
7 we've seen this decision before, and on the first page of the  
8 decision it states:

9 "The right to smash inside and outside the ranks.

10 "Objective: 1. That there is a framework in absolute  
11 implementation of our revolution;

12 "2. To strengthen our socialist democracy;

13 "All this to strengthen our state authority."

14 [11.45.53]

15 "If in the base framework, to be decided by the Zone Standing  
16 Committee;

17 "Surrounding the Centre office, to be decided by the Central  
18 Office Committee;

19 "Independent Sectors, to be decided by the Standing Committee;

20 "The Centre Military, to be decided by the General Staff."

21 In this document itself, it gives the Standing Committee, amongst  
22 other committees, the power to smash. To kill. Ieng Sary, in  
23 terms of how does this relate to the role of Ieng Sary -- Ieng  
24 Sary was on the Central Committee, and Ieng Sary was on the  
25 Standing Committee.

1 [11.46.45]

2 Your Honours, I would briefly like to turn to E3/210, which is a  
3 statement from Khieu Samphan dated the 14th of December 2007. And  
4 at page -- Khmer version, 0056691; and English, 00156949; Khieu  
5 Samphan talks about the disappearance and breaches, and who  
6 approves them. He gives this answer:

7 "In relation to the excesses which have been denounced during  
8 auto-criticism, I would like to give an example: a number of  
9 cadres believed it appropriate to punish those who committed  
10 adultery by shaving half the hair from their heads and exposing  
11 them to the public. Such mistakes were denounced and corrected.  
12 In relation to the arrests at Preah Vihear province, they did  
13 occur but the prisoners were released. There were breaches  
14 committed at the local level, but the leaders did not approve  
15 them. Finally, in relation to the disappearance of the members of  
16 the Central Committee and the Standing Committee, everyone seemed  
17 to approve, but I did not know the extent or the scope of the  
18 arrests."

19 [11.48.30]

20 That's significantly probative, we would submit, in light of the  
21 Standing Committee -- the Central Committee decision authorizing  
22 smashing at different levels. So, Your Honour, those particular  
23 documents demonstrate Ieng Sary's exposure and developing role in  
24 the killing policies. Also, a point which I did not make is, in  
25 Khieu Samphan's interview -- E3/210 -- he was asked about

1 speeches, and he said:

2 "I would like to specify that the speech I delivered in Colombo  
3 was written for me by Ieng Sary. This was not an individual case.  
4 During the visits of Nuon Chea and Vorn Vet to Beijing, their  
5 speeches were written by Ieng Sary. I brought up the examples of  
6 the Hu Nim and Hu Yan, but only learned the information about the  
7 rest of these two people after 1979."

8 The point of that, which is at 00156689, is that seemed to be a  
9 further role of Ieng Sary during the period, in writing the  
10 speeches for other senior Party members.

11 [11.50.12]

12 Your Honours, I would now like to turn back, again, to the 30th  
13 of March -- sorry, to the 5th of October 1976. And I'd like to  
14 talk about another group of documents that relate to speeches  
15 given by Ieng Sary to the General Assembly of the United Nations.  
16 The document I'm referring to is E3/607, and it's dated the 5th  
17 of October 1976. And it's interesting that the speeches -- that  
18 is, that are given by Ieng Sary -- and using this document as an  
19 example -- they reflect the rhetoric of the statute about the  
20 importance of being -- having solidarity with other non-aligned  
21 countries. And anger vented at capitalist and imperialist  
22 countries. And also, even in public speeches, Ieng Sary is quite  
23 bold, shall I say, in relating to discussing issues relating to  
24 enemies. And if I can refer to 00816624 of the Khmer, and  
25 00586804 in English; and he states, in his speech:

1 [11.52.03]

2 "Since liberation, we have successfully defended and consolidated  
3 the gains of the revolution. There is security throughout our  
4 territory, however, our own experience and that of other  
5 revolutions in the world have taught us that after their defeat;  
6 the American imperialist, lackeys and other reactionary forces  
7 continue relentlessly to oppose our country, our people, and our  
8 revolution. Since it is impossible, if not difficult, for them to  
9 attack us openly from the outside they are striving to rally the  
10 rump of the forces of perfidy in order to carry out actions of  
11 subversion, provocation, division and undermining inside our  
12 country, and also to intervene in our internal affairs. Thanks to  
13 our continuous revolutionary vigilance and tight unity, our  
14 nation, our people, and our army have inflicted upon them some  
15 severe defeats but, guided by their aggressiveness and blinded by  
16 their vaulting ambition, the American imperialists, their  
17 lackeys, and other reactionary forces are unwilling to learn the  
18 lessons of their defeats, and persist in pursuing their criminal  
19 activities. There can be no doubt that our people and  
20 revolutionary armed forces will inflict upon them, in all  
21 independence and sovereignty, further new and ignominious  
22 defeats."

23 [11.53.43]

24 Your Honours, that statement is a public statement to the United  
25 Nations General Assembly, and it's submitted that the document is

1 probative in that it reflect exactly what was happening in the  
2 Standing Committee meetings, what was happening in communications  
3 with forces throughout Cambodia via telegrams, in smashing  
4 cleanly away or killing internal enemies.

5 The public statements and the private statements or private  
6 documents -- those minutes in the telegrams submitted --  
7 corroborate each other, and it's particularly relevant.

8 Your Honour, if I can move to the next document. And it's --  
9 again, it's in relation to -- the document number is -- it's -- I  
10 haven't got the E number with me, but it's D366/7.1.820. And the  
11 document's dated the 20 of September 1978. This - Your Honour,  
12 this document doesn't have an E number, and we've checked Your  
13 Honours' decision in relation to the annexes that the Prosecution  
14 has put forward. And this document, in fact, wasn't rejected by  
15 the decision. I think there were 20 or 30 or so documents that  
16 were rejected. This one wasn't rejected, but it's still --  
17 through our research, hasn't received an E3 number on the system.  
18 So that's why I'm not quoting an E3 number, but I would only ask  
19 if perhaps the case manager could have a look to see what has  
20 happened with that one not being given an E3 number.

21 [11.56.14]

22 Your Honour, this is -- this document is a telegram from Ieng  
23 Sary that was sent to the Sub-Commission on Discrimination and  
24 Protection of Minorities, which is part of the Human Rights  
25 Commission of the UN. And it was a telegram dated the 16th of

1 April 1978, from the minister for foreign affairs of Democratic  
2 Kampuchea, addressed to the Sub-Commission. And then the  
3 Sub-Commission, on the 20th September, as we can see from the  
4 document, forwarded that on to members. And in this telegram --  
5 in this document from the UN, Ieng Sary states - or from the  
6 Ministry of Foreign Affairs:

7 [11.57.10]

8 "We reject Sub-Commission Decision 1 as an impudent interference  
9 in internal affairs of Democratic Kampuchea. By that decision,  
10 Sub-Commission supports the activities of traitors to their  
11 country and the manoeuvres of American imperialists and their  
12 partisans, who, after committing immeasurable crimes against the  
13 people of Kampuchea, massacring more than a million inhabitants  
14 of Kampuchea and destroying 80 per cent of Kampuchea, continue to  
15 defame Democratic Kampuchea, to whitewash their crimes.

16 "The United People of Kampuchea is master of its own destiny, and  
17 after three years of efforts, has succeeded in solving  
18 fundamental problems. It is self-sufficient in food; it is  
19 building and defending the country in complete independence and  
20 sovereignty, and relying on its own strength, without recourse to  
21 anything from the imperialists.

22 "As in the past, people in government of Democratic Kampuchea  
23 will make mincemeat of any criminal manoeuvres of the  
24 imperialists and their partisans. They will not tolerate any  
25 affront to the sovereignty of Kampuchea.

1 "Minister of Foreign Affairs of Democratic Kampuchea, 16th of  
2 September 1978."

3 [11.58.39]

4 Your Honour, that statement was in response to -- and I'll read  
5 out the footnote, so as to put into context -- it's in response  
6 to, "Resolution 11 number XXXI, adopted at its 826th meeting on  
7 the 15th of September 1978. "The Sub-Commission on Prevention of  
8 Discrimination and Protection of Minorities decided to request  
9 its Chairman, or such member as the Chair may wish to appoint, to  
10 analyze, on its behalf, the materials on the situation of human  
11 rights in Democratic Kampuchea, which were before the  
12 Sub-Commission in accordance with decision 9 of the Commission of  
13 Human Rights, together with the comments and observations made by  
14 the Sub-Commission and other relevant materials which may be  
15 received by the Secretary-General before the 35th Session of the  
16 Commission, and to present his analysis to the Commission with a  
17 recommendation that the Commission give this matter highest  
18 priority at its 35th Session."

19 [11.59.57]

20 That document is a clear -- a rage directed at the UN for other  
21 countries raising concerns of human rights abuses in September  
22 1978. That behaviour that could be seen in that letter, we  
23 submit, is significant in understanding Ieng Sary's role in the  
24 regime during that period.

25 MR. PRESIDENT:

1 Thank you, Mr. Co-Prosecutor.

2 We believe that it is now appropriate moment already for the  
3 lunch adjournment. The Chamber will adjourn until 1.30.

4 (Court recesses from 1200H to 1333H)

5 MR. PRESIDENT:

6 Please be seated. The Court is now back in session.

7 Without further ado, I would like now to hand over to the  
8 Co-Prosecutor to continue putting or to presenting the -- the  
9 documents before the Chamber.

10 Counsel for Mr. Nuon Chea, you are on your feet. You may proceed  
11 first.

12 MR. KOPPE:

13 Thank you, Mr. President. Good afternoon, Your Honours.

14 My reason for rising now concerns the presentation of key  
15 documents. We heard this morning from the International  
16 Co-Prosecutor for which we feel compelled to offer our  
17 compliments. We found Mr. Smith's presentation informative in  
18 large part because it began to provide insight into the  
19 Co-Prosecutor's closing submissions.

20 [13.34.46]

21 And it was clear to us as we listened to the presentation that  
22 this is what the presentation so far amounts to. Mr. Smith  
23 continually used languages -- language such as "significant",  
24 "significant and probative", "demonstrate", "shows"; he even used  
25 the words "we submit" which transformed these proceedings from a



1 presentation of documents into a form of what you might call  
2 preliminary closing submissions.

3 That aspect of the presentation stood, in our opinion, in  
4 contrast with the one delivered last week by Mr. Raynor, which,  
5 while also, in its way, dramatic, was limited far more to the  
6 content of the documents as such.

7 By virtue of the nature of the argument put forward by the  
8 International Co-Prosecutor this morning, and particularly the  
9 submissions it contained, we were struck by the importance of  
10 this hearing to these proceedings as a whole.

11 Indeed, Mr. President, we know that the Chamber, itself,  
12 recognizes the significance of this hearing and in particular,  
13 the importance of the presence of the Accused, having ordered,  
14 above the objections of counsel, the appearance in Court of Mr.  
15 Khieu Samphan during the portion of the document hearing which  
16 concerns his role in Democratic Kampuchea.

17 [13.36.35]

18 We agree wholeheartedly and believe that the presence of our  
19 client during the portion of proceedings that concern his role in  
20 Democratic Kampuchea is equally important.

21 The Chamber will note that my colleague, Son Arun, is not  
22 currently present in court. Right now he is en route to the Khmer  
23 Soviet Hospital where he will meet with Mr. Nuon Chea and advise  
24 him of the nature of the proceedings as they have unfolded so far  
25 here today and of our joint recommendation that Mr. Nuon Chea

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1 withdraw his waiver of his right to be present with regard to  
2 document presentation hearings as far as they concern his  
3 particular role in Democratic Kampuchea.

4 Once Mr. Son Arun has an opportunity to confer with our client,  
5 we are indeed hopeful that Mr. Nuon Chea will be able to give  
6 instructions with respect to this hearing. And in that regard I  
7 may note that Son Arun and I had the opportunity to visit with  
8 our client yesterday and we're not only troubled, but also  
9 shocked to find a significant deterioration in his condition from  
10 our most recent visit only four days prior on Friday, January 26.

11 [13.38.28]

12 Although if emphasizing, Mr. President, the extent of that  
13 surprise, the Chamber may remember that just yesterday, I  
14 informed the Court that our client was improving -- his health  
15 was improving; information which was based on the medical report  
16 previously received by Your Honours as well as ourselves  
17 yesterday morning.

18 Now, that information no longer reflects the reality as we  
19 witnessed it yesterday afternoon. Indeed, for reasons I will not  
20 elaborate on, at this time in public, both Mr. Nuon Chea and his  
21 family were convinced and have been for at least two days that  
22 Mr. Nuon Chea was approaching death. I give the Chamber this  
23 information, at this time, primarily to provide context for our  
24 client's possible withdrawal of his waiver.

25 [13.39.35]

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1 Mr. President, Your Honours, we anticipate having an update in  
2 that regard this afternoon and we'll inform the Chamber as soon  
3 as we receive instructions from our client, of course, assuming  
4 he is able to do so.

5 Thank you very much.

6 MR. PRESIDENT:

7 Thank you.

8 International Co-Prosecutor, you may now proceed.

9 MR. SMITH:

10 Thank you, Mr. President.

11 Just in brief response, Mr. President, certainly, the Prosecution  
12 are not intending to make closing submissions on this -- on these  
13 documents. All we aim to do is provide a brief signpost as to the  
14 -- the relevance and probative value of the evidence and  
15 certainly, if on occasion I've done a fraction more than that,  
16 that certainly wasn't the intention.

17 [13.40.45]

18 So I'll give brief signposts as to why it's relevant and  
19 probative. As far as submissions, we certainly are -- are not  
20 intending to do that. If I overstepped on one or two occasions, I  
21 apologize for that.

22 Your Honours, when we left before lunch, we were looking at  
23 speeches by Ieng Sary and documentation that was being sent to  
24 the Commission on Human Rights or the Sub Commission on  
25 Prevention of Discrimination and Protection of Minorities.

1 The previous document we looked at was where Ieng Sary, as  
2 Minister of Foreign Affairs, was rebuking countries that were  
3 alleging that there were human rights abuses occurring in  
4 Cambodia in 1978. The document we looked at before was dated the  
5 20th of September 1978 and I overlooked this other document,  
6 E3/1337, which, again, is a telegram from the -- the Ministry of  
7 Foreign Affairs; the Minister of Foreign Affairs to the Sub  
8 Commission on Prevention of Discrimination and Protection of  
9 Minorities rebuking the British Government for making -- asking  
10 for investigation into crimes occurring in -- in Cambodia at the  
11 time.

12 [13.42.35]

13 The date of the document is the 13th of June when the Secretary  
14 General resubmitted or submitted the telegram or the letter from  
15 the Ministry of Foreign Affairs which was dated on the 22nd of  
16 April 1978 and I'm looking at the English, 00235721; Khmer,  
17 00333906; and French, 00235729. And the -- the notice is headed,  
18 "From the Secretary General: Question of the Violation of Human  
19 Rights and Fundamental Freedoms in any Part of the World, with  
20 Particular Reference to the Colonial and Other Dependant  
21 Countries and Territories. Note by Secretary General."  
22 "The Secretary-General has received a note from the Ministry of  
23 Foreign Affairs of Democratic Kampuchea, dated the 22nd of April  
24 '78, with a request that it be circulated in an official document  
25 to the competent bodies of the United Nations and all member

1 states."

2 [13.43.44]

3 The -- the contents of that communication from the Ministry of  
4 Foreign Affairs is then included in this document and I won't  
5 read out all of it, but just a few significant parts that  
6 indicate the role that Ieng Sary was playing; particularly, in  
7 that year.

8 At paragraph 2, the letter states:

9 "In particular, the propaganda machine of the imperialists,  
10 expansionists and annexationists has raised what it calls the  
11 'human rights' issue in its slander and denigration of Democratic  
12 Kampuchea. This infamous calumny against the people of Kampuchea  
13 is no new development and did not take by surprise the people and  
14 government of Democratic Kampuchea. The imperialists,  
15 expansionists and annexationists have conducted their campaign of  
16 denigration against the people of Kampuchea ever since the latter  
17 rose up in defiance of their domination, oppression and  
18 exploitation. At that time, they not only launched verbal  
19 attacks, but also repressed and massacred the people of Kampuchea  
20 in an attempt to stifle the latter's struggle."

21 [13.45.10]

22 The communication goes on at paragraph 6 where the Ministry  
23 states:

24 "What qualities does the British Government presume to have, that  
25 it plays at being a humanitarian apostle? In reality, the British

1 Government represents the British colonialist and imperialist  
2 regime, which is known as the most infamous and abject in the  
3 history of mankind. The British imperialists and colonialists  
4 were extremely barbaric and cruel in the past. Their nature has  
5 not changed; they are still extremely barbaric and cruel. They  
6 have simply undergone a slight change of face because they no  
7 longer have sufficient strength to oppose the immense forces of  
8 the peoples of the world."

9 The communication goes on at paragraph 8, where it stated:

10 "The British imperialists and the British Government give little  
11 consideration to the British people. How can they love the people  
12 of Kampuchea more than the British people? Can they raise the  
13 question of human rights without basing their arguments on the  
14 logic of imperialists, exploiters, oppressors and plunderers? The  
15 British Government has no right to interfere in the internal  
16 affairs of Democratic Kampuchea.

17 [13.46.36]

18 "The people and the Government of Democratic Kampuchea condemn  
19 with their last ounce of strength the odious inference of the  
20 British Government as an affront to the honour and dignity of the  
21 Kampuchean people and to the sovereignty of Democratic  
22 Kampuchea."

23 Further, at paragraph 10, the Ministry states:

24 "Over the past three years, the people of Kampuchea have smashed  
25 the espionage and subversive activities of the imperialists,

1 expansionists and annexationists, and their supporters, together  
2 with their attempts to overthrow Democratic Kampuchea. The people  
3 of Kampuchea have, therefore, victoriously safeguarded,  
4 strengthened, expanded, and embellished the power of the  
5 worker-peasant people. At the same time, the people and the  
6 revolutionary army of Kampuchea have overcome the acts of  
7 aggression of all foreign enemies, and have defended and fully  
8 safeguarded the independence, sovereignty, and territorial  
9 integrity of Democratic Kampuchea."

10 [13.47.58]

11 At paragraph 11: "Progress has also been achieved in building the  
12 new society, which is a collective society, in accordance with  
13 the fundamental aspirations of the people. The old relations of  
14 production based on oppression and exploitation have been  
15 completely abolished and the new relations of production based on  
16 independence, equality and socialist collectivism have been  
17 steadily strengthened and developed. All the forces of production  
18 have been liberated. In Democratic Kampuchea today, there are no  
19 longer any imperialists or expansionists who merely mess the  
20 fruits of the labour of our people; fruits paid for with our  
21 sweat and blood. The former government employees, who are simple  
22 citizens once again, fulfill their daily tasks and live just like  
23 the people and the administrators, on the basis of equality."

24 [13.49.00]

25 "They support the new regime, which can both defend the country

1 effectively; ensure its rapid development, but also pleased to  
2 have participated in the construction of the new society since  
3 such is the road to honour for patriots in Kampuchea. Everyone is  
4 equal, and there are no exploiters or exploited. All peasants  
5 control the rice paddies and the fields, and all workers control  
6 the factories; they have the right to decide and dispose. All the  
7 fruits paid for with the sweat and blood of the people come back  
8 to the people and not to anyone else."

9 Moving to paragraph 13 which is at Khmer, 00333917; and French,  
10 00235736; and English, 00235727; the communication from the  
11 ministry goes on to say:

12 "In the mobilization of national and popular forces, the  
13 Government of Democratic Kampuchea has well-defined policies  
14 which make a clear distinction between strategic and tactical  
15 forces. It knows perfectly well when to be intransigent and  
16 struggle with determination, and when to unite and when to make  
17 concessions and show mercy. However, when dealing with a handful  
18 of traitors, the agents of foreign imperialists and  
19 reactionaries, who seek to destroy their own nation, their own  
20 people and their own revolution, the Government applies a  
21 dictatorship of the proletariat resolutely and rigorously."

22 [13.51.08]

23 And at paragraph 15, it concludes:

24 "It is therefore invaluable. The Government of Democratic  
25 Kampuchea considers that the United Nations should reject the



1 slander and calumny of the imperialists, expansionists,  
2 annexationists and their supporters against Democratic Kampuchea;  
3 particularly, the interference in the international affairs or  
4 internal affairs of Democratic Kampuchea on the part of the  
5 British Government. It should reject the slander and calumny of  
6 hoodlums, traitors, and stateless persons. The United Nations  
7 should support the efforts of the people of Kampuchea, who are  
8 currently struggling to construct a new society where the  
9 exploitation of man by man no longer exists and people enjoy  
10 genuine rights and freedoms."

11 [13.52.02]

12 "For, if there were no genuine rights or freedoms, and if the new  
13 regime in Kampuchea were exploiting and oppressing the people,  
14 the latter would undoubtedly destroy that regime."

15 Your Honour, that document -- that communication helps assist in  
16 providing some understanding of the role that Ieng Sary played  
17 during the DK period.

18 Your Honours, I would like -- now like to turn to documents that  
19 were recovered from the Ministry of Foreign Affairs and provide a  
20 -- an insider's account of what was occurring inside Foreign  
21 Affairs whilst those statements were being made publicly outside.  
22 And if I can refer to E3/522 and this document is entitled "The  
23 Diary of the Khmer Rouge Foreign Ministry" and it was found --  
24 the anonymous document was discovered in early 1979 --and this  
25 can be found on page 0003239 in the English -- by a Cambodian

1 returning to Phnom Penh from the countryside who found it and a  
2 number of other documents in a house apparently belonging to Ieng  
3 Sary.

4 [13.53.43]

5 The author of the document is unnamed, but within the document,  
6 the -- Ieng Sary's revolutionary name, Van, appears on a number  
7 of occasions. The document is dated from the 21st of May 1976 to  
8 the 5th of January 1979 and it's a handwritten, often shorthand  
9 and abbreviated, form of the document of 152 double pages of a --  
10 of a black diary - a blank diary printed by the Lon Nol era  
11 Société khmère des distilleries.

12 The first entry appears on the 7th of January -- 21st of May 1976  
13 and the last two days before the overthrow of the Pol Pot regime.  
14 The diary appears to be an account of the meetings held within  
15 the Ministry of Foreign Affairs and congresses that were held  
16 there by them.

17 The document assists in showing the atmosphere in the Ministry of  
18 Foreign Affairs at the time and the role that Ieng Sary played  
19 within the Ministry. Interestingly, at English page 00003243, the  
20 first -- the translation of the notes is translation of  
21 information relating to the Party Statutes and largely reflects  
22 what is in the Party Statute.

23 [13.55.37]

24 At English, 0003247, we see that the title of the page, "The Cell  
25 Congress (22-5-1976)" appears to be the cell within -- within --

1 the reports of the cells within the Ministry of Foreign Affairs.  
2 At the bottom of that page, it states, "Brother Van's opinion",  
3 and it states: "The reports made by the cells are quite good and  
4 lessons could be learned in the cells."

5 If we look at the Khmer page 00427832 to 33 and the English ERN  
6 0003254, we can see it's recorded, in one of these meetings, the  
7 following comments:

8 "The Enemies of Cambodia:

9 "1. The arms and legs of the traitors who are their lackeys;

10 "2. The imperialists and the liberals who bury themselves to  
11 carry out secret activities;

12 "They divert the line. They provoke internal rebellion. The  
13 consciousness of private property is an enemy of the revolution."

14 Then at 0003282, there is an entry in relation to the fact of  
15 evacuation -- evacuating people and the entry states:

16 [13.57.20]

17 "For example: Concerning the removal of the people, the world  
18 estimates that someday we will let the people return to the  
19 cities. This shows that those who understand us understand only  
20 in strategy. You may ask why they have they such an idea. This is  
21 because they have never practised this way, transferring people  
22 from urban areas to rural areas. The problem [they think] is how  
23 to supply food and shelter."

24 That's at Khmer 00427872.

25 And further down, it states:

1 "See that we have preserved the revolutionary achievements by  
2 transferring people and terminating the use of currency. Money is  
3 a major asset. If we use [money], it is very powerful."

4 If we go to 0003216 (sic) in the English, and 00427921 in the  
5 Khmer, we have a title:

6 [13.58.30]

7 "Van's Comments about Comrade Cheam;

8 "Advantages:

9 "1. Loyal, never secret;

10 "2. Maintain the close working relationship with the mass;

11 "3. Fulfil the tasks without any conditions [...] if compared to  
12 the socialist revolution, there is still a great lack."

13 [13.58.51]

14 Sorry, I'll slow down, Your Honour.

15 At point 2: "The leadership behaviour: Still exercise Marshall  
16 and authoritative with our people, especially with base people.  
17 Get rid of the dictatorship and bad-tempered state."

18 At point 4: "Too independent-minded, especially too free speech  
19 when getting furious with someone, they use words of dividing  
20 classes into this type or that type: for instance, this is the  
21 front group for example."

22 And if we look at page 0003336 in the English and 00427949 in the  
23 Khmer, we see that at the conclusion of the Congress, just prior  
24 to that, there were assignment issues.

25 And the Cell Committee of the Ministry, it states: "1) Brother

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1 Van; 2) Comrade Hong; 3) Comrade Roeun; 4) Comrade Ven; and, 5)  
2 Comrade Cheam."

3 [14.00.13]

4 Your Honour, I mention that document as it provides an insight to  
5 the discussions within -- within the Ministry of Foreign Affairs  
6 and their preoccupation with locating enemies and supporting the  
7 revolution and you'll see, when you look at that document,  
8 Brother Van's name appears throughout. I just mentioned a few of  
9 the entries.

10 Your Honour, I'd now like to turn to E3/857 which is a  
11 comprehensive report produced by the Ministry of Foreign Affairs.  
12 It's entitled "Working With the Committees of Every Unit", 12th  
13 of September 1977, 00355487 in the English, and the very first  
14 paragraph of that report is entitled "Summary of the Reports From  
15 Every Unit" and the first point is "Enemy Activities"; Khmer,  
16 00086707; and French, 00811327 - and I quote:

17 "At our Ministry's conference, it was noted that we have  
18 basically smashed and swept cleanly away the enemies who were  
19 CIA, KGB and Yuon territory-swallowers. Basically smashed and  
20 swept cleanly away means that the major apparatuses belonging to  
21 the enemy who made the plans for and led the desire for a coup  
22 d'état to seize state power back from our workers and poor  
23 peasants have been smashed and swept cleanly away by us."

24 [14.02.16]

25 "We achieved unity on this problem of sweeping the enemy cleanly

1 away. In conjunction with this, we achieved unity that the enemy  
2 is not yet completely gone from our Ministry or from any of its  
3 units of organization. We must therefore continue sweeping  
4 cleanly away to make our Ministry, like each and every one of its  
5 units, immaculate."

6 Further down, just briefly, it states:

7 "If we look inside the Ministry as a whole, we see that 98 per  
8 cent in the Ministry as a whole have achieved cleanliness, that  
9 is, 98 per cent are good and have an understanding of the problem  
10 of sweeping enemies cleanly away. However, another 2 per cent  
11 continue to exist who are in the process of conducting  
12 activities."

13 [14.03.16]

14 Further down: "Each and every unit of organization must have a  
15 crystal-clear perspective and keep constant track of things. We  
16 must overcome everything and do whatever needs to be done to  
17 prevent this 2 per cent from laying eggs or expanding, because  
18 otherwise whenever there is any little problem, they will provoke  
19 contradictions and take the opportunity to break out of the nest  
20 and expand over and over from 2 to 3 to 4 to 5 per cent.

21 Therefore, we must encircle, compress, and close them down so  
22 that only 1.5 or 0.5 per cent remains."

23 Your Honours, this document doesn't specifically state at the  
24 beginning that it's from Ministry of Foreign Affairs, but it's  
25 clear by references within it that that's where it comes from.

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1 For example, I quote one reference: "We must raise revolutionary  
2 vigilance really high because our Ministry has rather a lot of  
3 contact with foreigners."

4 Another entry: "The political protocol and secretariat sections  
5 have very few workers and peasants."

6 And another section states, example: "The core duties of Office  
7 B-1 are four."

8 So it's clear on a read of the document, we would submit, that it  
9 comes from the Ministry of Foreign Affairs.

10 [14.05.04]

11 Your Honours, I won't quote anymore passages from this document  
12 other than to say it's - it's purpose seems to -- or the content  
13 concentrates on targeting enemies and building the socialist  
14 revolution. And it's submitted that -- that -- by that fact that  
15 his evidence - or, provides evidence of the role that the  
16 Minister of Foreign Affairs, Ieng Sary, played during the period.

17 Your Honour, if I can turn your minds to another document,  
18 E3/1550, it's a letter contained in a confession of Hu Nim alias  
19 Phoas. From this document, it appears that Hu Nim was arrested on  
20 the 10th of April 1977 and in that letter, it's addressed at the  
21 beginning:

22 "Dear Communist Party of Kampuchea whom I respect more than my  
23 life,

24 "Dear Bong Pol, Bong Nuon, Bong Van, Bong Vorn, Bong Khieu, and  
25 Comrade Hem..."

1 [14.06.32]

2 And then as we read the letter further down, it's clear that Hu  
3 Nim was arrested on this date and he's pleading to the addressees  
4 on the letter for his -- for his life. And if I refer to  
5 paragraph Khmer, 0003117 to 8; French, 00766888; and English,  
6 00759691. He states:

7 "I would like to inform the Party unequivocally that I have  
8 neither betrayed the Party, nor worked as a CIA agent, for A Son  
9 Ngoc Thanh, for revisionists, or for any foreigners, to  
10 infiltrate the Party and to destroy the Party at all. I will  
11 maintain such an absolute stance and confession even though the  
12 Party may kill me."

13 Next paragraph: "First of all, I would like to ask a favour from  
14 the Party; I will not escape. The Party can detain me; however,  
15 please do not chain my legs. I cannot get used to it; I have  
16 insomnia and hepatitis, so I do not have energy. I ask the Party  
17 to please consider and grant me this favour. I will not run away;  
18 if I did, the Party can shoot me down."

19 This is a letter contained in a confession from S-21 and the  
20 letter is addressed to "The Party" and the Party addressees are  
21 in order: Pol Pot, Nuon Chea, Ieng Sary, Vorn Vet, Son Sen, and  
22 Khieu Samphan.

23 [14.08.32]

24 The relevance of this document, Your Honours, is that the people  
25 addressed on that -- on that letter by Hu Nim obviously would



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1 seem to have great power, at that time, such that they could  
2 release someone from S-21.

3 Your Honour, if I can now turn to talking about power relations  
4 in the Party. If we can now turn to another document, a video,  
5 and the D number is D108/32.2. I'll have the E number for you in  
6 a moment. It's a short clip from Ta Mok, a member of the Standing  
7 Committee, who explains the power relationships in the Standing  
8 Committee. Mr. President, if I could ask that be played.

9 (Short pause)

10 [14.10.10]

11 MR. SMITH:

12 I think the AV - if the AV could play the video, if that's-  
13 Thank you.

14 MR. PRESIDENT:

15 You may proceed.

16 AV assistant, please play the clip as per the request by the  
17 Co-Prosecutor.

18 [14.10.41]

19 (Presentation of audio-visual document, interpreted from Khmer)

20 "Pol Pot, as I have mentioned, to be responsible for during  
21 Democratic Kampuchea. Nuon Chea was number 2; Ieng Sary was  
22 number 3; So Phim came in fourth; and I was the fifth."

23 [14.11.10]

24 MR. SMITH:

25 Thank you, Your Honour.

1 E3/1547. This is a confession of Meak Touch alias Kem. He was the  
2 Ambassador to Laos and he was detained at S-21 and if we look at  
3 the front page of that document, the annotation, it states -- the  
4 document states: "Ambassador to Laos about Personal History of  
5 Traitorous Activities" and then it states:

6 "Dear Brother: He has carried out two activities in Laos as  
7 follows: With the capitalists, he contacted the HCR and met In  
8 Tam and they decided to send the Khmer immigrants to Laos, to  
9 Thailand, to be indoctrinated, to absolutely oppose the  
10 revolution."

11 And then it refers to how he worked closely with the Yuon. He  
12 worked closely with Yuon Ambassador.

13 [14.12.28]

14 The purpose of this document, Your Honours, is that in the top  
15 right-hand corner, there is an annotation stating "Comrade Van"  
16 and the relevance of this document is that the ambassador  
17 obviously was from the minister of -- Ministry of Foreign Affairs  
18 and Ieng Sary has been advised of that fact that by this -- by  
19 this notation that he's in S-21 and the further information is  
20 being brought to his attention.

21 Your Honours, if I can now show a video. It's E3/3052R. It's a  
22 documentary film produced by the Democratic Kampuchea government  
23 and it's showing a CPK rally where you will see Nuon Chea, Ieng  
24 Sary, and other leaders on the podium. I would ask that that be  
25 played. Thank you.

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1 MR. PRESIDENT:

2 You may proceed.

3 AV booth officers are now instructed to play the videoclip.

4 (Presentation of video document)

5 [14.16.08]

6 MR. CHAN DARARASMEY:

7 Mr. President, I would like to inform you that this video does  
8 not have any sound.

9 (Presentation of video document continues)

10 [14.21.48]

11 MR. SMITH:

12 Thank you, Your Honour.

13 Again, the relevance of that video, we would submit, relates to  
14 the -- the power and authority that Ieng Sary and the other  
15 senior leaders had at the time.

16 Your Honours, if we could turn to a new document, E3/489, which  
17 is a timeline chart compiled - compiling Ieng Sary's foreign  
18 travel during the period of Democratic Kampuchea compared with  
19 S-21 records of arrest and execution of Ministry of Foreign  
20 Affairs staff.

21 This document was produced by the Office of the Co-Investigating  
22 Judges which was - with the aim of comparing when people from the  
23 Ministry of Foreign Affairs were arrested or killed at S-21,  
24 executed, whether or not Ieng Sary was in the country at the time  
25 that those arrests or killings were occurring.

1 [14.23.15]

2 If we can call the chart up on the screen, but in -- just by way  
3 of explanation, perhaps I'll just read the first couple of  
4 paragraphs of the chart to understand it more.

5 The chart separates themes of evidence, imprisonment, and  
6 execution with foreign travel of Ieng Sary. It's placed on a  
7 timeline and if we can show the timeline, on the screen, which  
8 begins at the start of the DK period and finishes at the end. In  
9 effect, the Office of Co-Investigative Judges analyst used all of  
10 the records, all of the documentary records, available in the  
11 case file relating to absences of Ieng Sary out of the country on  
12 foreign missions or delegations against 115 records of Foreign  
13 Ministry staff who were believed to be imprisoned and executed at  
14 S-21 and that information is gained from the prisoner list.

15 [14.24.35]

16 The analyst states on this document that 99 imprisonment and 85  
17 execution dates were usable in the timeline chart as the  
18 remaining records contained incomplete dates. The conclusion, by  
19 the analyst, was that the attached timeline does not purport to  
20 be an exhaustive list of all foreign travel by Ieng Sary and it  
21 should be read in conjunction with any other testimonial evidence  
22 from witnesses. But certainly, from what we can see - and perhaps  
23 if it can be shown on the screen -- what we can see with the  
24 chart - and if we can perhaps move to the next page. Perhaps if  
25 we can go back to the first page again please, we can see from

1 the chart, the first two lines relate to execution and  
2 imprisonment and the third line relates to when Ieng Sary was in  
3 or out of the country based on the records on the case file.

4 [14.25.46]

5 From analyzing that, it appears that based on this statistics  
6 that Ieng Sary was in the country for around 80 per cent of the  
7 DK period. Alternatively, he was outside the country for about 20  
8 per cent based on the information that was made available to the  
9 analyst at OCIJ.

10 Our submission would be, based on that, that Ieng Sary's role --  
11 this document shows that Ieng Sary's role was much more of an  
12 internal role inside the country than an external one and that's  
13 relevant to knowledge and activities that would be conducted by  
14 him during that period.

15 Your Honour, I would now like to turn to a final document and  
16 this is E3/89 and it's an interview with Stephen Heder and Ieng  
17 Sary on the 17th of December 1996. And in that interview, he asks  
18 Ieng Sary a number of questions; particularly, in relation to the  
19 policy at the time and his involvement with the policies of the  
20 CPK. And in the opening, most general question was put to him by  
21 Stephen Heder on the first page. It's a long question, but it  
22 appears to have been understood by Ieng Sary.

23 The question from Stephen Heder is:

24 "I want to start with the problem of genocide and ask for your  
25 comments on my assessment of this question. Based on the evidence

1 I have seen so far, I believe that there was no plan to commit  
2 genocide, but a genocide took place as the result of a  
3 combination of four sets of policies and practices.

4 [14.28.18]

5 "First, there was a plan to carry out proletarianization by  
6 organizational methods, that is by compulsion, and very rapidly.

7 "Second, there was a plan to carry out Khmerization by the same  
8 forceful methods at the same speed.

9 "Third, anyone who opposed, resisted, or failed to carry out  
10 these plans could be considered an enemy or a traitor to the  
11 nation and the Party because these plans were considered  
12 essential to making Cambodia into a strong socialist country  
13 capable of independence from the capitalist world and Vietnam.

14 "Fourth, anyone accused of being an enemy or traitor could be  
15 arrested by the security service, tortured into 'confessing' and  
16 implicating others, and then killed.

17 [14.29.25]

18 "The power to arrest and torture and kill existed formally or  
19 informally from the Centre right down through the zones, sectors,  
20 and districts to the cooperatives and within army units; and the  
21 use of torture created the most subjective multiplication of the  
22 number of enemies. At the same time, the economic and military  
23 failures of the revolution resulted in numerous deaths and more  
24 and more accusations of treason within the ranks. The overall  
25 result was genocide, even if it wasn't planned as such."

1 To that long question, Ieng Sary responded:

2 "I also see things that way. That is why when I am asked whether  
3 it is accurate to speak in terms of genocide, I say that if what  
4 is meant is a planned genocide aimed simply at making a race  
5 disappear, it seems to me there was no such plan. However, as you  
6 just said, the acts committed were aberrant, and once they were  
7 in motion, they caused great suffering to the nation.

8 [14.30.50]

9 "They are my views on your view. So, like you said, as the  
10 revolution was beset by more and more complications and problems,  
11 the number of human beings who were said to have done wrong  
12 increased. I am in unison with you on this. And your first two  
13 points, first, that this was done in order to establish a  
14 formidable communist foundation for the country more quickly than  
15 on Vietnam so that Vietnam would not be able to keep up and would  
16 not dare to try to take control of Cambodia, are true. This was  
17 generally true and was the common understanding of the  
18 leadership."

19 And, further discussing the powers of the Standing Committee,  
20 Steve Heder said: "From what point in time was there a decision  
21 or an understanding that it was necessary to do things in this  
22 manner?"

23 [14.32.02]

24 Ieng Sary: "It was there right from the time victory was achieved  
25 in the five-year war against aggression. The notion was

1 formulated from that time on. However, it was not until late 1975  
2 that it was really stipulated that it was imperative to go all  
3 out to carry out a really fast communization in order to make it  
4 impossible for the Yuon to take Cambodian territory. And that is  
5 when the acts that were committed began. However, this idea, the  
6 fear of being swallowed up by Vietnam, that Vietnam would come in  
7 and take over, had flowed through us since way back then. In  
8 fact, when we got involved in the war against the French, this  
9 was the idea; this fear that the Yuon might swallow Cambodia.  
10 Nevertheless, we made every effort to maintain solidarity with  
11 Vietnam in order to win over French colonization."

12 "So, then," Steve Heder, "was there some sort of Central  
13 Committee-level meeting in late '75 at which certain objectives  
14 were set forth in this regard?"

15 "In September 1975, there was a meeting to decide what we had to  
16 do then to keep Vietnam from coming to take control of Cambodia."

17 "So was this decided at the Standing Committee level or the  
18 Central Committee as a whole?"

19 "It was only the Standing Committee, not the Central Committee,  
20 the Standing Committee."

21 [14.33.47]

22 "So who was in the Standing Committee then? [And who was at the  
23 meeting?]"

24 "Virtually all of the Standing Committee were there: Pol Pot,  
25 Nuon Chea, So Phim, me, Son Sen, and Ta Mok."



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1 Steve Heder: "Ta Mok? And Vorn Vet, or not?"

2 [14.34.08]

3 "Vorn Vet, Vorn Vet, yes."

4 Steve Heder: "And Khieu Samphan?"

5 "No, but Khieu Samphan was present."

6 Your Honours, thank you for the opportunity today to present some  
7 of the documents to the public in a unified manner. We appreciate  
8 the opportunity. And that finishes the presentation in relation  
9 to Ieng Sary.

10 MR. PRESIDENT:

11 Thank you, Mr. Co-Prosecutor.

12 And it is now appropriate moment for the adjournment. The Chamber  
13 will adjourn and the next session will be resumed by 15 to 3.00.

14 (Court recesses from 1435H to 1457H)

15 MR. PRESIDENT:

16 Please be seated. The Court is now back in session.

17 Counsel for Mr. Nuon Chea, you may now proceed.

18 MR. KOPPE:

19 Thank you, Mr. President.

20 Your Honours, during the break, I spoke with my colleague, Mr.

21 Son Arun, and he has informed me that our client has in fact been  
22 able to give instruction and that he has now signed a written  
23 withdrawal of his waiver - of his earlier waiver. We are now in  
24 the process of sending to the Trial Chamber and to all the  
25 parties via email a copy of his written withdrawal of his earlier

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1 waiver. I just want to tell you that right now. Thank you.

2 (Judges deliberate)

3 [14.59.55]

4 MR. PRESIDENT:

5 Counsel for Mr. Nuon Chea, please rise.

6 Can you also tell the Chamber, please, more precisely, concerning  
7 the withdrawal of Mr. Nuon Chea? So we would like to be advised  
8 as to whether he has waived his right to be present entirely  
9 during the proceedings concerning the roles of Mr. Nuon Chea or  
10 other parts.

11 MR. KOPPE:

12 Thank you, Mr. President. I understand perfectly well the  
13 question. He has waived his right to be present during the  
14 presentation of the documents as so far it concerns his  
15 particular role. So the presentation of the Prosecution with  
16 respect of the role of Mr. Khieu Samphan, we could continue. But  
17 the waiver, as I have discussed this with my colleague, Son Arun,  
18 that was the recommendation we would give him. I presume that the  
19 -- although I'm not able to read Khmer - obviously, I presume  
20 that that is in fact the extent of his waiver.

21 [15.01.38]

22 MR. PRESIDENT:

23 Judge Cartwright, you may now proceed.

24 JUDGE CARTWRIGHT:

25 Yes, thank you, President.

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1 I just want to clarify one thing, Mr. Koppe. You said he has  
2 waived his right to be present during the presentation in effect,  
3 during the presentation of the documents relating to him. I  
4 presume you mean withdrawn that waiver, just to be quite clear.

5 MR. KOPPE:

6 I'm sorry; yes.

7 [15.02.07]

8 JUDGE CARTWRIGHT:

9 Thank you very much.

10 MR. PRESIDENT:

11 Thank you.

12 The Chamber wishes to also inform the parties concerning the  
13 result of medical examination of Mr. Nuon Chea submitted to the  
14 Chamber today. The treating doctors of Mr. Nuon Chea at the Khmer  
15 Soviet Friendship Hospital conducted an examination and noted  
16 that his general condition is good. He coughs occasionally but  
17 his body temperature is normal and his breath is also normal,  
18 although he still weak and cannot get up without any assistant as  
19 yet, and the doctors also emphasize that his health condition  
20 improves better as opposed to yesterday. So, this is the update  
21 on the medical report we have just obtained.

22 Counsel for Mr. Khieu Samphan, we noted you were on your feet a  
23 moment ago, you may now proceed.

24 [15.03.54]

25 MS. GUISSÉ:

1 Thank you very much, Mr. President. Good afternoon. And good  
2 afternoon, Your Honours, as well as good afternoon to all  
3 parties. I wish to submit a request at this particular stage of  
4 the proceedings on the presentation of documents to be filed by  
5 the Office of the Co-Prosecutors, and in particular, relative to  
6 the documents regarding my client Mr. Khieu Samphan. I wish, at  
7 the very outset, to recall to Your Honours the decision of the  
8 Chamber dated the 20th of June 2012.

9 [15.04.40]

10 It is classified under E96/7 with specific reference to paragraph  
11 22 of Your Honourable Chamber's decision, which is as follows:

12 "Within the ECCC legal framework, the Chamber considers that  
13 written statements or transcripts proposed to be put before the  
14 Chamber which go to proof of the acts and conduct of an accused  
15 as charged in the indictment shall, subjected to the limited  
16 exceptions identified below, be regarded as 'not allowed under  
17 the law' pursuant to Internal Rule 87.3(d) and are inadmissible  
18 for this purpose, unless the Defence..."

19 And allow me to just repeat the last sentence of this paragraph:

20 "...pursuant to the relevant Internal Rule, they are inadmissible  
21 for this purpose, unless the Defence has been accorded the  
22 opportunity of in-court examination of their authors."

23 Mr. President, it is on that basis, the basis of your decision  
24 that I hereby request that the Co-Prosecutor not be granted leave  
25 to present 20 -- document number 20, and this is on the

1 indicative list of documents to be used with respect to the role  
2 and acts of Mr. Khieu Samphan, that's dated 30th of January,  
3 10.18. This particular document is a letter addressed to Norodom  
4 Sihanouk.

5 I would also request that he not be authorized to present  
6 document 70 of the same list, IS 20.35 , E190.1.172 , E190.1.72.  
7 These are document numbers 20, 70, and 71 and that represented by  
8 the Co-Prosecutor with respect to the accused Mr. Khieu Samphan.  
9 [15.07.42]

10 I would also further point out that there is an additional  
11 document number 73, E3/464, I repeat E3/464. As far as the letter  
12 concerning the deceased King Father, I would also indicate that  
13 in response to a list submitted by the Co-Prosecutors, there is  
14 an annex B, the following references: E9/14/1/1.12; ERN in  
15 English is as follows, 00650078, under item number 35 of the same  
16 table, that the Defence of Khieu Samphan has requested be  
17 summoned to testify is the King, Norodom Sihanouk, and the  
18 Co-Prosecutors had argued that such testimony would be void of  
19 any relevance. Therefore, we would respectfully request that the  
20 document concerning its author not be admitted since there is no  
21 way to demonstrate its veracity.

22 I would also ask you to bear in mind the decision that you handed  
23 down and that you do not allow the Co-Prosecutor to present the  
24 documents relevant to my client. Thank you very much, Your  
25 Honours.

1 [15.10.00]

2 MR. PRESIDENT:

3 Co-Prosecutor, you may now proceed.

4 MR. ABDULHAK:

5 Thank you, Mr. President. Good afternoon, Your Honours. Good  
6 afternoon, Counsel. It is unfortunate that we have to start this  
7 presentation with a series of corrections as to the counsel's  
8 legal submissions. The statements to which my learned friend  
9 referred are statements of individuals who are deceased and such  
10 statements are subject to a different set of rules applicable at  
11 the international level. Those rules are in fact referred to in  
12 Your Honours' decision from which my learned friend was reading.  
13 And had my learned friend continue to read, she would have  
14 reached paragraph 32 which describes and explains, in the words  
15 of Your Honours, that statements of individuals who are  
16 unavailable or deceased can be admitted into evidence even if  
17 they relate to the acts and conduct of the Accused.

18 [15.11.05]

19 So, my learned friend's submissions are misguided. In fact, Your  
20 Honours have permitted these types of statements to be admitted  
21 given that the authors are unavailable. That decision is fully  
22 consistent with international practice. So we invite Your Honours  
23 to refuse the application made by my learned friend and permit us  
24 to come to these documents and use them in the course of our  
25 presentation which would, in any event, be likely, tomorrow. So

1 we will reach these documents tomorrow and perhaps the Chamber  
2 can consider the matter following the hearing – or we're in your  
3 hands, if you wish to rule now.

4 [15.11.53]

5 MR. PRESIDENT:

6 Thank you.

7 Counsel for Mr. Khieu Samphan, you may now proceed.

8 MS. GUISSÉ:

9 Thank you, President. I believe that a clarification was required  
10 in response to the comments made by my fiend across the way. When  
11 a written statement made by a deceased person regarding the acts  
12 and conducts of an accused must be admitted, it cannot be made  
13 during the proceedings but it must be subject to a very specific  
14 application submitted to the Chamber. And it's under those  
15 circumstances that I hereby maintain our position.

16 (Judges deliberate)

17 [15.17.15]

18 MR. PRESIDENT:

19 The Chamber would like to hand over to Judge Lavergne to address  
20 this issue.

21 Judge Lavergne, you may now proceed.

22 JUDGE LAVERGNE:

23 Thank you, President, I shall be rather brief.

24 Mr. Co-Prosecutor, the Chamber has heard the objections posed by  
25 the defence of Mr. Khieu Samphan with respect to certain

1 documents. At this particular stage, the Chamber would like to  
2 know whether the documents that are being opposed by the defence  
3 for Mr. Khieu Samphan figures on the list that had been submitted  
4 before the Chamber or if they are documents that are entirely new  
5 and are being introduced for the first time, in which case they  
6 would be subject to different rules and procedures. The Chamber  
7 has received documents on which E3 numbers have been accorded,  
8 but could you please specify the status of the documents in  
9 question.

10 [15.18.48]

11 And we gather that you do not intend to have those documents  
12 presented or admitted this afternoon. Could you please specify as  
13 to whether you will be doing so this afternoon or tomorrow  
14 morning? Thank you.

15 MR. ABDULHAK:

16 Thank you, Judge Laverne. All of these documents were included in  
17 our Rule 80 list which was submitted in April 2011. One of them  
18 was at that time, I believe, proposed by us as an additional  
19 document and that is E190.1.72. I will, of course, verify  
20 overnight and I will have that information ready first thing in  
21 the morning or even tonight. I don't propose to use these  
22 particular documents in the time we have remaining today. So I  
23 certainly will inform the Chamber and the parties - or, rather,  
24 confirm for the Chamber and the parties that they were on our  
25 Rule 80 list tonight, and if need be, we can provide further



1 information verifying, at least in relation to one of the  
2 individuals that he is deceased. But, I stress, we chose these  
3 particular statements because the authors are deceased and  
4 because they were evidence that we proposed to put before Your  
5 Honours. Thank you.

6 [15.20.27]

7 MR. PRESIDENT:

8 Thank you.

9 We would like to now hand over to the Prosecution to present the  
10 documents.

11 MR. VENG HUOT:

12 Good afternoon, Mr. President, Your Honours. Good afternoon to my  
13 learned colleagues and good afternoon to everyone. I am Veng  
14 Huot. With my colleague, Mr. Tarik Abdulhak, we will be  
15 presenting some documents concerning the role of Mr. Khieu  
16 Samphan.

17 Your Honours will recall that on the 13th and 14th of February  
18 2012, we conducted a presentation of documents relevant to the  
19 role of Khieu Samphan in the period preceding the 17th of April  
20 1975. The documents we will present today build on that  
21 presentation. And so we invite Your Honours to consider the  
22 documents shown in the two presentations together as they form  
23 part of the same continuum. I will provide a brief overview of  
24 our presentation and then with your leave, I will hand the floor  
25 over to my colleague who will present the documents.

1 [15.23.00]

2 The documents we will be showing fall into the following  
3 categories:

4 One, Khieu Samphan's membership of high level bodies within the  
5 Communist Party of Kampuchea, including the Party's Central  
6 Committee and his attendance at the meetings of the CPK standing  
7 committee.

8 Number 2, documents which relate to Khieu Samphan's role in the  
9 establishment of Democratic Kampuchea, the adoption of its  
10 Constitution, the resignation of Norodom Sihanouk as Head of  
11 State and the establishment of the new presidium with Khieu  
12 Samphan as its head.

13 Number 3, documents which evidence Khieu Samphan's oversight of  
14 Democratic Kampuchea's Ministry of Commerce including numerous  
15 ministry reports addressed to Khieu Samphan.

16 Number 4, documents relating to arrests of Ministry of Commerce  
17 cadres who had been working in offices under Khieu Samphan's  
18 supervision.

19 [15.24.50]

20 Number 5, Khieu Samphan's speeches which contain endorsements of  
21 CPK policy and reflect his role in the Party and in the  
22 Democratic Kampuchea government.

23 Number 6, Amnesty International correspondence addressed to Khieu  
24 Samphan during the Democratic Kampuchea period which sought to  
25 bring to his attention the mass crimes being committed in

1 Cambodia.

2 Number 7, Khieu Samphan's interviews and publications including  
3 several video recordings where the Accused discusses his role  
4 during the Democratic Kampuchea period, the crimes committed  
5 during the period, and his relationship with other leaders of the  
6 Party.

7 And number 8, Khieu Samphan's statements to the Co-Investigating  
8 Judges in which he further discusses his role.

9 [15.26.45]

10 Of course, our time is limited so it is impossible to present all  
11 documents which relate to Khieu Samphan's role. In this sense,  
12 the documents we will show are a representative sample of a  
13 larger body of evidence relating to the role of the Accused.  
14 These documents are relevant because they show, among other  
15 things, Khieu Samphan's membership of the leadership of the  
16 Communist Party of Kampuchea and Democratic Kampuchea; his  
17 support for, and contributions to, the Party's policies; his  
18 contemporaneous awareness of the crimes being committed in  
19 furtherance of those policies; and his rigorous defences of those  
20 policies.

21 Mr. President and Your Honours, I would like now to hand over the  
22 floor my colleague, Mr. Tarik Abdulhak. I am very grateful.

23 MR. PRESIDENT:

24 Thank you.

25 Before handing over to the Co-Prosecutor, the Chamber wishes to

1 also inform the public concerning the health condition of Mr.  
2 Nuon Chea.

3 According to the report we obtained from the Khmer-Soviet  
4 Friendship Hospital, the report indicates the Mr. Nuon Chea is to  
5 be discharged from the hospital tomorrow at 2 p.m. In the report,  
6 it states clearly that Mr. Nuon Chea had been admitted to the  
7 hospital since the 13th of January, and he had been admitted to  
8 the hospital for 14 days, until the day he will be discharged.  
9 The report signed by Dr. Kem Samsan and approved by the  
10 vice-director of the Khmer-Soviet Friendship Hospital.

11 Next, we would like to hand over to Mr. Tarik Abdulhak, to  
12 present the documents.

13 MR. ABDULHAK:

14 Thank you, Mr. President. And, as I commence, if I may indicate  
15 first that, in the brief time as my colleague was addressing the  
16 Court, I checked our Rule 80 list, and indeed all of the  
17 documents to which Counsel for Khieu Samphan objected earlier  
18 were on our list in April 2011.

19 [15.30.29]

20 But I will confirm that by email, with specific references to the  
21 annexes, so that that's easy to verify. Your Honours, we'd like  
22 to begin our presentation of documents relevant to the role of  
23 Khieu Samphan with a look at the statements which Khieu Samphan  
24 has made to the Co-Investigating Judges. These documents are  
25 relevant because they are recent. They address, specifically,

1 some of the allegations against Khieu Samphan, and they state for  
2 the record his version of the events. They also contain a number  
3 of important factual admissions by Khieu Samphan about his role  
4 within the Party. It was in late 2007, Your Honours, that Khieu  
5 Samphan made four statements before the Co-Investigating Judges,  
6 and I will give the E3 numbers so that they are available for the  
7 record. They are E3/557 – this was in fact an adversarial hearing  
8 at which Mr. Khieu Samphan made a statement. The next was E3/27.  
9 This was his first actual interview with the Co-Investigating  
10 Judges on the 13th of December. Then there are two further  
11 interviews on the 14th of December 2007. The first is E3/37, and  
12 the second E3/210.

13 [15.32.32]

14 This was in December 2007. By February 2008, Mr. Khieu Samphan  
15 decided to cease cooperation and giving statements to the  
16 Co-Investigating Judges, and asserted a right to remain silent,  
17 and this is found in E3/702.

18 If I can go, first, to the interview of the 13th of December  
19 2007, which, as I indicated, was E3/27. By way of overview, this  
20 document discusses a number of facts relevant to this case,  
21 including Khieu Samphan's whereabouts in the immediate days  
22 preceding the fall of Phnom Penh, his presence at Udong together  
23 with Pol Pot, and a number of other senior members of the Party.  
24 It also contains discussion about Mr. Khieu Samphan's work from  
25 1970 to 1975. It then goes on to discuss the entry into Phnom

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1 Penh, and his whereabouts in Phnom Penh, together with Pol Pot  
2 and Nuon Chea in 1975.

3 [15.34.00]

4 And, lastly, it discusses also the composition of the Standing  
5 Committee and of the Central Committee, as well as the frequency  
6 of the meetings of the Standing Committee. My colleague, Bill  
7 Smith, referred to this document earlier, and read from it, so I  
8 will not spend a lot of time on it. Certainly not cover the same  
9 portions. But I may read one passage in particular, because it  
10 relates to Mr. Khieu Samphan's actions around the 17th of April.  
11 And if we could show this document on the screen, the relevant  
12 ERNs are Khmer, 00156614; French, 00156666; and English,  
13 00156743. And here, Khieu Samphan is responding to a question as  
14 to where he had come to -- where he had come from when he entered  
15 Phnom Penh. And this is his response - quote:

16 "For about 10 days I had been at the headquarters of Pol Pot to  
17 the west of Udong. I would like to assert that I did not  
18 participate in the work of the headquarters. I was just present  
19 (in the headquarters) and observed the events upon which Pol Pot  
20 briefed me once in a while."

21 Question: "Who else was present with you at the time?"

22 Answer: "I think that there were just the two of us. Nuon Chea  
23 may have been there, too, but I am not sure. There were also some  
24 commanders from the army - who commanded the battle to overthrow  
25 Phnom Penh, who came on a regular basis:

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1 [15.36.15]

2 "Ta Mok or his deputies (who was the commander of the Northern  
3 zone), or Koy Thuon or his deputy, Ke Pauk. And there may have  
4 been So Phim as well (commander of the Eastern zone), but he only  
5 came occasionally."

6 The next question is: "Was Son Sen present at the time?" And  
7 answer: "Yes, of course, but he had his own headquarters."

8 The next passage is two pages down. Khieu Samphan is asked:

9 "Between 1970 and 1975, did you stay permanently with the Khmer  
10 Rouge leaders?"

11 Response: "Yes, because my role was to establish a liaison with  
12 King Norodom Sihanouk. And when the United Front of Kampuchea was  
13 established after the coup d'état in 1970, Prince Norodom  
14 Sihanouk knew neither Pol Pot nor Ta Mok."

15 [15.37.25]

16 "I was the only one who could establish relations with the  
17 prince."

18 I will just indicate briefly, for the record, that the next  
19 section of that same interview deals with the whereabouts of Pol  
20 Pot, Nuon Chea, and Khieu Samphan in -- upon arrival in Phnom  
21 Penh. And he indicates, essentially, that they stayed together,  
22 initially at the railway station, then at the Silver Pagoda, and  
23 ultimately at the riverfront.

24 And the final relevant portion for present purposes is found,  
25 again, a few pages on -- this is at Khmer ERN 00156619; French,

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1 00156672; and Khmer -- I apologize, and English, 00156751. The  
2 importance of this passage is simply that Khieu Samphan  
3 acknowledges that he was a member of the Central Committee, first  
4 as a candidate member in 1971 until 1976, when he became a  
5 full-rights member. Immediately below that passage, he is asked  
6 the following question: "You have said that you participated in  
7 'expanded' meetings of the Standing Committee. Can you tell us  
8 about this participation?"

9 Response: "The introductory submission has indicated that I had  
10 participated in 14 out of 19 meetings. I forget the exact number,  
11 but it's around that, given that I'm only aware of the meetings I  
12 attended.

13 [15.39.51]

14 "As I have already explained, during the course of those  
15 meetings, the issues of national defence, the national  
16 reconstruction, as well as the conflict between Vietnam and  
17 Democratic Kampuchea were discussed."

18 I will move on to the next document, Your Honours, and this is  
19 the next interview, on the 14th of December. E3/37. And in this  
20 document, by way of a summary, Khieu Samphan describes the  
21 appointments to Office 870 -- that is, the appointment of Doeun  
22 and Khieu Samphan himself. He also describes his cohabitation at  
23 office K-3 with other leaders, and he also touches upon the issue  
24 of the speeches he gave as President of Democratic Kampuchea.

25 [15.40.52]



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1 I'm going to be selective in the passages I read. In the very  
2 first question and answer, Khieu Samphan says the following. This  
3 is at Khmer ERN 00156675; French, 00156680; and English,  
4 00156753. The question is as follows: "Earlier, you said that Sua  
5 Vasi alias Doeun, was the Chairman of Office 870. How long did he  
6 fulfil this function and who was his successor?"

7 Response: "He was appointed when Pol Pot established his office  
8 on the Tonle Bassac riverfront after leaving the Silver Pagoda  
9 around June 1975. He was arrested in 1977, but I only discovered  
10 that fact after the fall of the Khmer Rouge, that is, after 1979.  
11 I was not surprised by his absence because as I have said, each  
12 of us had to concentrate on his or her own tasks. He travelled  
13 quite a lot, Doeun."

14 The next passage is on the next page, and it relates to the  
15 membership of Office 870, a topic I referred to earlier:

16 [15.42.42]

17 Question: "Could you describe the structure and composition of  
18 Office (munti) 870?"

19 Response: "It was one office of the Standing Committee. It had  
20 only two members, Doeun and me. Doeun was the Chairman, assisted  
21 by colleagues such as Pang, and he was in charge of political  
22 affairs. As for me, as I mentioned earlier, I was in charge of  
23 preparing the price list for the cooperatives and the  
24 distribution of goods to the zones under direction of the  
25 Standing Committee and I also had to maintain relations with King

1 Norodom Sihanouk."

2 The next passage I wish to refer to is at Khmer ERN 00156677;  
3 French, 0015663; and English, 00156756. And it relates to the  
4 functions of Office 870.

5 [15.43.58]

6 Question: "What were the other functions of Office 870 beside the  
7 functions you have described?"

8 Answer: "At first this office was not so important, but at a  
9 later stage it gained in importance, because it was tasked to  
10 monitor suspected members of the Party for the Standing  
11 Committee. I learned this after the revolution collapsed, when I  
12 reached Pailin."

13 The last passage in this document is two questions down -- and  
14 this is the last passage that I wish to read from this document  
15 today. It relates to the speeches that Khieu Samphan gave, and  
16 the content of those speeches.

17 Question: "Did you agree with the content of those speeches that  
18 you made? And if you disagreed with the content, could you give  
19 us an example of such disagreement?"

20 Response: "Generally, I agreed with the content, because there  
21 was an ultimatum imposed by Vietnam in May 1976 (I recall that I  
22 was appointed President of the State Presidium in April 1976).  
23 But on certain points, I disagreed with what was said in the  
24 speeches, for instance for the elimination of the currency which  
25 resulted in the absence of small industry or handicraft

1 development."

2 And a little bit further down:

3 [15.45.52]

4 "I could not make my disagreement public, because we did not want  
5 to reveal to the public that there were disagreements within the  
6 Party itself. What is more, I would not have survived if I dared  
7 to reveal any disagreement or objection to anything. The obvious  
8 example of that was the case of Hu Nim and Hu Yun."

9 Your Honours -- and the final document from which I will read  
10 from the collection of Khieu Samphan's OCIJ interviews is E3/210.  
11 It essentially continues on the theme of fear and arrests to  
12 which Khieu Samphan referred -- the disappearances and arrests of  
13 Hu Yun and Hu Nim. This is at Khmer ERN 00156689; French,  
14 00156694; and English, 00156948.

15 Question: "This morning, you indicated that the arrest of Hu Nim  
16 and Hu Yun were evidence that it was impossible to express any  
17 disagreement. So you knew about the arrests and executions?"

18 [15.47.33]

19 The response to that proposition is as follows: "I brought up the  
20 examples of Hu Nim and Hu Yun, but I only learned the information  
21 about the arrests of these two people after 1979."

22 Question: "Is it not contradictory, on the one hand, to confirm  
23 that you learned of the arrests of the two people only after  
24 1979, and on the other hand, to mention that you lived under  
25 threat before 1979?"

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1 Response: "I do not know how to explain to you more clearly. At  
2 that time, there was an ultimatum imposed by Vietnam. Pol Pot  
3 himself and the CPK felt threatened. This situation meant that it  
4 was not possible to envisage any dissidence."

5 Question: "Do you still maintain that you did not learn of any  
6 arrests before 1979?"

7 Response: "Not any: I observed that some members of the Central  
8 Committee disappeared one after another. I could not inform you  
9 about the names, because I was not close to them. Nonetheless, I  
10 did not know the exact extent of the arrests at the time."

11 And, before we leave this document, a couple more brief passages.  
12 He alleges, on the following page, that he only learned of the  
13 extent of the massacres at the end of 1998. He learned of the  
14 extent of the massacres at the end of 1998, through his readings.

15 [15.49.29]

16 Now, coming back to another topic of interest -- or, rather, for  
17 the moment, just to close off the issue of arrests, I'll quote  
18 from a passage which appears at Khmer ERN 00156691; French,  
19 00156966; and English, 00156949. And he discusses his knowledge  
20 -- or the extent of his knowledge during the Democratic Kampuchea  
21 period.

22 "In relation to the excesses which had been denounced during  
23 auto-criticism, I would like to give you an example: a number of  
24 cadres believed it appropriate to punish those who committed  
25 adultery by shaving half the hair from their heads and exposing

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1 them to the public. Such mistakes were denounced and corrected.  
2 In relation to the arrests at Preah Vihear province, they did  
3 occur but the prisoners were released. There were breaches  
4 committed at the local level, but the leaders did not approve  
5 them. Finally, in relation to the disappearance of the members of  
6 the Central Committee and the Standing Committee, everyone seemed  
7 to approve, but I did not know the extent or the scope of the  
8 arrests."

9 [15.51.15]

10 Finally, in this document, a reference to the evacuation of Phnom  
11 Penh and the feelings of Khieu Samphan during that period. This  
12 is at Khmer ERN 00156690; English, 00156949; and French,  
13 00156966:

14 "Pertaining to the evacuation of Phnom Penh, I clearly realized  
15 that the population might have fallen along the way. That is why  
16 after the fall of the movement, I asked myself the reason why the  
17 movement in which I believed, made this kind of decision, which  
18 deviated from the movement's principles."

19 The relevance of that last passage, Your Honours, is that it  
20 contains a statement in which Khieu Samphan purports to express a  
21 concern, in April 1975, on his part, regarding the suffering that  
22 was being inflicted on the population. We will see shortly what  
23 Khieu Samphan was saying publicly in that period.

24 [15.52.55]

25 The next topic to which I would like to turn now, Your Honours,

1 has to do with the role which Khieu Samphan played in the  
2 Communist Party of Kampuchea, in the upper echelons of the Party,  
3 and also within the institutions of Democratic Kampuchea. And,  
4 furthermore, the contributions that are reflected in the  
5 documents that we have available to us. If I could turn, now, to  
6 document E3/182. E3/182. This document was referred to earlier  
7 today by my colleague. It is a minute of the Standing Committee  
8 meeting of the 9th of October 1975. We will only look at it for a  
9 brief moment. And, to build on my colleague's discussion of this  
10 document; of course, the document contains a delegation of work  
11 and operational processes.

12 [15.54.23]

13 And if we look at the first page, in all three languages, the  
14 delegation of work and operational processes has an order, where  
15 number 1 is Comrade Secretary, number 2 is Deputy Secretary, and  
16 number 3 is Comrade Van, or Ieng Sary. Of course, number 2 being  
17 Nuon Chea. And we see that number 4 is Comrade Hem, whose  
18 responsibilities are indicated as follows: "Responsible for the  
19 Front and the Royal Government, and Commerce for accounting and  
20 pricing."

21 What is relevant to observe on this document is that two  
22 individuals who are members of the Standing Committee - that is,  
23 under number 6, Comrade Khieu, Son Sen, and number 7, Comrade  
24 Vorn, or Vorn Vet, appear in this list below Comrade Hem, or  
25 Khieu Samphan. A similar order can be seen in another document,

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1 which I will just refer to, without showing it on the screen.

2 This is document E3/858, and it is a list of bodyguards and other  
3 staff assigned to the officers with various designations in Phnom  
4 Penh. And in that document, we see that the listing is similar,  
5 in that we have K-1 at the top - K-1, of course, being the  
6 workplace and residence of Pol Pot.

7 [15.56.24]

8 Below that, we have, at K-3, "Uncle 2". Below him, Brother Van,  
9 or Ieng Sary. And below him, Brother Hem, or Khieu Samphan. Below  
10 Khieu Samphan, Brother Vorn.

11 Your Honours, my colleague discussed earlier the frequency of  
12 meetings of the Standing Committee, and it is interesting to look  
13 at the attendance in those meetings from the perspective of the  
14 attendance of Khieu Samphan. We have been able to identify a  
15 total of 23 meetings of the leadership of the Party. Now, some of  
16 these meetings are identified as being meetings of the Standing  
17 Committee. Others are not. But the membership or the attendance  
18 of the individuals at the meeting indicates that it is a meeting  
19 of leading cadre or the leaders of the Party insofar as Pol Pot,  
20 Nuon Chea, and other members of the Standing Committee are  
21 present.

22 [15.57.45]

23 Out of these 23 sets of meeting records, only 19 contain lists of  
24 individuals attending. Within those 19, Khieu Samphan is recorded  
25 as attending 16, or somewhere in the vicinity of 84 per cent of

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1 the meetings. The only people attending more frequently than  
2 Khieu Samphan are Pol Pot, who attended 17 meetings, and Nuon  
3 Chea, who attended 18. Other members of the Standing Committee,  
4 including Son Sen and Vorn Vet, attended 10 or less meetings of  
5 this body.

6 Mr. President, I'm mindful of the time. I can continue for a few  
7 more minutes, with two documents or so, or I can stop here, if  
8 you would prefer me to do so.

9 (Short pause)

10 [15.59.08]

11 MR. ABDULHAK:

12 I will continue.

13 We now move on to considering the events in 1975 which relate to  
14 the return of the late King Father Norodom Sihanouk to Cambodia,  
15 and in that context to the -- to his resignation from his  
16 then-role as the head of state, and his replacement by Khieu  
17 Samphan. We would like to now play a brief video for Your  
18 Honours. And they're in fact two segments totalling approximately  
19 3 minutes. They come from document D295/2/2.23R -- that is,  
20 D295/2/2.23R. And with your permission, Mr. President, I would  
21 ask the AV Unit to play these two segments. They are designated  
22 in our table, which the AV Unit has, as segments A1 and A2.

23 MR. PRESIDENT:

24 You may proceed.

25 AV officer, please play the videoclip as requested by the



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1 prosecutor.

2 (Presentation of video document)

3 [16.03.11]

4 MR. ABDULHAK:

5 And if I could ask the AV Unit also to play the next segment,  
6 which is A2. It is only one minute long. Of course, Your Honours,  
7 what we're viewing is video footage of the return of Norodom  
8 Sihanouk from China to Cambodia. And we see there that he's  
9 accompanied by Khieu Samphan.

10 MR. PRESIDENT:

11 You may proceed.

12 AV officer, please play the clip as per the request by the  
13 Co-Prosecutor.

14 (Presentation of video document)

15 [16.05.00]

16 MR. ABDULHAK:

17 This footage is - dates from around September 1975, and we will  
18 now trace the events as they pertain to the fate of the  
19 then-Prince Norodom Sihanouk and the establishment of new  
20 institutions of Democratic Kampuchea.

21 Mr. President, should I continue with the next document, or would  
22 you like me to stop here?

23 MR. PRESIDENT:

24 Thank you, Mr. Prosecutor.

25 The time is now convenient for the day adjournment. The Chamber

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1 will adjourn now and resume tomorrow, on the 31st of January  
2 2013, starting from 9 a.m. in the morning. And tomorrow's hearing  
3 will be dedicated to the presentation of documents concerning the  
4 Co-Accused, to be presented by the prosecutor.

5 [16.06.29]

6 Is there any issue with the translation?

7 Once again, the time is now convenient for the day adjournment.

8 The Chamber will resume tomorrow, starting from 9 o'clock in the  
9 morning. Tomorrow the Chamber will hear the presentation  
10 concerning key documents relevant to the roles of the Accused, to  
11 be presented by the prosecutors. Any observation or objections of  
12 concerned party to this presentation will be also heard. This is  
13 the information for the parties as well as members of the public.  
14 Security guards are instructed to bring the Co-Accused back to  
15 the detention facilities and have them back before 9 o'clock. And  
16 the Co-Accused shall remain in the holding cell downstairs, where  
17 the audio-visual equipment is there for them to follow the  
18 proceeding remotely.

19 The Court is now adjourned.

20 (Court adjourns at 1607H)

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