



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

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ជាតិ សាសនា ព្រះមហាក្សត្រ

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Nation Religion King
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Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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Trial Day 58

Before the Judges: NIL Nonn, Presiding
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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
MR. DE WILDE D'ESTMAEL	French
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. SALOTH BAN (TCW-586)	Khmer
MR. SON ARUN	Khmer

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 Good morning, Mr. Saloth Ban. Today, the Chamber is hearing your
6 testimonies; questions to be put by counsels for the Accused.

7 During today's session, counsels for Mr. Ieng Sary will continue
8 putting questions to you. Some of their questions had already
9 been put last week, but they still have some more questions to
10 put to you. The Chamber would like to ask that you focus on
11 responding to the questions so that we can have your testimonies
12 complete by the end of today if possible.

13 [09.02.44]

14 We would like now to proceed for counsels for Ieng Sary to
15 proceed with their questions.

16 QUESTIONING BY MR. KARNAVAS RESUMES:

17 Q. Good morning, Mr. President. Good morning, Your Honours. Good
18 morning, Witness. And good morning to everyone in and around the
19 courtroom.

20 Sir, I would like to pick up where we left off last Thursday, and
21 perhaps we can begin by revisiting what you told us at the time,
22 when I was asking you questions concerning the ability of your
23 uncle to make decisions on his own.

24 [09.03.35]

25 Do you recall that exchange?

2

1 MR. SALOTH BAN:

2 A. No, I don't.

3 Q. All right. Well, you told us at the time -- and I'm referring
4 to page 95 of the transcript, and for those of -- it might be
5 easier to follow in Khmer and in French. It starts with 16.02.551
6 (sic) on the meter, and it goes all the way until 16.05.17. And I
7 do believe that we have a hard copy for the gentleman to follow
8 along, and with the Court's permission, perhaps we could provide
9 the hard copy to the gentleman.

10 (Short pause)

11 [09.05.19]

12 Now, just above the portion that I've mentioned, there's the
13 question. And I'm -- I've referred to a -- a document to you
14 where, in it, you draw -- you drew some conclusions that Pol Pot
15 could not make decisions on his own, and your answer was:

16 "When I was told, at that time, I did not make such a conclusion
17 as that my uncle could not make a decision alone. However, only
18 when I witnessed the later situation that Ta Mok opposed Pol Pot,
19 then it was clear to me that, although Pol Pot was a secretary of
20 the Party at the time, now they did not respect him, so he could
21 not make a decision alone.

22 And the second point is that collectivism had more weight than
23 individual decision, so the minor opinion had to abide by the
24 major opinion."

25 [09.06.34]

3

1 I then go on to ask you-- Okay, I asked you about the period:

2 "When you say that Ta Mok went against Pol Pot, your uncle, just
3 now, are you not referring to the period of 1996-1997? Is that
4 not the period that you're referring to?"

5 Answer: "I refer to that period -- that is, '96-'97."

6 Question: "And that's when -- that's right after Son Sen and his
7 family were murdered, presumably, by your uncle; is that right?"

8 And your answer was: "Yes, it was."

9 [09.07.29]

10 So I want to focus today on this answer and then build on that to
11 talk a little bit about what exactly you knew, at the time.

12 But, first, can we conclude from your answer that, when you spoke
13 to the investigators -- you had the '96-97' situation in mind
14 when you told the investigators that Pol Pot could not take
15 decisions alone?

16 A. Yes, you could, because I did say so when we were integrated
17 into society.

18 MR. KARNAVAS:

19 I would most appreciate it, Mr. President, if my mic was not
20 turned off. I think I can manage by myself; it's a little bit
21 disconcerting for me to be looking at the light all the time. So,
22 if possible, the IT folks could allow me to self-manage.

23 [09.08.54]

24 BY MR. KARNAVAS:

25 Q. Now, you're not suggesting, however, from that answer that,

4

1 from the period that you knew your uncle going back to the jungle
2 all the way until the fall of Phnom Penh and perhaps thereafter,
3 that your uncle, Pol Pot, could not take decisions alone?

4 A. Yes, I did state so. And as already cited in your statement,
5 it was the situation that the minority had to respect the
6 majority opinion which was part of the -- the decentralized
7 democracy.

8 Q. Well, that's what I want to touch upon. Can you please explain
9 to us how often -- and perhaps you could give us an example --
10 how often you witnessed meetings where this principle of
11 democratic centralism or collective decision-making was actually
12 taking place? Can you name one instance?

13 A. I had never attended any meetings of the Standing Committee. I
14 learned about this through my study sessions.

15 [09.10.54]

16 Q. And your study sessions were about the principles set out; is
17 that correct?

18 A. Yes, I learned about it through those sessions.

19 Q. And what have you here, today, or what -- can you point to
20 anything that would give us any confidence that, at the time when
21 your uncle was at the very top - that, actually, he abided by the
22 principles you were taught of? Is there anything that you can
23 show us?

24 A. I already stated time and again; I would like to now repeat
25 that my study sessions were conducted by my superior; including

5

1 Pang and Ieng Sary, who conducted such sessions.

2 Q. I understand the sessions and I understand the principle, but
3 what I'm asking you, sir, is: Can you verify that those
4 principles were actually abided by Pol Pot, who was at the very
5 top?

6 A. I don't know how precisely Pol Pot be abided by the
7 principles, but on my part, I have been very careful and thorough
8 in applying the principles.

9 [09.13.12]

10 Q. I understand, but you would agree with us; would you not, that
11 you're not quite at the level at Pol Pot? What Pol Pot was doing
12 was secret and you had nothing and you -- you were never part of
13 whatever he was doing, is that right?

14 A. I think it is not fair to force me to agree with your
15 question, so I am -- I don't feel comfortable being forced to
16 agree with your comments.

17 Q. You told us at least on two occasions that one had to mind his
18 or her own business. Do you recall saying that? And do you still
19 stand by that?

20 A. Yes, I do.

21 Q. And if we put it differently, can we say that the approach
22 taken at the time, the way things operated at the time -- was
23 that transparency was actually forbidden?

24 A. The work habits at that time, to me, were transparent. No one
25 forbidden me from doing anything. For example, in my work, I had

6

1 to do my best to work to ensure that the works were properly
2 done. However, I did not listen to any outsider.

3 [09.15.46]

4 Q. And what about the work of Pol Pot and others? Was that
5 transparent? Did they make sure that everyone -- not just you,
6 the nephew, the loving nephew, but others in the country -- knew
7 exactly who was doing what and for what reason?

8 A. The question is difficult to respond, but I do my outmost to
9 respond by giving you the real situation.

10 To put it simply, in the common study sessions, when Pang would
11 also attend-- When I say "common study session", I mean I,
12 myself, would be invited to attend the sessions, and other people
13 from ministries would also be invited, and documents from the
14 Standing Committee would be handed out to participants. And these
15 sessions include the principle on the solidarity of the tribal
16 people under the "Revolutionary Flag" and also the 12 principles
17 of ethics.

18 And I had to follow what I have been taught personally. I don't
19 know what other people were doing; whether they betrayed what
20 being taught, it's up to them because each individual was
21 individually responsible for their own business. People could
22 implicate me in their confessions or in other aspect, but I had
23 to be very careful; I followed all the principles or documents
24 being taught to me.

25 [09.18.06]

7

1 Q. The two documents that you referred to just now, those were
2 documents provided to you prior to the fall of Phnom Penh, back
3 when you first went out into the jungle to meet Uncle Pol Pot; is
4 that correct?

5 A. The documents concerning the solidarity of the minority groups
6 under the "Revolutionary Flag" of the CPK were taught first and
7 the documents concerning the 12 principles of ethics were part of
8 the daily routines and study sessions.

9 Q. Now, if you did not attend any meetings of the Standing
10 Committee, any meetings of the Central Committee, can you please
11 tell us how it is that you know who Angkar is or who its members
12 are?

13 A. I'm afraid I cannot respond because I'm not sure myself and I
14 cannot answer this.

15 [09.19.43]

16 Q. Well, last Thursday, you said that your uncle was, I believe,
17 a member of it; are you sure -- today, are you not sure of that?
18 Are you not sure of your answer, that is?

19 A. The term "Angkar", to my understanding through the study
20 sessions back then, was not at the central level. "Angkar" refers
21 to people, general public, people who helped give their inputs.
22 In conclusion, I can say that the ideas gathered from people and
23 that the Central Committee would take into account those inputs
24 and they'd become part of the decision by Angkar. So I don't know
25 who Angkar is.

8

1 Q. Well, was Angkar a group within a group within a group or is
2 it some floating idea?

3 A. Angkar is the combination of inputs from people of all walks
4 of lives.

5 [09.21.43]

6 Q. So does that mean when you provide input to Uncle Pol Pot that
7 becomes part of the essence of Angkar? Is that your
8 understanding?

9 A. I never given my personal comments directly to you, but I was
10 also part of a small Angkar because I belonged to a small group
11 that reported to other groups who reported to Brother Ieng Sary,
12 who reported to upper echelon and our ideas would have to go
13 through these layers of levels. So it's -- it's now up to you to
14 judge what Angkar is.

15 Q. All right.

16 So, from your answer, are you one of those "needles in the
17 ocean", as well, that you told us about last Thursday, when you
18 were describing Uncle Pol Pot being "a needle in the ocean" as an
19 individual of Angkar? Is that what you're telling us today?

20 A. Your question is more hypothetical because you would like to
21 know my -- Pol Pot's philosophy; that's what I guess your
22 question could have been. I agree, Pol Pot was a needle in the
23 ocean, and I also am a drop in the ocean.

24 [09.23.54]

25 Q. All right. And when you say "a needle in the ocean", for those

1 of us who don't -- who may not fully appreciate what exactly you
2 mean, can you please describe that, tell us what exactly that
3 means, those of us who come from different cultures and don't use
4 those expressions?

5 A. If you are talking about a needle in the haystack, I also
6 would like to ask you a question. Do you know this logos -- this
7 logos right in front of me? Do you -- do you know them? And I
8 think I know them. Here, the flag of Cambodia; and this, on the
9 left-hand side, the logo for the United Nations. But what -- what
10 about the logo right in the middle? I don't know what it means.

11 [09.25.08]

12 My apologies, Mr. President.

13 MR. PRESIDENT:

14 Witness, you are not allowed to put questions to parties in the
15 proceedings. Indeed, you are here in your capacity as a witness
16 to respond to questions. The Chamber has not advised you about
17 your rights not to put questions to the civil -- to the parties
18 but, indeed, it is not your right to put questions back to any
19 parties.

20 If you are not able to respond to any particular questions and
21 because your respond or questions are too complicated to do so,
22 then you can do your best not to respond or to respond; it is up
23 to your human ability to do so.

24 So please be advised that you are expected to respond to
25 questions that you can respond, and if it is far beyond your

10

1 ability to explain or to do so, you may refrain from doing so.

2 But please be reminded that you should refrain from putting
3 questions to parties which are not allowed by the law.

4 MR. SALOTH BAN:

5 Mr. President, Your Honours, for that, I will not be able to
6 respond to the questions to counsel.

7 [09.26.48]

8 BY MR. KARNAVAS:

9 Q. Just to be on the clear side, either before 1979 or after, did
10 you ever have any conversations or discussions with Uncle Pol Pot
11 where he described to you what Angkar was or who its members
12 were?

13 MR. SALOTH BAN:

14 A. I never chit-chat with him or other people on this.

15 Q. Did you ever chit-chat with him concerning how Angkar
16 operated?

17 A. As stated, the term "Angkar" is understood through documents
18 handed over to me during study sessions.

19 Q. And beyond that, can you tell us if you know who the members
20 of Angkar actually are -- and I'm not asking for speculation --
21 whether you actually know who they are?

22 A. The real meaning of "Angkar" is no way understood by me.

23 [09.28.51]

24 Q. Very well.

25 Now, what about the -- the word "Centre"? Was there a definition

11

1 of what the word "Centre" is?

2 A. "Centre" refers to individuals at the supreme levels including
3 those people who worked or who had the authority over smaller
4 organization or Angkar.

5 Q. And did you ever participate any -- in any meetings with the
6 "Centre" as a centre?

7 A. I had never attended any meetings in this Centre.

8 Q. Do you know how the Centre operated?

9 A. I do not understand that.

10 [09.30.33]

11 Q. Was there a hierarchy within the Centre where you would be
12 able to identify a particular individual at the top and then
13 others below with different responsibilities and functions?

14 A. I never saw any Party statute which indicated that. Since the
15 time I started, I never saw something mentioned in the statute of
16 the Party.

17 Q. And what about the term "upper echelon"? One often hears this
18 term. Were there any documents that set out and defined the
19 members of the "upper echelon"?

20 A. No, I never saw that.

21 Q. Were there any documents or any training sessions on how this
22 so-called upper echelon operated; what its functions were, its
23 responsibilities?

24 A. No, there was not.

25 [09.32.18]

12

1 Q. And can we conclude or let me phrase it another way. You saw
2 no documents, you had no study sessions; did Uncle Pol Pot or
3 anyone else discuss these concepts "Centre" and "upper echelon"
4 with you, at any point of time, before or after 1979?

5 A. I only saw that in the introduction. If we had to acknowledge
6 those who were sent by the Centre-- At that time, Pang was sent
7 in; at the ministry, we had Ieng Sary. And these are the two
8 people I contacted who I thought were my superiors.

9 Q. Let's talk briefly about Pang.

10 Pang came from the outside; right?

11 (Short pause)

12 May we have your answer? I saw you shaking your head, but we
13 haven't received an answer.

14 When Pang would come to the Ministry of Foreign Affairs, he came
15 from the outside; is that correct?

16 A. Pang was a person coming from the outside. However, he came
17 from the Central Office.

18 [09.34.38]

19 Q. And is the Central Office, now, something different from the
20 Centre, or are we speaking about the same concept?

21 A. Let me give you an example. I was in the middle level. As a
22 person at the middle level, I had to respect Pang when he came.

23 Q. Let me ask the question again: Is the Centre the same as the
24 Central Office, to your knowledge? If you don't know, just tell
25 us you don't know.

13

1 A. (Microphone not activated)

2 MR. PRESIDENT:

3 Can you answer the question again? Because just now your mic was
4 not activated.

5 MR. SALOTH BAN:

6 A. They were different.

7 BY MR. KARNAVAS:

8 Q. All right.

9 Did you consider Pang upper echelon?

10 [09.36.31]

11 MR. SALOTH BAN:

12 A. Yes, I did. He was an upper echelon.

13 Q. Now, you told us that Pang, at least to your understanding,
14 from what you were able to observe, was the head of Office 870,
15 and you were also asked about Office S-71; do you recall that?

16 A. I do not. I do not remember about the connection between Pang
17 and S-71.

18 Q. What about Y-10? Was there a connection between Pang and
19 Office Y-10?

20 A. I do not know Y-10.

21 Q. Office-- You told us that Pang was in charge of security -- of
22 the security apparatus and you told us that he was free to come
23 and go within Phnom Penh; do I have that right?

24 A. I recall that point.

25 Q. Now, was the security apparatus-- Their offices, if you know,

14

1 were they located within the area where Office 870 was located,
2 or was it located someplace else?

3 A. I was in Phnom Penh. I travelled within my framework. I
4 observed that Pang could --went to any place as he pleased. I
5 knew Pang could go to any place he wanted so I also conclude that
6 he could also travel to provinces.

7 [09.39.42]

8 Q. All right. So your testimony today is: He wasn't just limited
9 to Phnom Penh, he could go outside Phnom Penh; right?

10 A. Right.

11 Q. Getting back to my question, which was: Where was the security
12 apparatus -- where were -- where were the offices of the security
13 that Pang was head of-- Where were they located? Do you know?

14 A. I do not know about that for sure.

15 Q. Well, when you were part of the security apparatus, prior to
16 being appointed by Pang to the MFA, where were you located when
17 working for the security apparatus?

18 [09.41.04]

19 A. Are you talking about me, who was working in the security, or
20 are you talking about Pang?

21 Q. I'm asking -- I'm asking you, sir, before you went to the
22 MFA-- You told us that you worked with Pang and, in fact, you
23 described one event where you had provided security under Pang's
24 instructions and directions in which your comrade, Cheam, also
25 participated in. And my question is: At that time, do you know

15

1 where the security office was located?

2 A. When I went to Phnom Penh, the situation was chaotic. There
3 were flies everywhere. They flew into the mouth when we opened
4 our mouth.

5 When I talk about the meeting of the security with Pang, I did
6 not mean we held meeting about arresting people. The security
7 meeting was about that everyone was to be healthy; it was about
8 cleaning the city, and I can tell you that the cleaning of the
9 cities took more than one year. And when I talk about market, at
10 that time market was not like the market we have today.

11 [09.43.24]

12 Q. That's all fascinating, but you told us that, before the fall
13 of Phnom Penh, you provided security for Uncle Pol Pot. You then
14 told us you came to Phnom Penh where Pang met you. You then told
15 us that on one occasion you provided security. Do you know, at
16 that time, where the security offices were located? It's a yes or
17 it's a no.

18 A. Allow me to talk about the situation so that you can
19 understand. When I went to Phnom Penh--

20 Q. I have limited time. My question is precise. You're extremely
21 intelligent. I'm sure you're capable of answering the question.
22 Do you know where the security offices were located? If you
23 don't, I'll move on. So humour me and just, please, answer the
24 question.

25 [09.44.37]

1 A. I do not know. I don't think there was an office of security.

2 Q. All right.

3 Now, you told us that Cheam also worked in the security apparatus
4 before he, too, was appointed a position within the Ministry of
5 Foreign Affairs; do you recall that?

6 A. Yes, I do.

7 Q. Did Comrade Cheam ever tell you where he was staying while he
8 was working for the security apparatus or were you staying
9 together?

10 A. Cheam never told me that there was a security office. He did
11 not discuss with me about any other security matters.

12 Q. Did you ever ask him? Did you ever have any conversations with
13 him since he was your subordinate and you were responsible for
14 him while he was -- while you were working at the Ministry of
15 Foreign Affairs?

16 A. What was I supposed to ask him about, sir?

17 Q. Well, his function.

18 A. I never asked him about his functions because he was under my
19 supervision.

20 [09.46.32]

21 Q. All right.

22 Now, you told us that Pang would come and go in the Ministry of
23 Foreign Affairs. He would bring people and take them away as he
24 wished; do you still stand by that?

25 A. Yes, I do.

1 Q. You also told us that Comrade Cheam facilitated or assisted in
2 transporting some individuals that were -- that had come to the
3 MFA through Pang and he would transport them and deliver them
4 someplace else; do you stand by that?

5 A. Yes, I do.

6 [09.47.32]

7 Q. Do you know whether at that time Comrade Cheam was still
8 working for or attached to Pang's security apparatus?

9 A. Yes, I do.

10 Q. All right. So I want to be clear because perhaps my question
11 wasn't clear: Was Cheam working under the authority of Pang while
12 he was under your authority at the Ministry of Foreign Affairs?

13 A. Yes, Pang was above Cheam.

14 Q. Well, I'm not asking about the hierarchy. What I'm asking you,
15 sir, is this; you've told us that Cheam worked for Pang at one
16 point; you've told us that, when Pang would come in to the MFA
17 ,Cheam would assist him.

18 And now my question is: While Comrade Cheam was at the Ministry
19 of Foreign Affairs and although he was your subordinate, was his
20 superior still Pang, at least when it came to security matters?

21 [09.49.18]

22 A. Pang was still his superior.

23 Q. And would that explain why you've told us that on one occasion
24 you even asked Comrade Cheam if your turn would come next? Do you
25 recall last Thursday where you said -- and I'm quoting here, it's

18

1 on page 16; we'll provide it to you because I do want to clarify
2 one point, but it's at 09.53.44, Your Honours. On English, it's
3 page 16, but this would be last -- 26 April. That's 09.53.44.

4 "I knew that Cheam took those people away. I did ask Cheam about
5 it -- that is, where those people were taken to -- and I said:
6 Could it be me next time?"

7 Do you recall saying that?

8 A. I did not say it that way; it meant differently. And if you
9 allow, I can say that again.

10 Q. Okay. Well, please explain to us so we're absolutely clear,
11 because I'm dealing with the English version, and as I understand
12 it, the Khmer version is slightly different, and I don't want to
13 lead the witness, which is why I'm not proceeding with that. So
14 please explain, and then I will show you the transcript as well.

15 [09.51.44]

16 MR. PRESIDENT:

17 Court officer is instructed to bring the transcripts and show the
18 portion relevant to the witness before witness answers the
19 question because the question keeps moving around.

20 (Short pause)

21 MR. SALOTH BAN:

22 Allow me to clarify this point as follows. When Pang asked Cheam
23 to take people from the MFA, Cheam came and took those people
24 out. When Cheam returned I asked him, with my fear, where those
25 people were taken to. And he told me that those people were taken

1 from him further and he did not know where they were taken to,
2 ultimately.

3 So that meant I did ask him, and I asked him about where those
4 people were taken to and he told me that those people were taken
5 from him further and he did not know about the destination of
6 those people. So I thought to myself: if that continued to happen
7 that way, one day there could be my turn. This is what I meant.

8 [09.54.08]

9 BY MR. KARNAVAS:

10 Q. All right. So I want to clarify two points, because the
11 transcript said -- says -- at least the English version and
12 perhaps the French, which follows the English would also say the
13 same thing -- it says, one, that you respond to - to Cheam, "And
14 I said: Could it be me next time?"

15 So my question is: Did you actually say it or did you think it?

16 MR. SALOTH BAN:

17 A. It seems that I did say so before -- or in front of Cheam
18 that, well, it could be my turn.

19 Q. And when you said it, were you kidding at the time? Was it a
20 joke or were you serious?

21 A. My feeling at that time pushed me to say that. I invite you to
22 consider whether I was serious at that time, but I was being
23 frank. I said it that way because I did not want to be perceived
24 that I was threatening Cheam for him to answer to my question. So
25 I said it that way; well, one day it could be my turn. That meant

1 I was being cautious at that time.

2 [09.56.00]

3 Q. And when you said it-- And I think that clarifies the matter,
4 Your Honour, as -- perhaps as primitive as the way I put it. But
5 when you said that to Comrade Cheam, did you actually think that
6 despite of you being Pol Pot's nephew -- that the possibility
7 existed that one day it could be you?

8 MR. PRESIDENT:

9 Counsel, could you put the question again? Because, in the Khmer
10 language, we could not understand whether you gave a statement or
11 you put a question to the witness.

12 BY MR. KARNAVAS:

13 My apologies; it's Monday morning, starting off a little tired.

14 Q. Sir, when you said that, in the manner in which you said it--
15 I want you to reflect back. Given the circumstances, did you
16 actually think that even though you were Pol Pot's nephew -- that
17 perhaps, one day, it just might be your turn?

18 [09.57.47]

19 MR. SALOTH BAN:

20 A. I did think that way.

21 Q. Now, you told us about the prevailing fear, both inside the
22 ministry and outside the ministry, in general; do you recall
23 that?

24 A. Yes, I do.

25 Q. What I would like you to do now is perhaps to reflect back --

1 reflect back to that period between '75 and '79 and for those of
2 us who did not experience that period, to please describe to us
3 what that feeling was about.

4 [09.58.49]

5 A. My feeling at that time was that I thought about my family who
6 were in danger, just like others, so my family members included
7 my parents as well. That was my feeling at that time, and I was
8 also worried about myself. I said about it several times; I was
9 worried. And my talk with Cheam, as I said, was done very
10 cautiously. If I was spotted talking to Cheam or to be close with
11 Cheam when he was executing the order from Pang, I could be in
12 danger. So people around me might had the feeling that I had
13 something to do with Pang or whether I was connected to the fact
14 that people were taken out by Cheam. So I thought about all these
15 things and I was worried.

16 Q. Now, you also told us, back on 24 April 2012 -- this would be
17 on page 51 of the transcript, going on to -- I'm sorry, it -- it
18 would be on page 54 of the transcript and it's right above the
19 timer 14.37.03 . You said that: "...I, myself, was also worried and
20 I believed everyone else was also afraid."

21 Do you recall saying that? And do you stand by it, that you
22 believed everyone else was also afraid?

23 A. Yes, I do.

24 [10.01.49]

25 Q. And can you please explain how it is that you believed that

22

1 others were afraid? You told us about yourself; but what made you
2 believe that others were also afraid at the time?

3 A. (Microphone not activated)

4 MR. PRESIDENT:

5 Witness, please hold on. Make sure your mic is activated before
6 you proceed to responding to the question.

7 MR. SALOTH BAN:

8 A. I have said time and again concerning my fear.

9 First, I visited the countryside. People said they suffered from
10 not having enough food to eat, and arrests were made in the base
11 -- local areas.

12 [10.02.52]

13 Secondly, in the ministries, chaotic situations happened, and
14 that the Vietnamese troops had been approaching.

15 So, both at the base -- bases and ministries-- I don't know what
16 happened at other ministries, but I can see that this happened
17 everywhere; there were chaotic situations.

18 And I would like to also talk further to conclude this.

19 After the nine-layer of mechanism where people had to be taken
20 away and executed, we knew that we were happy and that we were in
21 peace. At that time, there was a new law stipulating that
22 cooperatives could have more food to eat. However, this plan was
23 destroyed by the arrival of the Vietnamese troops.

24 BY MR. KARNAVAS:

25 Q. Let's focus on fear.

1 At some point, on page 64, which is by the timer 15.15.46,
2 there's a question about being implicated and what being
3 "implicated in documents" meant. Do you recall having a
4 discussion on that?

5 MR. SALOTH BAN:

6 A. No, I don't. I never discussed anything concerning these
7 implications.

8 Q. Well, let me ask you it this way: Were you afraid that you
9 might be implicated from outsiders and that would be a cause for
10 your arrest?

11 A. At that time, yes, I were.

12 [10.05.44]

13 Q. Now, you told us that you had a clean biography and you told
14 us that you were extremely careful in carrying out all your
15 functions and duties. We also know that you were related to Pol
16 Pot. Why would someone like you be worried about being implicated
17 by others? And who might those others be?

18 A. I wish to be brief on this. I know for sure Pol Pot had no
19 family affection. He has no sense of nepotism, and it's
20 absolutely not and I knew this very well.

21 Q. Why were you afraid of being implicated, setting aside what
22 Pol Pot's sentimentality towards you were at the time?

23 [10.07.25]

24 A. I think I may repeat my response to this same question. Then
25 my answer remains the same.

1 Q. Were others in the ministry as afraid as you were of being
2 implicated?

3 A. I think as long as I was very worried, there is no reason
4 other people could not be so worried. They even were more worried
5 than I was.

6 Q. Now, you told us -- you told the Co-Investigative Judges --
7 and you've also said it here in Court -- that Ieng Sary was also
8 afraid. Would that apply to him, based on what you were able to
9 observe and experience at the time?

10 A. I did not hear what he said but I could see his facial
11 expression; he was saddened. He was very sad because he was very
12 worried about his staff members and he was saddened by the fact
13 that his people, his staff, had to end up like that.

14 [10.09.10]

15 Q. If we could look at one of the documents, and this would be
16 E3/91 -- if we could have the assistance of the Court, it's Khmer
17 page 0020409798, French 00503936 to 37, and in English it's
18 00223593, and most likely it's on the very last page on -- in all
19 three languages. Sir, you've been provided with a document of a
20 statement given in December 11, 2007.

21 And let me read part of your answer: "When ministry cadres and
22 staff disappeared, Ieng Sary knew about it, but he said nothing.
23 He, himself was afraid. I was afraid too."

24 And then you give an example, which is our next topic, but let me
25 go on and read what you said:

25

1 "For example, the older sister of Khieu Thirith named Khieu
2 Thirath, an intellectual from France, whom Angkar has sent to
3 rest at Takhmau. She subsequently died with marks of
4 strangulation on her neck while she was under the supervision of
5 Pang at Takhmau."

6 And then you--

7 So do you see that part?

8 [10.11.38]

9 A. Yes.

10 Q. Now, when I look at this, I don't see the word "saddened"; I
11 see that Ieng Sary "was afraid", as you were afraid; do you stand
12 by that?

13 A. Yes, I do. When we were sad, then our facial expression had to
14 look like we are sad.

15 Q. I'm speaking about the phrase, sir. One can be sad, but not
16 afraid. Do you recognize the difference, or, to you, "sadness"
17 equals "fright"?

18 A. I don't know how I -- how the other people could pretend, but
19 when I was afraid, I could never put on a smile on my face.

20 [10.13.04]

21 Q. All right. And will you stand by what you told the Judges --
22 and I understand it -- or these were the investigators, actually
23 -- do you stand by what you said, that Mr. Ieng Sary was,
24 himself, "afraid"?

25 MR. PRESIDENT:

1 The question is repetitious; witness is instructed not to respond
2 to it.

3 BY MR. KARNAVAS:

4 Very well.

5 [10.13.49]

6 Q. Let's look at the example that you gave as to why Mr. Ieng
7 Sary and you might have been afraid.

8 Now, you mention Khieu Thirath. You know this person; do you not?

9 A. Yes, I do.

10 Q. And I believe you told us that she was the sister-in-law of
11 Mr. Ieng Sary; is that right?

12 A. (Microphone not activated)

13 MR. PRESIDENT:

14 Witness, could you please repeat? Because you was not recorded.

15 MR. SALOTH BAN:

16 A. Yes.

17 BY MR. KARNAVAS:

18 Q. Was Pol Pot's wife related to Khieu Thirath?

19 A. Yes, they were related.

20 Q. Well, please tell us how so we have it on the record.

21 [10.15.28]

22 A. The two women were siblings.

23 Q. All right. And so what we're talking about here, the example
24 that you give us -- and correct me if I'm wrong -- is that Pol

25 Pot's sister-in-law, who was also Ieng Sary's sister-in-law, was

1 strangled by none other than Pang; is that correct -- if not by
2 him, at his directions?

3 A. I don't know because I was not close to that location; we were
4 living separately, and I did not know how his facial expression
5 could have been.

6 Q. You state here that, when she was strangled, she was under the
7 supervision of Pang; is that correct?

8 A. Yes, it is.

9 Q. This is the same Pang, incidentally, that was head of security
10 for your uncle back in the jungle, who is also your superior at
11 the time; right?

12 A. Yes, it's correct.

13 [10.17.22]

14 Q. And the fact that Pang -- or at least, I was to say, Khieu
15 Thirath, under Pang's care and supervision, was strangled --
16 while under the care and supervision of Pang, was strangled, was
17 that a cause of concern for you? And is that why you provide this
18 as an example to demonstrate how you and, perhaps, Ieng Sary were
19 afraid?

20 A. Yes. For me, I was afraid, and Brother Ieng Sary, in the
21 aftermath of the death of Ms. Ieng Thirath, he was not -- Mr.
22 Ieng Sary was not right in front of me; I did not know how his
23 expression -- or facial expression could have been.

24 Q. Very well.

25 Now, let's talk about another incident -- and this is about Khieu

28

1 David -- or Khuon David; I don't have the exact spelling. But do
2 you recall telling us about this individual, a "professor of
3 professors", that you happened to hear about or meet?

4 [10.19.21]

5 A. I used to meet the person very briefly, but I was told --
6 other intellectuals told me that Khuon David was the professor of
7 professors and I didn't understand what that means. I was told
8 that the person was the most outstanding student in France.

9 Q. All right. And before we go through the details of what you
10 said, or the details about what happened after you heard about
11 this gentleman, do you stand by your testimony that he too
12 vanished under Pang's supervision?

13 A. Yes, it is correct.

14 Q. Now, it might make sense to go over what you said, so we can
15 dissect it piece by piece.

16 And this would be on page 72, Your Honours, of the transcript
17 from last Thursday (sic). The Khmer page number is 00803206 to
18 07. We don't have the French or the English, but it's -- in
19 English, it would be page 72 and the timer is at approximately --
20 it's right below -- 14.12.23.

21 [10.21.22]

22 And for your convenience, sir, I have provided the relevant
23 portions of the transcript so you can follow along, because I
24 will be referring to other pages, Your Honour. It will be in
25 English, from 72 all the way to, I believe, 74, and then from

1 page 89 to 90.

2 Do you have the transcript in front of you, sir?

3 A. Yes, I do.

4 Q. Now, let's see what you said and see if we can make some sense
5 of it:

6 "The person who I remember the most was Khuon David. When I was
7 working at the Foreign Ministry, I heard from other intellectuals
8 who returned from overseas that there was one person by the name
9 of Khuon David; he was a very smart person. He -- when he was
10 studying abroad, he was the professor of the professors."

11 [10.22.45]

12 I'm going slow so the French can catch up.

13 "Upon hearing that, I went to tell my uncle, Pol Pot, when I
14 brought along with me with good fish and other foodstuff, then I
15 were permitted to enter K-1 premises."

16 Now, I want to stop here for a second; let's pause.

17 Sir, it would appear from what we just read that, one, you've
18 heard of the gentleman from others, other intellectuals, and then
19 you, yourself, went to meet Uncle Pol Pot; is that correct?

20 [10.23.37]

21 A. Yes, it is.

22 Q. And I take it they let you in to see your uncle because you
23 had brought some good food for him, some nice fish and some good
24 foodstuff, so that was perhaps an even better reason why to let
25 you in to see Uncle Pol Pot.

1 A. Yes, that is correct.

2 Q. Now, let's see what else you say: "And when I met him, he
3 asked me whether or not I noticed any smart intellectuals, and I
4 told him that there was one person by the name of Khuon David."

5 Let's pause.

6 It would appear, here, from your answer that it was Uncle Pol Pot
7 that is asking you if you have heard of any intellectuals - "any
8 smart intellectuals"; is that correct?

9 A. Yes, it is correct. He asked me about that, about good people,
10 about those who were loved and liked by the popular mass, and I
11 did tell him as indicated.

12 [10.25.23]

13 Q. Well, I don't see anything about popular mass and anyone being
14 well-liked in your answer, and so I want to make sure we're
15 clear. Do you stand by your answer that you gave under oath last
16 week, that your uncle, Pol Pot, asked you if you'd come across or
17 heard of "any smart intellectuals"?

18 A. Yes.

19 Q. And just so that we're clear, was this a single occasion, or
20 had there been other occasions when Uncle Pol Pot would ask about
21 "smart intellectuals", or when you would go to visit Uncle Pol
22 Pot and report about smart intellectuals?

23 A. Yes, I went to see him only once, and that is the only one
24 occasion I met him on this.

25 Q. Okay. So let's go on:

1 "Then he asked me to check whether or not that person was that
2 smart and we could actually [use] him to work for him. So that
3 was the only person whom I know -- I knew his name very well."

4 Let's pause here.

5 [10.27.17]

6 And my question is: How, exactly, were you planning to figure out
7 whether this person was indeed that smart?

8 A. I was not quite sure, but people who knew Khuon David worked
9 at the Ministry of Foreign Affairs and they told me about him.

10 And the person in this context was the one I knew clearly, and I
11 thought that he was a person we could use.

12 Q. All right. Well, forgive me if I am going over your answer
13 very carefully, but it would appear from your answer that Pol Pot
14 wanted to know whether this person was that smart and whether he,
15 himself, Pol Pot, and perhaps others could use him; is that
16 correct?

17 [10.28.56]

18 A. The question is not very clear; could you please repeat? Are
19 you asking whether Pol Pot would like to use this person or
20 others?

21 Q. Pol Pot. It would appear from your answer that Pol Pot wanted,
22 perhaps, to use him, which is why he wanted you to check to see
23 whether this person was that smart?

24 A. According to my observation, Pol Pot was willing to use this
25 person.

1 Q. Now, let's see what else you have to say: "And as for the
2 others, for example Brother Khuon and others, I got to know that
3 later on, but Khuon David was a very well talked about."

4 And then, for the -- so -- and then you repeat that -- or a
5 question is posed to you, but let me go further down. And you're
6 asked a question, and your answer is: "Well, that was his
7 intention. He wanted him to work for him."

8 [10.30.37]

9 This is right above, Your Honours, 14.15.46.

10 So, sir, if you look on your document, you'll see where you say
11 -- you'll see your name and it says: "Well, that was his
12 intention. He wanted him to work for him."

13 So it would appear from your answer that Pol Pot wanted Khuon
14 David to work for him; am I correct or am I misinterpreting your
15 answer?

16 A. I said it was probably so; that's why he asked me that.

17 Q. And then you go to say:

18 "Upon his instructions, I went to meet with Pang and I told him
19 accordingly because I knew that Pang was the person who
20 supervised those intellectuals. I did not know where Pang had
21 taken other intellectuals to, but I believe that Pang must have
22 known the person and I told Pang that he should pay attention to
23 that person, but unfortunately his intention did not materialize
24 because he -- to date, he did come to work for him."

25 So I want to clarify that point.

1 Do you recall, first of all, saying this?

2 [10.32.39]

3 A. Yes, I do.

4 Q. All right. Now, your uncle, Pol Pot, told you to go check and
5 see whether that person was that smart. Why did you go to Pang?

6 Why not go and meet with this intellectual, perhaps have a
7 discussion, perhaps look at his biography, and perhaps go back to
8 report to Uncle Pol Pot?

9 A. It was the way we worked. I could not enter other ministries.
10 As for Pang, who was in charge of Boeng Trabek, I had to go
11 through him. If I did not go through him, it would be a problem
12 for me. It was the rule at the time.

13 Q. Now, this gentleman, Khuon David, disappeared, at least to the
14 best of your knowledge; correct?

15 A. Yes, it is.

16 Q. And did you report that back to Uncle Pol Pot?

17 A. Yes, I did -- no, rather, I did not report to him because at
18 that time the situation was very complicated. He was probably
19 forgetting about that.

20 Q. Okay. Well, we'll get to that in a second.

21 But would it be fair to say that at least Pang was on notice that
22 Uncle Pol Pot wanted to make sure that Khuon David was safe and
23 sound so perhaps he could be employed by Pol Pot?

24 [10.35.30]

25 A. I do not really understand the question; can you ask me again?

1 Q. My apologies; Pol Pot tells you to check on this person. You,
2 then, because you have to follow the chain of command or go
3 through Pang, who's in charge, you bring it to Pang's attention;
4 are we in agreement so far?

5 A. I agree with that.

6 Q. When you go and speak with Pang, do you let Pang know that it
7 is Pol Pot, Uncle Pol Pot, who's asked you to check up on this
8 person?

9 A. I did tell him so.

10 Q. All right. So Pang would have been on notice that Pol Pot did
11 not want anything to happen to Khuon David, at least at that
12 time.

13 [10.37.05]

14 A. It was probably so.

15 Q. Now, if we could go through -- and I know we're coming up to
16 the time of the break, Your Honours, but if I -- with your
17 indulgence, two or three minutes to just end this chapter.

18 If we could look at document E3/459 -- E3/459 -- and the Khmer
19 number is 00204100-01; French, 00524354; English, 00223596, which
20 is also on page 3 in the English.

21 If I could have the assistance and permission from Mr. President
22 to provide the gentleman with the document and also display it on
23 the screen, it may be of some use.

24 (Short pause)

25 [10.38.35]

1 If you look at the -- sort of, the page carefully, and I'm going
2 to -- I don't know where it is in the Khmer, but it should be
3 underlined or highlighted for you -- and I'll start in English:
4 "For example, once, probably in late 1978, I followed Ieng Sary
5 to [...] Boeng Trabek site and met with a professor, a
6 well-educated man, a Cambodian from France."

7 So, here, there is a slight variation; you say you actually met
8 this person at Boeng Trabek.

9 And: "After that meeting, I reported to my uncle and told him
10 that this person was well-educated and gentle..."

11 Again, here, we see that you actually reported to Uncle as
12 opposed to Uncle asking you. You then go on to say:

13 "...but I returned once to see him again, and he had disappeared to
14 an unknown place. Hing Un, the supervisor there, explained that
15 this person had been taken away by Pang's group and had
16 disappeared. When I told my uncle that this person had
17 disappeared, he fell totally silent right away."

18 [10.40.15]

19 Do you see that, sir?

20 A. Yes, I do.

21 Q. Now, do you allow for the possibility that what you told the
22 Co-Investigating Judges that you went back to report to Uncle Pol
23 Pot about the disappearance of this individual, this professor --
24 do you allow for the possibility that perhaps, at that time,
25 things might have been fresher in your mind and you might have

36

1 given a more accurate account than the one you've given us here
2 today -- that is, that you never informed Uncle Pol Pot?

3 [10.41.19]

4 A. After my reconsideration, I understand that, when the
5 situation became intensified when the Vietnamese came in, I
6 thought I did not report to him about the disappearance of David.
7 It was probably after the Vietnamese came in that he asked me
8 about David. I could have said about that after the Vietnamese
9 came in, I may have been confused, but I did say that but I don't
10 remember when exactly I said that, but I did say that. It was
11 probably after the Vietnamese came in.

12 Q. And one final question before the President perhaps breaks for
13 the morning: Would Pol Pot, Uncle Pol Pot, would he have known
14 that Pang was responsible for the disappearance of Khuon David --
15 once you told him, that is?

16 A. I did not know what he thought about that, I did not ask him
17 about that.

18 [10.42.03]

19 Q. I'm not asking you what Pol Pot thought; I'm asking you
20 whether Pol Pot was aware that you had informed Pang and that it
21 was under Pang's supervision that this professor, Khuon David,
22 had disappeared.

23 MR. DE WILDE D'ESTMAEL:

24 (No interpretation)

25 MR. PRESIDENT:

1 Witness, please hold.

2 Yes, International Co-Prosecutor, you may proceed.

3 [10.43.41]

4 MR. DE WILDE D'ESTMAEL:

5 I understand Counsel Karnavas' line of thought, but there is a
6 question, however, because the witness might be confused in terms
7 of dates. He mentions no dates in the questions that he puts to
8 him.

9 For example, he doesn't say when the visit took place at Boeng
10 Trabek, when the report was made to Pol Pot, when Khuon David may
11 have been removed from Boeng Trabek, and if Pang was still back
12 then the head of Office 870.

13 So maybe, to clarify things, could we specify the periods that
14 Counsel Karnavas is referring to?

15 [10.44.40]

16 MR. PRESIDENT:

17 Thank you, International Co-Prosecutor.

18 Yes, Mr. Karnavas, you may proceed with a clear question.

19 As you have a lot of questions, they may be confusing, and you
20 are reminded of referring to specific periods so that it is
21 easier for the witness to follow and to respond to your question.
22 Besides, the events happened more than -- or almost 40 years ago.
23 Only a few people have good memory that can recall the details
24 that happened 40 years ago.

25 MR. KARNAVAS:

38

1 I appreciate the observation and the comment; I was about to get
2 to it. I first wanted to get the clarification of awareness.
3 It may take a few moments, Your Honours, so perhaps we could take
4 our morning break now, or I will need about five minutes to wrap
5 this up. I'm at your disposal.

6 [10.46.01]

7 MR. PRESIDENT:

8 It is now appropriate for us to take the morning break. We will
9 break for 20 minutes.

10 Yes, Defence Counsel for Ieng Sary, you may proceed.

11 MR. ANG UDOM:

12 Thank you, Mr. President. Good morning, Your Honours. Mr. Ieng
13 Sary requests that he waive his rights to be present in this
14 courtroom for the remainder of the day's proceedings and to
15 follow the proceedings from the holding cell, downstairs, due to
16 his health concerns that he cannot sit in this courtroom any
17 longer.

18 [10.46.51]

19 MR. PRESIDENT:

20 Thank you, Counsel. You may be seated.

21 Having heard Mr. Ieng Sary's request that has been made through
22 his counsel that he requests that his right -- to waive his
23 rights to be present in this courtroom and to follow the
24 proceedings through audio-visual means due to his health reason,
25 the Chamber grants the request of Mr. Ieng Sary that has been

1 made through his counsel -- that is, to waive his rights to be
2 present directly in this courtroom and to follow the proceedings
3 from a room downstairs for the remainder of the day's
4 proceedings.

5 The Chamber requires that counsel submit to the Chamber
6 immediately the waiver that is made by Mr. Ieng Sary with a
7 signature or thumbprint of Mr. Ieng Sary.

8 The AV Unit is now instructed to relay the proceedings to the
9 holding cell.

10 Security guards are now instructed to bring Mr. Ieng Sary to the
11 holding cell, downstairs, where audio-visual means have been
12 equipped for him.

13 The Court is now adjourned.

14 (Court recesses from 1048H to 1105H)

15 MR. PRESIDENT:

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

17 Next, we proceed to counsel for Ieng Sary to continue putting
18 questions to the witness. You may now proceed.

19 [11.06.16]

20 BY MR. KARNAVAS:

21 Thank you, Mr. President and Your Honours. Good morning to
22 everyone, again, in and around the courtroom.

23 Q. Witness, we were back -- before we took the break, we were
24 with document E3/459. If I could get you to go back to that
25 document, to the page numbers that we were talking about, and

40

1 let's see if we can clarify a couple of points.

2 First of all, is the professor that you're talking about in this
3 exchange Khuon David, or are we talking about another professor?

4 MR. SALOTH BAN:

5 A. Yes, indeed, we are now talking about Mr. Khuon David.

6 Q. And to the best of your recollection, about when would it have
7 been that you went to Pang to tell him about him about what Uncle
8 Pol Pot had told you about Khuon David?

9 [11.07.59]

10 A. It was when I met Pang accidentally to talk to my uncle about
11 Mr. Khuon David, I think about a few weeks later when I met with
12 Pang.

13 Q. Do you recall what month it would have been? I know we're
14 talking over 30 years ago, but do you recall the month?

15 A. I don't remember the exact month but I remember that it was
16 perhaps a fortnight before Pang disappeared.

17 Q. All right. And to the best of your recollection now, do you
18 know about when Pang disappeared?

19 A. I don't remember the exact date but my recollection is that
20 Vietnamese was approaching Phnom Penh very closely already.

21 Q. When Pang disappeared, were you informed at the time about his
22 disappearance?

23 [11.10.09]

24 A. I did not receive any information concerning the disappearance
25 of Pang because it was very complicated, and our ministry, we

41

1 only focussed on our preparation to evacuate.

2 Q. Was there some sort of a formal announcement that Pang had
3 disappeared?

4 A. There was no official announcement concerning this.

5 Q. So how do you know he disappeared?

6 A. When there was no information, when there was no connection to
7 the ministry, because normally when Pang was in the office he
8 would be seen coming by motorcycle or by car or would be seen
9 walking around. But later on, he did not appear to be seen by
10 anyone.

11 MR. PRESIDENT:

12 Counsel Karnavas, could you please hold on?

13 Judge Lavergne has the floor now.

14 [11.12.00]

15 JUDGE LAVERGNE:

16 Thank you, Mr. President. I am sorry for interrupting the flow of
17 questioning from Counsel Karnavas, but I would like to draw the
18 parties' attention to the fact that, on the 24th of April last,
19 the Prosecution put before the Chamber a document IS 5.14. This
20 document is submitted as being Pang's statement - confession,
21 rather, and as regards to the dates that are mentioned, it
22 appears that the first date on which Pang's confession was
23 reported is the 28th of May 1978.

24 And the last date that is available on the document of which we
25 do have French and English translations, is the 22nd of July

1 1978. I think this is important because several times the witness
2 said that Pang's arrest might have taken place in the days before
3 the arrival of the Vietnamese in Phnom Penh, in other words, the
4 end of 1978.

5 So I do believe that there, there is a contradiction and we do
6 have some evidence that we can draw upon in elucidating this.

7 Thank you.

8 [11.13.33]

9 MR. PRESIDENT:

10 Thank you, Judge Lavergne.

11 Counsel Karnavas you may now proceed.

12 MR. KARNAVAS:

13 Thank you. I do appreciate the observation.

14 One of the problems that we have as parties, is, one, we cannot
15 avail ourselves to these sorts of documents, and, two, I didn't
16 want to lead the witness with a document by, you know -- and make
17 a suggestion.

18 Normally, in my jurisdiction, I would be entitled to use whatever
19 document in the file, but -- to bring it to the Court's - to the
20 gentleman's attention and to see whether he wished to revise his
21 statement. So that's why I hesitated to do that.

22 Perhaps, with some more guidance, we can -- we'll know what the
23 do's -- what the rules of the road are concerning the use of
24 these sorts of documents and other documents.

25 [11.14.38]

1 BY MR. KARNAVAS:

2 Q. But there we have it, Witness. It would appear that we have a
3 confession, and the earliest one is May 28th, 1978. Now, thinking
4 back, realizing it's over 30 years, would that be about the time
5 when Pang stopped coming around, sometime around May 1978?

6 (Short pause)

7 Let me ask the question again.

8 We have just heard that there is a confession from Pang, who
9 obviously was arrested, and the date of the confession -- of the
10 first confession -- is May 28th, 1978. The confession that we
11 know of was taken from Pang while he was under the care and
12 supervision of Duch at S-21. So it would appear from the
13 confession that Pang, at least as of May 28 and perhaps earlier,
14 was not out and about the streets of Phnom Penh.

15 [11.16.55]

16 So, now, I would like you to reflect back and tell us: Does this
17 correspond with your memory, or are you simply unable to get the
18 months and dates correctly because it's been so long?

19 MR. SALOTH BAN:

20 A. I recollect that, when the Vietnamese came, I had not seen
21 Pang for some time already. However, I have no idea of what
22 happened to the confessions and how they were taken. When Pang
23 was my superior -- or when I was under the supervision of Pang,
24 it was close to the time when the Vietnamese were -- had already
25 been approaching Phnom Penh.

1 Q. When Pang stopped coming around, did anyone else from the
2 security branch come around to introduce themselves as Pang's
3 replacement?

4 A. No. In my ministry, we were told to master ourselves -- to be
5 self-mastery, indeed, to prepare ourselves and manage things on
6 our own, and this instruction could only be done through Brother
7 Ieng Sary.

8 [11.19.13]

9 Q. You told us over the course of several days that Pang would
10 come and go: Pang brought people to the ministry; Pang took
11 people away from the ministry.

12 So, now, my question is: After Pang disappeared, did someone else
13 replace him in order to bring people to the ministry and then
14 take them away again at some other point?

15 A. As I indicated, no.

16 Q. Now, you did indicate that at some point -- that Boeng Trabek
17 and another area, another place, Chraing Chamres -- and I
18 apologize for the pronunciation, I did try, I did practice --
19 came under the supervision, at some point, of the MFA; correct?

20 A. Yes, it was time when they were transferred to be under the
21 supervision of the MFA.

22 Q. And as I understand your testimony, prior to them being
23 transferred to the MFA, they were under the supervision of Pang;
24 is that correct?

25 A. Yes, it is.

1 [11.21.20]

2 Q. And when they were transferred over to the supervision of the
3 MFA, if you could think back, do you recollect seeing Pang out
4 and about, riding his motorcycle or driving around Phnom Penh?

5 A. Yes.

6 Q. Now, in the statement that you have in front of you, which is
7 E3/459, with the same area where -- we were discussing earlier,
8 you indicate that:

9 "Only one month before the Vietnamese came and took control of
10 Phnom Penh, the supervision of the Boeng Trabek office was handed
11 back over to the Foreign Ministry. During the era when Pang
12 supervised there, much trouble occurred."

13 Do you see that?

14 A. Yes, I do. However, before the Ministry of Foreign Affairs
15 took charge of Boeng Trabek, it had been no more than -- it was
16 not up to a month; it was about two weeks because the time was
17 very short back then, and we were in a rush.

18 [11.23.27]

19 Q. Can you explain how it is that Pang had supervision over both
20 of these places, Boeng Trabek and Chraing Chamres? How is it that
21 he came to have supervision over these two institutions, if we
22 want to call it that, in addition to being the head of the Office
23 870 plus being in charge of security? Do you have an explanation
24 how Pang could have managed all of these things?

25 A. In conclusion, it was up to him.

1 Q. And I take it, based on the principle of minding your own
2 business, you never had any discussions with the gentleman to
3 figure out exactly what his authority and responsibility was over
4 those two places.

5 (Short pause)

6 [11.25.06]

7 MR. PRESIDENT:

8 Counsel, could you repeat the question? Because the witness
9 appears to have misunderstood the question because he, perhaps,
10 mistaken the question for a statement, as the Khmer -- in Khmer
11 rendition it's more like a statement than a question.

12 BY MR. KARNAVAS:

13 Q. Apologies; did you ever have a conversation with Pang to ask
14 him about his exact responsibilities for those two places that
15 ultimately came under the control and authority of the MFA, the
16 Ministry of Foreign Affairs?

17 MR. SALOTH BAN:

18 A. To the best of my recollection, Bong Ieng Sary said Boeng
19 Trabek or Chraing Chamres -- Pang said that: Hing, you had to be
20 responsible for that. And that's it; that's what he said.

21 Q. If you could listen to my question and answer my question? I'm
22 asking you: Did you ever have a conversation with your previous
23 supervisor, Pang, to ask him what exactly his responsibilities
24 were?

25 [11.26.59]

1 A. No.

2 Q. And when those two institutions were put under the Ministry of
3 Foreign Affairs, were you provided with any documentation from
4 Pang so you could at least see what exactly he had been doing
5 while they were under his control and authorization?

6 A. No, I wasn't. I did not receive any documents when Pang took
7 charge of these two places.

8 Q. All right.

9 I'm going to switch topics now, and this may be our very last
10 topic.

11 I want to speak about Koy Thuon and his confession. Did you know
12 Koy Thuon?

13 A. Yes, I did.

14 Q. Did you know him prior to April '75 -- 1975, that is?

15 A. Yes, I did.

16 Q. And how is it that you got to meet Koy Thuon -- in what
17 capacity?

18 [11.29.14]

19 A. I worked in Phnom Penh and detained because I started a
20 demonstration against the American imperialists by distributing
21 leaflets. I met Koy Thuon in Kratie province.

22 Q. In what year was that?

23 A. It was in 1967 or '68.

24 Q. And between 1967 and '68, did you have an opportunity to see
25 Koy Thuon other than in Kratie?

1 A. I never saw him again.

2 Q. You never saw him in the jungle while you were there?

3 A. I saw him in the jungle once. It was in Rattanakiri.

4 Q. And at the time, up until, for instance, April 1975, do you
5 know what position Koy Thuon had?

6 [11.31.04]

7 A. I knew that he was the head of the zone.

8 Q. Which zone?

9 A. It was the zone in which we had Kampong Thom and Kampong Cham.
10 I'm not sure what zone it was. In that zone, we had Siem Reap,
11 Kampong Thom, and Kampong Cham; probably it was the North Zone.

12 Q. All right. And was that an important position for him to hold
13 during that period -- a zone leader?

14 A. I knew that he was an important person in that zone.

15 Q. And would Uncle Pol Pot know of him during that period?

16 A. I did not know how he knew of him.

17 Q. Now, after the fall of Phnom Penh in April 1975, do you know
18 what position or positions Koy Thuon held?

19 A. I still knew that he was the chairman of a zone.

20 [11.33.11]

21 Q. Do you know whether at any time, prior to his arrest, whether
22 he held any other positions outside the zone?

23 A. No, I do not.

24 Q. Do you know whether he was connected in anyway with any
25 ministries?

1 A. What ministries are you talking about?

2 Q. I'm asking you whether you knew at the time, somewhere between
3 1975 and the time of his arrest, whether he was involved or
4 connected to any ministries here, in Phnom Penh.

5 A. I did not know about that.

6 Q. Do you know whether he was part of the Centre, or Central
7 Office?

8 [11.34.31]

9 A. No, I do not.

10 Q. Do you know whether he was connected in any way to what has
11 been referred to, the upper echelon?

12 A. No, I do not.

13 Q. Do you know whether he was involved with or part of this
14 concept of Angkar?

15 A. He was probably part of that, part of Angkar.

16 Q. Now, are you speculating or are you telling us from first-hand
17 knowledge? Which of the two?

18 A. I am speculating because I was not told as to who was who, but
19 I was told that he was the chairman of the zone. I did not
20 receive any written documents which indicated that -- who held
21 particular positions at various places, but I was told that he
22 was the chairman of the zone and so I knew that he was part of
23 Angkar.

24 [11.36.18]

25 Q. All right.

1 Now, when he was arrested and, later on, you came to hear of his
2 confession -- or confessions, was he considered at the time an
3 important person?

4 A. I did not analyze anything. I had to remain silent. They knew
5 their own business, and I knew my own.

6 Q. Let me ask the question again: When you heard of his arrest
7 and you heard of his confession, which, apparently, you've
8 indicated it was read out to you, at that time, to your
9 knowledge, to your understanding, was Koy Thuon an important
10 person?

11 A. When Koy Thuon's documents were read out my feeling was that
12 he was not like what was described in the document when he worked
13 with me, as I used to meet him. So I did not make any conclusion
14 as to who was right and who was wrong.

15 [11.38.10]

16 Q. All right. Now, you've indicated that this document or
17 confessions were read out to you. Do I have it right, that you
18 actually never saw, but you learned of the content from somebody
19 reading that to you -- the confessions? Is that correct?

20 A. Yes, it is correct.

21 Q. And, having heard the confession, did you have any particular
22 feelings at the time, considering who Koy Thuon was and the
23 confession itself?

24 A. I could not answer that again; I think my earlier response was
25 specific enough.

1 Q. Okay. When you say your "earlier response", what do you mean
2 by that? Were you happy? Were you sad? Were you frightened? Were
3 you angry? Were you surprised?

4 A. I had confused feeling. I did not know what was all about. I
5 could not think of anything, I could not think of any reasons;
6 everything was confusing.

7 Q. Why was it confusing?

8 [11.40.29]

9 A. The reason why I was confused was that, when he worked with
10 me, he was a good person, he did well, but as was read out in the
11 document, he was a different person, and so I was confused.

12 Q. All right.

13 Well, on April 24th, 2012, you indicated on page 51 of the
14 English transcript, which is right above the timer of 14.26.16:
15 "After he read the confessions, both Mr. Ieng Sary and I, as well
16 as everyone, became afraid."

17 Do you recall making that statement here in Court, under oath
18 last week?

19 A. I did answer that, but I did not take an oath.

20 Q. Very well. Do you stand by that statement that you told us
21 here last week, that after the confession was read out, both Mr.
22 Ieng Sary and you, as well as everyone else, "became afraid"?

23 [11.42.27]

24 A. Yes, I do.

25 Q. And why did you, at least, knowing your own feelings, why did

1 you become afraid, having heard Koy Thuon's confession?

2 A. I already answered that question; I don't think I can answer
3 that question any more.

4 Q. At the time, did you know how that confession was extracted?

5 A. I did not know how the confessions were extracted; I did not
6 analyze the way that confessions were extracted. I did not think
7 about that.

8 MR. PRESIDENT:

9 Counsel, can you pay attention to the content of the confessions
10 that you base on to put questions to this witness? The Chamber
11 notes that you base on a confession to put questions to this
12 witness.

13 [11.44.04]

14 You may only base on the confession to ask about the date of
15 people who were arrested, the time that people were arrested, but
16 you cannot base on the content of the confession to put more
17 detailed questions on that.

18 MR. KARNAVAS:

19 Thank you, Mr. President. I was merely asking the gentleman
20 whether he knew how the confession was gotten, but I take the
21 point.

22 BY MR. KARNAVAS:

23 Q. Now, in one of your statements you indicated that you knew
24 that Son Sen had taken charge of security -- and this would be in
25 E3/415 (sic). Do you recall saying that, that Son Sen had taken

1 charge of security?

2 MR. SALOTH BAN:

3 A. Yes, I do. I answered that.

4 [11.45.29]

5 Q. And do you know today -- or can you recall back then, I should
6 say, whether Son Sen had anything to do with either the arrest or
7 the confession of Koy Thuon?

8 A. I did not know about that.

9 Q. Now, in the same document -- and I'm referring to Khmer page
10 00357531; French, 00405457; English, 00361014 or page 7 in

11 English. You say here, in light of Koy Thuon:

12 "I knew too; someone had sent to the Ministry of Foreign Affairs
13 some documents which were kept by Mr. Suong Sikoeun; but when
14 fleeing, all were lost. According to my knowledge, many things
15 were made up in these documents. I did not read the documents of
16 Koy Thuon and that of Hu Nim personally, but someone read for me.
17 I understood that [for] these confessions I did not believe that
18 those people had done such things."

19 [11.47.24]

20 Have you found that passage, sir?

21 A. Yes, I have seen it.

22 Q. Now, you mention Hu Nim. Did you know him?

23 A. I knew him.

24 Q. And did you know his position at the time?

25 A. I only knew that he was in the Front.

1 Q. When you say "the Front", are we talking about back in --
2 before 1975 or are we speaking about 1975 to '79 -- which of the
3 two periods?

4 A. Between 1975 and 1979, I thought he was working in the Front.

5 Q. All right. Do you know what his job was?

6 A. I do not know about that.

7 [11.48.55]

8 Q. Now-- Well, may I ask, during that period, did you have much
9 contact, if any, with Hu Nim?

10 A. No, never.

11 Q. Now, you mention him, you mention Hu Nim, along with Koy
12 Thuon. And so my question is: Do you know whether Hu Nim's
13 confession was read out at the time?

14 A. What is your question about?

15 Q. Okay, let me rephrase it. You told us that Koy Thuon's
16 confession was read out. Were other confessions read out as well,
17 or was it merely Koy Thuon's confessions that were read out?

18 A. As I remember, only Koy Thuon confession was read out.

19 Q. Do you recall what was in the confession -- what was the
20 accusations, or what were the crimes that he allegedly had
21 committed?

22 [11.50.42]

23 A. I forget all about it.

24 Q. Do you know whether any circulars were sent around about Koy
25 Thuon's confession and his alleged offences at the time?

1 A. I did not know about that.

2 Q. Was Koy Thuon's confession and his crimes, the alleged crimes
3 that he would have committed -- was that widely publicized at the
4 time, if you recall?

5 A. (Microphone not activated)

6 MR. PRESIDENT:

7 Witness, can you wait until your mic has been activated?

8 MR. SALOTH BAN:

9 A. I did not know about that.

10 [11.52.07]

11 BY MR. KARNAVAS:

12 Q. But to the best of your recollection, at least in the Ministry
13 of Foreign Affairs, where you were involved, there was a
14 discussion about what he had confessed to doing; is that right?

15 MR. SALOTH BAN:

16 A. I heard of the content of the confession but, as I said, I now
17 forget about it.

18 Q. And what sort of a discussion took place after hearing what
19 Koy Thuon had confessed about?

20 A. At the time -- as I do not remember for sure, but I try my
21 best to answer it -- the discussion was about asking people
22 whether they were connected by any ways to Koy Thon, and then
23 those people answered; they were urged to tell whether they were
24 connected to Koy Thuon, and that they would be tolerated if so.

25 [11.54.16]

1 I remember the word "morality". We were asked whether we had any
2 moral offences and we were encouraged to tell this because we
3 were promised that there would not be any problem with that. And
4 as I said, the seven-layer mechanism was also referred to during
5 the discussion.

6 Q. Now having -- having raised the issue of morality, do you
7 recall whether Koy Thuon had confessed to immoral acts?

8 MR. PRESIDENT:

9 Witness, please hold.

10 (Judges deliberate)

11 [11.55.36]

12 Witness should not answer this question because this question is
13 based on a confession, which is not allowed to by the laws.

14 BY MR. KARNAVAS:

15 Q. Do you know if there were any rumours about Koy Thuon's acts
16 of immorality prior to his arrest and prior to his confession?
17 This is when he would have been zone leader up in the Northern
18 Zone, as I understand it.

19 MR. SALOTH BAN:

20 A. No.

21 Q. Now, you did tell us that, when you heard what was in the
22 confessions, you did not -- or you had a - as I understand, what
23 you said was, you did not believe them or you had a hard time
24 believing what you were hearing. Can you please explain that a
25 little bit? Why were you surprised to hear those things? Or why

1 did you find them unbelievable?

2 [11.56.56]

3 MR. PRESIDENT:

4 Witness should not answer this question; it is repetitious
5 question and it is based on the confession extracted by torture.

6 It seems that counsel is basing his questioning on the same
7 confession.

8 It appears that counsel is running out of questions.

9 BY MR. KARNAVAS:

10 Q. You told us about being afraid, about being implicated, having
11 been exposed to this particular event where Koy Thuon's
12 confession was discussed. Did that, in any way, heighten your
13 anxiety about being implicated by anyone for anything?

14 [11.58.15]

15 MR. SALOTH BAN:

16 A. I can put it this way. Before, Pang arrested people, and I was
17 afraid. And when he refers to the seven or nine-layer mechanism,
18 I was not afraid.

19 MR. KARNAVAS:

20 Thank you, sir. Thank you, Mr. President.

21 And Your Honours, I have no further questions. I believe that
22 terminates -- or exhausts my examination of this witness.

23 Sir, thank you very, very much. On behalf of Mr. Ieng Sary, we
24 wish to express our gratitude for you coming here to give your
25 evidence, and we wish you safe travels.

1 MR. PRESIDENT:

2 Thank you, Counsel. Thank you, Witness.

3 [11.59.26]

4 It is now appropriate for us to adjourn for lunch break. The
5 Chamber will take one hour and a half break -- half minute break.

6 Court officer is instructed to accommodate this witness and
7 return this witness to this courtroom, along with his duty
8 counsel, at 1.30.

9 Yes, Defence Counsel for Mr. Nuon Chea, you may proceed.

10 MR. PESTMAN:

11 Thank you, Mr. President. Good morning. I have in my hands the
12 well-known written waiver of my client. He would like to stay
13 downstairs this afternoon to follow the proceedings from the
14 holding cell.

15 MR. PRESIDENT:

16 Thank you. You may be seated, Counsel.

17 [12.00.25]

18 Having heard the request of Mr. Nuon Chea that has been made
19 through his counsel to waive his rights to be present in this
20 courtroom and to follow the remainder of the proceedings through
21 audio-visual means, and as defence counsel promised that he would
22 submit the written waiver made by Nuon Chea to the Chamber, the
23 Chamber grants the request that have been made through his
24 counsel to follow the proceedings remotely from the holding cell,
25 downstairs, for the duration of the afternoon session. He waives

1 his rights to be present directly in this courtroom.

2 The Chamber requires that defence counsel for Nuon Chea submit
3 immediately to the Chamber the written waiver with a signature or
4 thumbprint of Mr. Nuon Chea.

5 The AV Unit is now instructed to live the proceedings so that
6 this accused person can follow the proceedings remotely for the
7 afternoon session.

8 [12.01.47]

9 Security guards are now instructed to bring Mr. Nuon Chea and
10 Khieu Samphan to the holding cell, downstairs, and keep Mr. Nuon
11 Chea there for the afternoon session so that he can follow the
12 proceeding remotely, and to bring Mr. Khieu Samphan to this
13 courtroom by 1.30.

14 The Court is now adjourned.

15 (Court recesses from 1202H to 1330H)

16 MR. PRESIDENT:

17 Please be seated. The Court is back in session.

18 For this afternoon proceeding, as planned, we will proceed with
19 defence team for Nuon Chea to put questions to witness Saloth
20 Ban.

21 The floor is now handed over to you, Counsel for Nuon Chea.

22 [13.31.55]

23 QUESTIONING BY MR. SON ARUN:

24 Good afternoon, Mr. President. Good afternoon, Your Honours. Good
25 afternoon, Witness. I am defence counsel for Mr. Nuon Chea and I

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1 have a number of questions, about 10 questions for you.

2 Q. Witness, you joined the struggle movement with the Party of
3 Kampuchea since you quit studying, especially when you lived in
4 Southwest Zone, and you lived with some major leaders, for
5 example Pol Pot, who was your uncle.

6 I want to know that -- when you went to live with the Party, what
7 did you know about the Party's Statute -- that is, how strict was
8 the statute? Can you describe that?

9 A lot of people said that it was very strict back then. It was
10 very difficult to live; is it true? What is your opinion about
11 that?

12 [13.34.07]

13 MR. SALOTH BAN:

14 A. I met with Mr. Nuon Chea once in a while in Rattanakiri. It
15 was in Rattanakiri; it was not in the Southwest Zone. It was in
16 the Northwest -- Northeast Zone, rather.

17 I joined the revolution not because I was under the pressure of
18 my -- of my uncle, Pol Pot, or because of the pressure by Mr.
19 Nuon Chea; it was only a secondary pressure.

20 The primary pressure, as I understood it, was what my uncle said,
21 that before we went to study in France we had, for example, 10
22 hectares of land, but after returning from France, we no longer
23 had the land; for example, we had less than half a hectare of
24 land. So I thought about what he said.

25 When I met them -- two of them -- in the jungle, I was told by

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1 him, my uncle -- he gave the books to me. He gave the book to
2 Pang, and Pang gave that book to me. The book was about the
3 solidarity of the minorities under the "Revolutionary Flag".

4 [13.36.08]

5 And what we had to know, as I said, was to protect our territory
6 -- that is, to protect the King Father -- and to make sure that
7 there were no French in the Khmer Nation. The document was about
8 the solidarity of the minorities. Since the past, the minorities
9 were suppressed, that is why we were taught to have solidarity
10 among the minorities; and if there was no solidarity, we would
11 not be able to build ourselves; we would not be able to build our
12 village; we would not be able to build our district; we would not
13 be able to build our provinces; and we would not be able to build
14 our nation.

15 So, in short, I can say that it was not strict.

16 Q. Thank you, Witness. You were in the Party for a long time. Did
17 you meet him frequently? Did you know him well -- did you know
18 Mr. Nuon Chea well?

19 [13.37.58]

20 A. I met him, I am sure that I met him; I met him many times. But
21 my encounters with him were not about our work; we did not work
22 together.

23 Q. Thank you. Just now, you said that you knew Mr. Nuon Chea very
24 well and you met him frequently. What can you say about his
25 personality? Was he a violent and brutal person, in his capacity

1 as a leader, or was he a gentle and educated person? Can you tell
2 the Court, on the basis of your knowledge and what you remember?

3 A. Mr. Nuon Chea had solidarity. He had a good personality
4 towards me -- and I'm talking about his personalities towards me
5 only. He never disappointed me. He explained to us that we had to
6 love each other; otherwise, we were not able to protect the
7 revolution. That meant he educated us; he educated us for the
8 interest of the revolution.

9 Q. How about others besides you? Did you see or did you know
10 whether he had a cruel personality toward others or not? That is,
11 when there was an internal conflict, could it be possible for him
12 to send people to prison? Did you ever hear of that?

13 [13.41.10]

14 A. No, I did not.

15 Q. Thank you.

16 Since you began your revolution, did you ever hear of the
17 Indochina Federation Party?

18 A. Yes, I did.

19 Q. Could you briefly describe about the Communist Party of
20 Indochina? Try to be brief. Can you describe the structure of the
21 Party or the work of the Communist Party of Indochina? Who
22 controlled the Party? Could you tell the Court?

23 A. First of all, I read some books. Beside the books provided by
24 me -- provided to me by the Party, I read books that I bought
25 from bookstores. I heard of the Communist Party of Indochina.

1 [13.43.14]

2 From my consideration -- from my reading, rather, I knew that Ho
3 Chi Minh was the leader of the Party. The Vietnamese Party was
4 the brother, the older brother of the Communist Party of
5 Indochina and the brother of the Laos Party.

6 Q. Can you not describe the structure of the Communist Party of
7 Kampuchea to the Court?

8 A. No, I cannot.

9 Q. Thank you. Can you talk about the relationship between the
10 Communist Party of Kampuchea and Communist Party of Indochina?

11 A. I have heard of the relationship, the long-lasting
12 relationship.

13 Q. Can you explain that term, the "long-lasting relationship"?

14 A. I cannot explain the meaning of this term as I said. I set out
15 the brotherhood of the party and -- and that meant the
16 brotherhood lasted for thousands of years.

17 Q. I will now move on to ask you about something else. On the 15
18 of September 1977, when Son Sen went to study -- rather, went on
19 missions to Neak Loeng in the East Zone, did you know that --
20 when Son Sen went there, who came to take place of Son Sen?

21 And I would like to add also that: When Son Sen went on missions
22 to the East Zone, who replaced Son Sen to be in charge of the
23 Ministry of National Defense and other security centres,
24 including S-21 as well?

25 A. No, I did not know about that.

1 [13.46.32]

2 Q. Did you know about S-21 Office?

3 A. No, I did not.

4 Q. Did you know Duch -- Kaing Guek Eav, alias Duch?

5 A. I knew him when the Vietnamese came into the country.

6 Q. Did you know what did -- what Duch did during that period, the
7 three-year period?

8 A. I did not ask Duch about that, but I was told that he was the
9 chairman of S-21 Office.

10 Q. So that means you are not sure about Duch biography?

11 A. No, I am not sure about that.

12 Q. Your position was the secretary general of the Ministry of
13 Foreign Affairs during the Democratic Kampuchea period.

14 Did you know all about the meetings of the Central Committee, as
15 well as the meetings of the Standing Committee, or all of the
16 works that were done by these committees? Did you receive any
17 documents or were you told as to what discussions were held
18 during the meeting?

19 [13.48.30]

20 MR. PRESIDENT:

21 Witness, please wait.

22 International Co-Prosecutor, you may proceed.

23 MR. DE WILDE D'ESTMAEL:

24 Thank you, Mr. President. The question has already been put to
25 the witness several times. I believe it's repetitive. Thank you.

1 MR. PRESIDENT:

2 Yes, thank you.

3 Witness is not required to answer this question; this is a
4 repetitive question.

5 Counsel may begin with a new one.

6 [13.49.06]

7 MR. SON ARUN:

8 I asked this question because I would like to make some
9 connection with these questions to the questions that I asked
10 earlier. This is a connected question. Can I be allowed to ask
11 this question?

12 MR. PRESIDENT:

13 Witness should not answer this question because it is repetitive.
14 Counsel may begin with a new one.

15 BY MR. SON ARUN:

16 Q. Mr. Witness, on the 25th of April 2012, you answered to the
17 Prosecution question that, when you escorted a journalist or
18 foreigners to the bases, people always complained that there was
19 lack of food. Did those people tell you about the reason why
20 there was lack of food or rice, or were you simply told that
21 there was lack of food? Were you told about the reasons?

22 [13.50.41]

23 MR. SALOTH BAN:

24 A. There were many occasions. In some places, I was told that the
25 superiors sent garments -- sent garments out, or clothes, but

1 those clothes were burned. The upper echelon instructed that the
2 food -- the food ratio should be rice or porridge once a week --
3 rather, there had to be dessert once a week, but it was not done.
4 Some people said rice was transported to different places. Some
5 said that rice was burned down.

6 So I learned all about this from the people, from the rumours,
7 but practically I did not see that.

8 My parents themselves did not receive what Angkar intended them
9 to have. For example, rice or desserts, they did not get all
10 this. My father, who used to work in the Royal Palace -- rather,
11 my grand-uncle, who used to work in the Royal Palace, he did not
12 receive all this as well, but he was not disappointed.

13 So all these thing is what I saw with my eyes and what I heard
14 from people saying.

15 [13.53.11]

16 Q. I do not seem to understand what you said. Can you indicate
17 what you mean by you saw with your eyes and you heard from what
18 people said? What was the reason why there was lack of rice? From
19 what you know, what was the reason?

20 A. About this point, I only came to know when it was late.
21 We could understand this on the basis of the situation, if you
22 allow me to describe the situation.

23 I asked -- I did ask about the reasons why because I was not
24 attached to the base regularly. When I asked about this, I was
25 told that what was happening was to overcook Angkar.

1 Q. What do you mean by "to overcook Angkar"?

2 A. I am only doing analysis now. As I said, it means to destroy
3 those who hate Angkar or would like -- those who would like to
4 take vengeance against Angkar, wanted to destroy Angkar. It was
5 about the regime that traumatized people.

6 [13.55.27]

7 And what would people do in order to react to that regime? They
8 always wanted to liberate the regime before the Khmer Rouge did,
9 but it turned out that the Khmer Rouge was able to do that before
10 -- before they could, so they would feel something about that.
11 But I wish not to elaborate on that.

12 Q. Who are "they" you're talking about? Can you indicate -- can
13 you explain what you mean by "they"?

14 A. I cannot.

15 Q. I would like to move on with another question: Could you
16 explain the policy of the Communist Party of Kampuchea regarding
17 the evacuation of people out of the city? What was the reason for
18 that? Was it a planned policy before the evacuation began? You
19 were close to the most senior leader -- that was Pol Pot.

20 [13.57.14]

21 A. My apology; I answered this question once already. It would be
22 confusing if I answered it again.

23 MR. PRESIDENT:

24 Witness must answer to counsel's question because counsel is
25 seeking clarification, which is an important point for him.

1 MR. SALOTH BAN:

2 A. The reason to evacuate people out of Phnom Penh, as I heard
3 from soldiers, was concerning the American imperialist spies;
4 there were many of them. Mainly, they were women, and if we were
5 not aware of this issue, we would be trapped by these spies.
6 Secondly, I heard that the America has the defeat plan. I was not
7 aware -- I was not aware of what it meant by the defeat plan; I
8 only came to know later that the plan was to bombard Phnom Penh.
9 So the policy at that time was to evacuate the people out of
10 Phnom Penh; that's what I knew.

11 [13.59.12]

12 Q. Thank you.

13 About the minorities, including Cham, Chinese, etc., what was the
14 policy of the Communist Party of Kampuchea towards these people
15 when the Party ruled the country? Can you know about that? Can
16 you tell the Court about that?

17 A. I know in general, through documents that I got through study
18 sessions, these minority groups, regardless of any minority
19 groups they belonged to, they had to be -- to unite to fight the
20 American imperialists. This is the part of the policy everyone
21 was taught. And during my time, when I was in the Khmer Rouge
22 regime, the Cham people were not mistreated.

23 Q. Thank you.

24 [14.00.47]

25 Mr. Witness, you testified before the Chamber by using the term

1 "speculate". On several occasions, you said you were not certain
2 when providing testimonies, as what you did also on the 26 of
3 April 2012.

4 My question to you is: Did you only know your own business, only
5 things that confined to the level you are working at and that you
6 were not knowledgeable of anything above that or below that? Is
7 that correct?

8 A. Yes, it is.

9 Q. Thank you. What -- what about the other institutions, other
10 ministries at the Ministry of Foreign Affairs, those who hold -
11 or, rather, held particular positions? Were they knowledgeable of
12 other matters other than their own business?

13 A. I don't know what happened to them. I don't know whether they
14 were authorized to do any other things or anything.

15 But when it comes to Mr. Ieng Sary, he only educated me, told me
16 to mind my own business, and that I should not care for other
17 people's business; that's what I was taught and told.

18 [14.02.59]

19 Q. After you had been in the movement -- struggle movement in the
20 Communist Party of Kampuchea, had you ever seen or remember
21 having seen any other military or soldiers joining CPK forces?

22 A. I have never seen -- I have never witnessed such thing.

23 However, I noted that the upper echelon, through Pang, informed
24 people to be prepared to assist Om Nuon to work -- to work at
25 other -- with other parties.

1 Q. Are you referring to other parties here, to foreigners, or
2 internal parties?

3 A. My apologies. Indeed, I was referring to the foreigners when I
4 was saying "other parties".

5 Q. From 1970 through 1975, how could you describe the situation
6 when King Norodom Sihanouk was -- King Norodom Sihanouk
7 government was toppled down? Could you please recollect or
8 describe to us the event of the coup d'état back then?

9 A. I may describe to you based on the best collection I can.
10 [14.05.17]

11 Q. Please be brief because we are running out of time.

12 A. First, the country was not in peace from 1970 to 1975. I
13 remember very little about Mayaguez ship, the Koh Tang Island,
14 the fighting with Vietnamese troops, our troops at the border,
15 the Ho Chi Minh Trail, and relationship between Cambodia and
16 Vietnam. These are the things that are not -- that the people did
17 not have some agreement on.

18 Q. From 1975 to 1979, was the situation different from that
19 during 1970 to 1975?

20 A. I think you asked me about 1970 to 1975, and now you proceed
21 to 1975 to 1979. I think my response to you was mixed up; I was
22 covering 1975 to 1979 already. Please excuse me; I would like to
23 repeat my statement.

24 [14.06.57]

25 From 1970 to 1975, we were in a very difficult situation. We were

1 bare-handed -- or empty-handed. In 1975, we won the victory
2 starting from scratch. We worked with our blood and sweat and we
3 had to use horses to carry our letters and correspondences. We
4 had to cycle to -- for the purpose of sending messages. If we
5 could -- those who could afford, then they could have motorbikes,
6 but that's very rare. So the victory was seen because we were
7 focusing on the policy to attack the giant -- the
8 attacking-the-giant policy and we won the battle over this.

9 Q. Thank you. I would like to have another question. From 1970 to
10 1975, you said the CPK attacked the enemies with bare hands and
11 that you said you used horses to help carry letters for you. Were
12 there any foreigners assisting or giving any lending hands to the
13 -- to the forces including the GRUNK government -- people?

14 A. I don't understand the term "the GRUNK" very well, but I think
15 you are referring to the government headed by former Prince
16 Norodom Sihanouk.

17 [14.09.18]

18 Q. Yes, it is correct.

19 A. We were assisted, but emotionally, not technically.

20 Q. Were you assisted -- were the troops assisted by Vietnamese
21 troops to fight the Lon Nol regime and soldiers?

22 A. I did not see this with my own eyes, but I have heard of this.
23 I have heard from soldiers that there were Vietnamese troops in
24 Cambodia back then. I heard from Pang, however, that Vietnamese
25 were not allowed to come with us, to join hands, because they

1 separated the battlefields where Vietnamese could belong. Then,
2 they could belong to that confined location, and the Khmer Rouge
3 troop would conquer a particular battlefield for the fighting.
4 [14.10.33]

5 Q. Back then, the Vietnamese and Heng Samrin's troops attacked
6 Phnom Penh, and some of the Khmer Rouge troop fled to the
7 Thai-Cambodia border. Were you on the run with Pol Pot to that
8 area?

9 A. I worked at the Ministry of Foreign Affairs. I was tasked with
10 keeping the intellectuals, the children who were prepared to
11 attend study sessions. There were about 1,000 people in total,
12 and I was asked to ensure that they are put out of harm's way.
13 And they said the people needed to be moved elsewhere for a week
14 only, but they never returned. We had to go all the way, never
15 coming back.

16 Q. When you say that these group of people were led to the west
17 direction, whether it is a short evacuation or not, did you ever
18 meet your uncle, Pol Pot?

19 A. When we reached the location, about one year after that
20 ordeal, I met with him.

21 [14.12.16]

22 Q. When you met Pol Pot at the border area, had you worked
23 closely again with him?

24 A. I stayed separately from the location where Pol Pot stayed. I
25 stayed at the area called 102.

1 Q. When Pol Pot got sick -- and he had been sick for some time
2 before he passed away-- had you been informed of this situation?
3 And had you been informed of his death?

4 A. Before he died, he said the situation at the upper -- the
5 higher lands was not very good and he asked people who -- at the
6 lower ground -- I was not with him, but he gathered everyone and
7 advised everyone that we had a situation. And then he asked me to
8 stay away and only coming to him when he called. So try -- he
9 asked me or us to just hide ourselves or do whatever we wanted to
10 do, but not to be close to him.

11 Q. From then on, did you ever meet him?

12 A. (Microphone not activated)

13 [14.14.13]

14 MR. PRESIDENT:

15 Witness, could you please now be advised again to wait again
16 until you see the red light on the mic before you proceed to
17 speak?

18 MR. SALOTH BAN:

19 A. We -- I had never met him again, but I did have some visits to
20 his grave.

21 BY MR. SON ARUN:

22 Q. You are therefore not knowledgeable -- or were not
23 knowledgeable prior to the date when -- before he indeed died?

24 MR. SALOTH BAN:

25 A. No, I wasn't. I was far from him; I stayed at a location which

1 is near the road that links to Oddar Meanchey province.

2 [14.15.25]

3 Q. Thank you. I will stop asking you question concerning this,
4 and I will move on to another topic.

5 In document D233/2, you said you learned that Uncle Pol Pot was
6 in charge of politics, when Bong Nuon Chea was responsible for
7 organization -- organizational matters; that's what you stated
8 back then.

9 My question is: Do you still stand by this statement? And do you
10 know -- rather, how do you know this?

11 A. I learned about his through Pang.

12 Q. If Nuon Chea was responsible for organizational matters, what
13 -- what do these terms exactly mean? What was the function of
14 "organizational"?

15 [14.16.48]

16 A. I don't think I understand their exact roles, whether it is
17 politics or organizational roles, but I just learned from Pang
18 that Pol Pot was tasked with managing the politics, when Nuon
19 Chea was responsible for, rather, appointment.

20 MR. SON ARUN:

21 Thank you, Mr. President, Your Honours.

22 I have no further questions, but my colleague would like to have
23 the floor to put further questions to witness.

24 MR. PRESIDENT:

25 Counsel, you may now proceed.

1 [14.17.25]

2 QUESTIONING BY MR. PESTMAN:

3 Thank you very much. Good afternoon, Mr. Witness. I'm also
4 counsel for Nuon Chea and I have some questions for you.

5 Q. First of all, I would like to ask you again about Case 000.

6 One of my colleagues on this side, Michael Karnavas, counsel for
7 Ieng Sary, asked you who the accused should be in Case 000, and I
8 do not remember you answering that question. Would you be able to
9 answer that question now?

10 MR. SALOTH BAN:

11 A. I don't remember the exact date I said that, but I already
12 stated that, according to my meditation, the Iron-Fist Genie said
13 that our words are very important; we have to be very careful
14 when speaking

15 [14.18.43]

16 Case File 000 should also be considered. Why should we forget all
17 about Case 000? And I did say so.

18 And I think that -- and I put this question to myself: Before 001
19 exists, what could have been the digits that comes before this
20 number? And I said: Before 001, there must always be 00, without
21 which you cannot have 001. This means 00 could have been the
22 mastermind of the other problems. So we can say that: Who,
23 actually, created the 00 and -- before we have the number 1? So
24 who initiated such thing? We need to find out for sure.

25 And I also would like to emphasize further that Khmer Rouge like

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1 me, myself, never want to hide in the jungle. We would never --
2 we would never want to endure difficulty. We did not want to go
3 into war and we hated they who staged the war for the Khmer Rouge
4 to handle.

5 [14.20.24]

6 And "Khmer Rouge" is not the term I really give; somebody has
7 given it.

8 As a person who fought for my nation, I was a soldier so I can
9 see that this is my interpretation concerning 00 -- Case 000.

10 Q. Thank you, Mr. Witness. When you say "the mastermind", do you
11 mean Vietnam or America? Can you be a bit more specific?

12 A. With that response, I have an answer. According to the
13 criminal -- sorry, the Penal Code, I did not really implicate
14 Vietnamese and Americans in this phenomenon. I really state that
15 -- I really refer to the Penal Code.

16 According to me, Penal Code states that anyone who does something
17 contradictory to the Penal Code, then you shall be punished.

18 Penal Codes, as understood in Khmer, "Prohm". "Prohm" is the
19 person who creates people -- people born from land, from wind,
20 and from fire. So those who created this wind, land, and fire was
21 the mastermind over this thing. Thank you.

22 [14.22.22]

23 I would never implicate Americans or the Vietnamese in this.

24 MR. PRESIDENT:

25 Counsel, could you please be advised to frame your questions that

1 are relevant to the facts at issue? Your question and the
2 response from witness are not considered relevant to the alleged
3 facts before us.

4 MR. PESTMAN:

5 Thank you, Mr. President.

6 I would like to show a document -- and a copy has already been
7 given to the court officer; it's document D56-Doc -- Document 010
8 and it's a communiqué, a press release -- an official press
9 release issued after a visit of Norodom Sihanouk to Vietnam in
10 1972.

11 I'm asking for permission to show this document on the screen.

12 [14.23.46]

13 MR. PRESIDENT:

14 Court officer is now instructed to put up the document on the
15 screen as requested by counsel for Nuon Chea.

16 Counsel, could you repeat the document number? Because court
17 officer has missed the identification of the document you wished
18 to be put up on the screen.

19 MR. PESTMAN:

20 It's D56 Doc -- or document -- 010. And I believe we gave the
21 court officer a hard copy of the document. And we can put it on
22 the screen if we have permission to do so. I will give the
23 witness a few seconds to have a look at the document.

24 (Short pause)

25 [14.25.14]

1 BY MR. PESTMAN:

2 Q. Mr. Witness, my questions is whether you have heard of this
3 visit which took place in 1972 -- October 1972. It was Norodom
4 Sihanouk, head of state and chairman of the National United Front
5 to Vietnam, and he was accompanied by, as far as I understand,
6 almost the entire government at the time. My question is: Are you
7 familiar with this visit?

8 MR. SALOTH BAN:

9 A. No, I don't know anything about this.

10 Q. Thank you. Then, I won't ask you any questions about the
11 document.

12 But one of the people that accompanied Norodom Sihanouk to
13 Vietnam was Keat Chhon; you have mentioned him several times in
14 the past days. Do you know what his position was in the National
15 United Front of Cambodia?

16 [14.26.46]

17 A. I don't know his role, I only knew him in my capacity working
18 at the Ministry of Foreign Affairs. He worked at the
19 intellectuals section, when I worked at the peasant section.

20 Q. According to the document I just showed you, at the time,
21 which is 1972, he was minister delegate to the Prime Minister's
22 Office. Do I understand you correctly that you are unable to
23 confirm this?

24 A. Yes, you do.

25 MR. PRESIDENT:

1 Counsel, you should emphasize on the identification of the
2 document because witness has not been familiar with the document,
3 and you would be quicker to be on your feet to really object if
4 the witness has not seen this document before putting questions.
5 For example, witness should be asked whether he knows this
6 document or not. Otherwise, we should have it withdrawn.

7 [14.28.15]

8 And if the document is -- the document should be put up on the
9 screen before questions -- relevant questions are put, and that's
10 what the Chamber wishes you to do because we seem -- we seem to
11 have agreed already with this practice, and that there have been
12 objections and also agreement on how we proceed with the display
13 of documents in the courtroom.

14 MR. PESTMAN:

15 Thank you, Mr. President. I have finished. I have no questions
16 about this document anymore, so it -- it can be taken away. I
17 don't mind if the witness wants to have a further look at it.

18 [14.28.58]

19 BY MR. PESTMAN:

20 Q. I would like to go on to the next question, which I will do
21 now.

22 Mr. Witness, last week you confirmed, following an answer of the
23 Prosecution, that Keat Chhon had been implicated by dozens of
24 documents; do you remember confirming that?

25 MR. SALOTH BAN:

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1 A. No, I don't, because I don't remember indicating that there
2 could have been any documents concerning this implication. I did
3 say that people implicated him in some confessions, and Ieng Sary
4 said, if Keat Chhon had to be removed, the Ministry of Foreign
5 Affairs would be ground to a halt. And I did not see that but I
6 heard from what I was told.

7 [14.30.28]

8 Q. Thank you. Thank you, Mr. Witness. That's exactly the portion
9 or the part of your statement I was referring to.

10 My -- my follow up question would be: Why would the Ministry of
11 Foreign Affairs come to a halt or grind to a halt if Keat Chhon
12 were to be removed?

13 A. I did not know the reasons of Mr. Ieng Sary; I did not know
14 about that.

15 Q. You cannot explain why he was so important that Ieng Sary
16 intervened with Pol Pot on his behalf?

17 A. No, I can't.

18 Q. On the 31st of December 1977, there was an official statement
19 of the Ministry of Foreign Affairs in which the cut off in
20 diplomatic relations with the Vietnam was announced; do you
21 remember that official statement?

22 A. I recall that.

23 [14.32.11]

24 Q. Do you remember who wrote it?

25 A. I do not know who wrote it.

1 Q. You were questioned about this by the Investigating Judges --
2 or the investigators working for the Investigating Judges, and
3 the first person you mentioned that could have written that
4 document was Keat Chhon; do you remember? It was on 22nd of July
5 2009.

6 A. I remember that Mr. Keat Chhon wrote speeches, but about the
7 announcement to cut relations with Vietnam, I do not know about
8 that as to who wrote it.

9 Q. Mr. President, I would like to show one more document before
10 the break, and I will ask all the appropriate questions. It is
11 document number D366/7.1.473. And I'm asking for permission to
12 put that document on the screen. And for the Court--

13 MR. PRESIDENT:

14 The Court permits.

15 [14.34.15]

16 The court officer is instructed to take the document from the
17 defence counsel and show that to witness.

18 Can counsel indicate whether the document is already placed in
19 the case file or it is a new document?

20 BY MR. PESTMAN:

21 No, it's on the case file; the number is an official case file
22 number, and I believe it's on the screen; where one can see the
23 number.

24 Q. It is -- while the witness has a look at the document, it is a
25 handwritten -- they are handwritten notes of a visit of Sihanouk

1 -- Norodom Sihanouk to Kurt Waldheim, I believe, in New York, on
2 the 6th of October 1975.

3 I would like to ask the witness whether he has seen the document
4 before or whether it is completely new to him.

5 [14.35.48]

6 MR. SALOTH BAN:

7 A. This is a completely new document to me.

8 MR. PRESIDENT:

9 Court officer is instructed to take the document from the witness
10 and remove it from the screen.

11 (Judges deliberate)

12 [14.37.08]

13 Counsel, document D366/7.1.473, is that document placed before
14 the Chamber?

15 MR. PESTMAN:

16 No, not that I'm aware of.

17 (Judges deliberate)

18 [14.38.25]

19 MR. PRESIDENT:

20 You are not allowed to put questions on the basis of document
21 which has not been requested to be put before the Chamber. If you
22 intend to use document which is new one, you shall seek
23 leave from the Chamber that the document be placed before the
24 Chamber before your questions can be proceed.

25 MR. PESTMAN:

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1 It's - the document was put on the interface well in advance. We
2 take the position that we don't want to put this document before
3 the Chamber; we want to use this document to impeach this
4 particular witness.

5 We were never ask to put documents we intend to use for
6 impeachment purposes on any list apart from the interface list,
7 and that's what we have done. So I am confused.

8 (Judges deliberate)

9 [14.40.49]

10 MR. PRESIDENT:

11 The Chamber would like to inform defence counsel that the
12 document that you just showed has not been placed before the
13 Chamber and you should have requested to do so, whether you
14 intend to use this document now or at a later stage.

15 Besides, has the document been translated into at least two
16 working languages?

17 Thirdly, I am doubtful as to what you have said. You said that
18 you did not intend to put the document before the Court and you
19 intend only to challenge or to impeach the witness. This is not a
20 practice that we have been doing. The Chamber needs to be
21 informed, and you need to help the Chamber to be informed of what
22 happened during the concerned period. And now you indicated that
23 you wish to impeach the witness based on this document.

24 [14.42.29]

25 Now, you are invited to examine this document again, whether you

1 intend to put questions on the basis of this document, and if so,
2 you shall request the Chamber that the document be placed before
3 the Chamber.

4 The Chamber will not allow you use this kind of strategy that you
5 try to impeach the witness based on the document that has not
6 been placed before the Court.

7 Now, the Chamber announce a 20-minute break.

8 Court officer is instructed to accommodate the witness and his
9 duty counsel and to return them to the court at 3 o'clock.

10 The Court is now adjourned.

11 GREFFIER:

12 All rise.

13 (Court recesses from 1443H to 1502H)

14 MR. PRESIDENT:

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

16 Before we proceed to counsels for Nuon Chea, the Chamber would
17 like to inform that this document counsel for Nuon Chea wished to
18 put before the Chamber to impeach the witness is now ruled by the
19 Chamber that the document is not allowed to be put before this
20 witness, even though the document is in the case file.

21 [15.04.03]

22 However, the document is not listed in the proposed lists by the
23 parties. Parties are not allowed to raise any document if they
24 are not included in the list. And that the Chamber should have
25 been advised earlier before such a document be put -- or raised.

1 Judge Lavergne, you may now proceed.

2 JUDGE LAVERGNE:

3 Yes, there might be a problem of translation here.

4 What's important to note here is that this document has never
5 been put before the Chamber, at least as far as we know. So what
6 the Chamber has checked: if this document on document lists that
7 the parties might have proposed to put before the Chamber, and it
8 appears now that this document has not been proposed to be put
9 before the Chamber.

10 [15.05.22]

11 So, if Nuon Chea's defence intends to use this document, it must
12 -- and I believe counsel knows this perfectly well -- must make
13 the request to tender a new document before the Chamber, pursuant
14 to Rule 87.4, I believe, which -- and which might show why this
15 document has not been included in the initial list that should
16 have been tendered by all of the parties.

17 MR. PRESIDENT:

18 (No interpretation)

19 MR. PESTMAN:

20 Thank you. The explanation is perfectly clear, Judge Lavergne. It
21 may also be obvious that we don't agree with this. And as far as
22 we are concerned, this is a new development, this is not old
23 jurisprudence.

24 [15.06.30]

25 When we were asked to make that list, in April 2011, these were

1 not the instructions. This document existed at the time, was
2 already on the case file. We did not put it on the list for the
3 simple reason that we were not required to do so.
4 We're not trying to present new evidence; we're simply using this
5 information to impeach the witness.

6 I also understand that there is some confusion about the
7 translation into Khmer of the word "impeach". I use that word to
8 mean test the - "to test the credibility of the witness"; that's
9 all I intend to mean with that particular verb. So, when I use
10 the verb - the word "impeach", I just mean that I want to be able
11 to test the credibility of the witness.

12 We will file a motion on the issue of the documents in relation
13 to the hearing of witnesses, and we may do so in cooperation with
14 the other parties. We will investigate and we will ask for oral
15 hearings on this particular issue, which we think is very
16 important. But we will come back to this at a later date.

17 [15.07.44]

18 BY MR. PESTMAN:

19 I will continue with my questions for this witness.

20 Q. Mr. Witness, I will continue with my questions.

21 Did you recognize the handwriting on the document I've just
22 showed you before the interval?

23 MR. PRESIDENT:

24 Co-Prosecutor, you may now proceed.

25 MR. DE WILDE D'ESTMAEL:

1 Mr. President, I understand that you have taken a decision
2 regarding this document and I see now that Counsel Pestman is
3 referring to this document again when putting his question.
4 All the same rules are applicable to everyone, so I do not
5 believe that this question may be put to the witness. Thank you.

6 [15.08.46]

7 MR. PRESIDENT:

8 The Chamber has indeed ruled on this. This document is not
9 allowed to be put before this Chamber for putting questions to
10 this witness. And you indicated that you would proceed with your
11 motion concerning the document, so we do not need to go back to
12 the document, as it has already been ruled.

13 Could you, therefore, advise the Chamber how much time would you
14 need to proceed with your questions? Because we still have other
15 parties waiting for their turn to put questions to the witness?

16 MR. PESTMAN:

17 Hopefully, I'll be able to finish today, depending on the amount
18 of interruptions.

19 MR. PRESIDENT:

20 The amount of interruption caused by you or caused by other
21 parties?

22 [15.09.44]

23 You may now proceed with your questions.

24 And with regard to the document that has already been ruled on,
25 please be clear that it is not allowed; it has already been

1 ruled.

2 BY MR. PESTMAN:

3 Q. Mr. Witness, did you know that Keat Chhon accompanied Norodom
4 Sihanouk to New York to meet Kurt Waldheim in 1975?

5 [15.10.26]

6 MR. PRESIDENT:

7 Witness, you are now advised not to respond to this question as
8 it is irrelevant.

9 MR. PESTMAN:

10 I -- can I ask for a clarification?

11 I don't see why this is not relevant. It's an important visit to
12 the Secretary General of the United Nations during the Khmer
13 Rouge regime and it's also relevant because of Keat Chhon's role
14 at B-1, which I'm trying to clarify.

15 And it would be a lot easier if I were allowed to use that
16 particular document, but now I have to circumvent that, and it'll
17 take more time.

18 (Judges deliberate)

19 [15.11.33]

20 MR. PRESIDENT:

21 The Chamber has already ruled on that, and that your question is
22 not relevant.

23 Witness is advised not to respond to it.

24 If you have no further questions, the Chamber will proceed to
25 other counsels.

1 BY MR. PESTMAN:

2 As you know, Mr. President, I do have other questions. I'll
3 continue.

4 Q. Was it -- Mr. Witness, was it Keat Chhon's task to take notes
5 of important meetings?

6 MR. SALOTH BAN:

7 A. I already testified time and again that he was tasked with
8 taking notes. I don't know whether the notes were important or
9 not.

10 Q. Mr. Witness, I would like to show you another document,
11 document with number D91/15.

12 [15.12.46]

13 I'm asking for permission to show one page of that particular
14 document to this witness.

15 MR. PRESIDENT:

16 Could you please hold on?

17 Please show the document to the Chamber, first, to see whether it
18 is put before the Chamber or not, as you already been familiar
19 that the Chamber has just ruled on a document a moment ago for
20 the reason that the document you raised is not relevant to the
21 procedures before the Chamber, and you said you already were
22 fully aware of what Judge Lavergne stated.

23 [15.13.42]

24 So advise the Chamber on this document before we proceed to allow
25 you to put it up on the screen, whether this document is already

1 allowed.

2 MR. PESTMAN:

3 It's slightly disconcerting that you seem to assume that this is
4 a document which has not been put before the Chamber yet; it's a
5 document which has been discussed at length by the prosecutor.
6 It's D91/15. It's one of this witness's statements, the first
7 annex to this particular statement.

8 MR. PRESIDENT:

9 If so, you are allowed to proceed.

10 Court officer is now instructed to put up the document on the
11 screen and hand over the document in hard copy to the witness.

12 [15.14.45]

13 And counsel is advised to tell the Chamber on the reason for
14 putting the questions concerning this document.

15 BY MR. PESTMAN:

16 Q. Mr. Witness, I can assume can't I that you have seen this
17 organogram or this table before; haven't you?

18 MR. SALOTH BAN:

19 A. I had never seen this document before.

20 Q. It was shown to you on 11 December 2007 and it was attached to
21 your statement the next day. And the investigators who
22 interviewed you also wrote your comments on the left -- your nine
23 comments -- on this organogram. Are you sure it doesn't ring a
24 bell?

25 (Short pause)

1 [15.16.43]

2 A. I think I have never seen this document, although it appears
3 that I have signed on the document, but I haven't seen it before.
4 I could see writings in English all across the page, but I'm not
5 familiar.

6 Q. Your Honours, I assume I may continue because he recognizes
7 his own handwriting.

8 Just for the record, the witness was shown this document on 11
9 December 2007 in document E3/91. I can also give the ERN numbers
10 if you desire. Otherwise, I will continue.

11 Mr. Witness, I invite you to have a look at the document. And can
12 you tell me where Keat Chhon is mentioned on this organogram and
13 whether you think he's put in the right place?

14 A. I cannot show you. Although my name appears on the pages, I
15 haven't been given -- I had never been given the hard copy of the
16 documents earlier. And how could I respond to your question?

17 [15.18.57]

18 Q. Mr. Witness, you have signed the document, so you have seen
19 the hard copy.

20 Keat Chhon is mentioned in the third row from the right, the
21 third person. On the screen, you can see where the red box --
22 where Keat Chhon is mentioned.

23 My question to you is: Is he in the right place? Is it correct to
24 put him that particular place as a member or as head of the
25 department?

1 A. Allow me to say that again: the document before me was not
2 obtained by me or kept at home. I don't know where it is from.
3 Their writings -- my names appear on the document. However, I am
4 not familiar with this document since I never been made a --
5 copied.

6 Q. Let me continue. I have another question about this document,
7 about another person, Hor Namhong.

8 [15.20.28]

9 I'm a bit puzzled because he's mentioned twice in this document.
10 On the screen, you can see where his name is mentioned; he's
11 mentioned on the right, bottom right, as GRUNK ambassador to
12 Cuba, and he is mentioned in the middle of the document as being
13 at -- or in charge of B-32. Can you explain this fact that his
14 name is mentioned twice?

15 MR. PRESIDENT:

16 Witness, could you please hold on?

17 Counsel for the civil parties, you may now proceed.

18 MR. PICH ANG:

19 Thank you, Mr. President, Your Honours. With regard to the
20 presentation of this document, should we check in the first place
21 to see whether the witness has already seen this document before
22 we proceed to questioning or else?

23 [15.21.48]

24 MR. PRESIDENT:

25 Questions have already been put, and witness has indicated that

1 he has never seen the document. However, according to the records
2 of the document, there appear to be his signatures and names,
3 including the – rather, investigators and interpreter during the
4 investigation phase. For that reason, the document is regarded as
5 being put before the Chamber, if counsel wishes to put questions
6 concerning whether the documents have already been familiar by
7 the witness.

8 So, if witness has not seen or no knowledge of the document, then
9 we will consider further.

10 International Co-Prosecutor, you may now proceed.

11 [15.22.58]

12 MR. DE WILDE D'ESTMAEL:

13 Thank you, Mr. President. It seems to me that the last question
14 that was put by Nuon Chea's counsel was a bit ambiguous, in the
15 sense that we are speaking here about an organization chart that
16 has been provided by the investigators of the OCIJ. And asking
17 him to explain why this person is listed in two different places
18 -- and I understood this as being an implication that the witness
19 himself drafted this organization chart, which was not the case.
20 So I think it might be a good idea to reformulate the question
21 without having this implication that the witness may have drafted
22 this organization chart.

23 MR. PRESIDENT:

24 Thank you.

25 Indeed, this diagram was not authored by the witness, and the

1 language was not the words used by the witness as it was not in
2 Khmer.

3 [15.24.21]

4 And it appears to the Chamber that witness only understands some
5 portion of the document because, in his response, he says he
6 doesn't understand other area, for example, like point 9, when he
7 indicated that he is familiar with other matters from 1, 2, 3, 4,
8 5, and so and so forth, but not some certain numbers -- or area.

9 MR. PESTMAN:

10 Yes. Thank you. I'm sorry for the confusion. This is a document
11 we believe was made or drafted by the prosecutor or by a member
12 of the Office of the prosecutors -- the Co-Prosecutors, and later
13 used by the investigators during the judicial investigation. Of
14 course, this was not drafted by the witness; he commented on it
15 when shown on the 11th of December 2007.

16 [15.25.38]

17 BY MR. PESTMAN:

18 Q. Do I have to repeat my question? Mr. Witness, do you remember
19 my last question or would you like me to repeat it?

20 MR. SALOTH BAN:

21 A. I don't remember.

22 And I never seen this document. The handwriting is not familiar
23 or never seen to me, both in Khmer and in English. I have
24 obtained some documents and I remember only the documents I have
25 in my possessions, not others.

1 Q. But can you explain why Hor Namhong is mentioned twice in
2 different positions in this document?

3 A. I don't understand.

4 Q. Was Hor Namhong Ambassador to Cuba before he was transferred
5 to B 1?

6 A. So far as I recollect, he was the Ambassador to Cuba, but he
7 had been at B 1 for a shorter period of time, but he spent a
8 longer time at Boeng Trabek.

9 Q. Is B 32 -- is that the same as Boeng Trabek?

10 [15.27.55]

11 A. I don't know B 32.

12 Q. And the names -- numbers B 30 and B 31, do you know what those
13 mean?

14 A. I don't recollect them.

15 Q. You told the investigators and, later, the OCIJ, the
16 Investigating Judges, more specifically on the 7th of April 2010,
17 that Hor Namhong was at Boeng Trabek. What was his role there?

18 A. I only knew that he was at Boeng Trabek. He was sent by Pang
19 to be there.

20 Q. Was he chairman at B 32?

21 A. I never remember having heard he became the chairman of a
22 place.

23 Q. Why was Hor Namhong given a house to live in near Independent
24 Monument?

25 [15.29.53]

1 A. To the best of my knowledge, the situation changed. Vietnamese
2 troops had been nearing. I don't know whether Pang had
3 disappeared already back then, so the Ministry of Foreign Affairs
4 asked Mr. Cheam to bring him to live in a villa near the
5 Independence Monument.

6 Q. Were all inmates or detainees at Boeng Trabek given a house
7 near Independent Monument?

8 A. At the time, Bong Hor Namhong, Bong Sarin Chhak were placed in
9 a villa. Others were prepared to work at the Ministry of Foreign
10 Affairs, while others were prepared to teach children at what we
11 call the Soviet School now.

12 Q. Why was Hor Namhong given this preferential treatment?

13 A. I do not know about that.

14 Q. Are you still in contact with him?

15 [15.32.00]

16 A. As I said, Mr. Cheam took him away. I was not in contact with
17 him, it was Cheam who was. After that, the Front people were in
18 contact with him.

19 Q. I'm talking about now, the period after 1979 up until now; are
20 you still in contact with him now? Have you recently spoken to
21 him?

22 A. When you talk about "he", are you talking about Mr. Cheam or
23 Mr. Hor Namhong?

24 Q. I've only been talking about Hor Namhong.

25 A. I never contact him.

1 Q. Are you still in contact with Keat Chhon?

2 A. I never contact him either.

3 Q. Are you afraid of them?

4 A. No, I am not.

5 [15.33.37]

6 Q. Did you know that both Hor Namhong and Keat Chhon were
7 summoned to testify by the Investigating Judge, the International
8 Investigating Judge, as that judge thought that their testimony
9 was important in establishing the truth? Did you know that?

10 MR. PRESIDENT:

11 You are not required to answer this question, Witness.

12 MR. PESTMAN:

13 Can I ask for a clarification of that position?

14 MR. PRESIDENT:

15 The witness does not have to answer this question because he does
16 not have any position or any role in order to understand the case
17 file. The witness is supposed to answer the question concerning
18 the facts he knew, especially what he knew concerning the
19 indictment and his role here is a witness.

20 [15.34.56]

21 MR. PESTMAN:

22 Mr. President, just so know, we have a consistent -- consistently
23 taken the position that political interference is important and
24 that we should be allowed to investigate political interference
25 in this case, and we will continue to do so. And we believe that

1 this witness may be in the possession of information that could
2 be relevant.

3 MR. PRESIDENT:

4 This hearing is not about the political interference into the
5 Court, it is about hearing testimony of this witness concerning
6 what he knew -- he knows and he experienced. This witness has
7 been informed of his rights concerning giving testimony before
8 this Court.

9 BY MR. PESTMAN:

10 Q. Mr. Witness, do you know why Hor Namhong and Keat Chhon
11 refused to testify?

12 [15.36.01]

13 MR. PRESIDENT:

14 Witness does not need to answer this question; this question is
15 different from the facts being questioned.

16 BY MR. PESTMAN:

17 Q. Mr. Witness, do you know whether they are afraid to testify?

18 MR. PRESIDENT:

19 Witness, shall not answer this question.

20 BY MR. PESTMAN:

21 Q. Mr. Witness, do you know whether they received instructions
22 from the CPP or anyone else in the government not to testify, not
23 to help this Court to establish the truth?

24 [15.36.53]

25 MR. PRESIDENT:

1 The witness does not have to answer this question.

2 BY MR. PESTMAN:

3 Q. Did Prime Minister Hun Sen tell them not to testify?

4 MR. PRESIDENT:

5 Yes, National Co Lawyer, you may proceed.

6 MR. PICH ANG:

7 Mr. Witness (sic), I am mindful of the time. It is 20 minutes
8 away, and we have another party who needs to ask questions to
9 this witness.

10 I'm not sure whether defence counsel for Mr. Nuon Chea runs out
11 of questions. Otherwise, the floor should be handed over to the
12 next party.

13 [15.37.57]

14 MR. PRESIDENT:

15 Witness does not have to answer the last question asked by
16 defence counsel for Mr. Nuon Chea, due to facts that the question
17 does not concern you.

18 Can defence counsel for Mr. Nuon Chea remind the Court of the
19 time that you need to put more questions? You are advised to use
20 the time more efficiently.

21 How much time did you need, Counsel?

22 BY MR. PESTMAN:

23 I have one more question, and I think the answer is going to be
24 very short, if there is going to be an answer at all.

25 Q. My last question, Mr. Witness is -- It may be obvious that we

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1 think that Keat Chhon and Hor Namhong are very important
2 witnesses, and we think that they should be heard in Court. Do
3 you know whether Hor Namhong and Keat Chhon are willing to
4 testify in this Court?

5 [15.39.30]

6 MR. PRESIDENT:

7 Witness, you don't have to answer this question; it's not for you
8 to know what they think.

9 MR. PESTMAN:

10 Yes. I'm sorry there is no answer, but I have no further
11 questions.

12 MR. PRESIDENT:

13 Thank you.

14 Now, the floor is handed over to defence counsel for Mr. Khieu
15 Samphan for him to put questions to this witness. The floor is
16 now yours, Counsel.

17 QUESTIONING BY MR. KONG SAM ONN:

18 Thank you, Mr. President. Good afternoon, Witness. My name is
19 Kong Sam Onn. I have a number of questions for you and I would
20 like you to answer to my questions to inform the Chamber.

21 [15.40.38]

22 And as you can see, we are running out of time, but you can try
23 your best to answer the questions. And I only need short answers
24 rather than long ones.

25 Q. First of all, I would like to ask for your clarification

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1 concerning your role as a bodyguard of your uncle, Pol Pot.
2 Especially, I would like you to clarify concerning the prior 1975
3 period. Again, I'm talking about prior 1975 period.
4 My question is -- you indicate -- you indicated before this
5 Court, especially to the question by the Prosecution, that Mr.
6 Pol Pot had other bodyguards besides you and a cook. He had two
7 personal bodyguards. Do you know the identities -- or do you
8 still remember the identities of those bodyguards?

9 MR. SALOTH BAN:

10 A. Early 1975 -- in early 1975, the place was being prepared. I
11 understood that my wife was a cook there, and there was the wife
12 of Bong Nuon Chea, and one of the bodyguards was Lin, and Mr. Tan
13 was another bodyguard. They were under the supervision of Pang.
14 [15.42.57]

15 Q. Do you remember there were any other bodyguards besides Lin
16 and Tan?

17 A. There were three or four bodyguards, but these people all
18 died.

19 Q. Thank you.

20 I would like to ask you about the headquarters where Pol Pot
21 worked before the fall of Phnom Penh in 1975.

22 I have heard from you, when you told the Court, that that
23 headquarter was on frequent move, and you referred to that place
24 as the "mobile place". Now, I want to -- I want you to clarify on
25 this point regarding the location of this place.

1 Before the liberation of Phnom Penh, how many times did that
2 office move?

3 A. It moved two or three times.

4 [15.44.52]

5 Q. So two or three times. Do you remember how long did they work
6 at the last place?

7 A. You mean the last move?

8 Q. Yes.

9 A. As for the last move, it was probably in 1972, 1973 or 1974.

10 Q. Let me clarify this. So the last move was in 1972, 1973, and
11 1974?

12 A. What I am sure is it was in 1973 or 1974.

13 Q. A few months before 1975, where was the office?

14 A. I was there even after 1975.

15 Q. Thank you. Can you explain to us why the last location was
16 considered the base for the office?

17 A. The principle was that the office was to be in the quiet place
18 and near Phnom Penh.

19 Q. Is there any military reason why the office had to be in that
20 state?

21 A. Another reason was that the place was in the centre, so it was
22 easiest to call upon others to meeting.

23 [15.48.17]

24 Q. You indicated in previous hearings that the location selected
25 for the headquarters was in jungle, and not in the village. As a

1 result, it was not appropriate to consider that the office was
2 located in a particular village. Can you explain to us why the
3 office was in the jungle?

4 A. Because it was easy for us to keep the secret.

5 Q. What do you mean by that?

6 A. Allow me to elaborate on this.

7 It does not mean that the people were not aware of the office.
8 The village chiefs informed their peoples that the place was not
9 supposed to trespass. The village chiefs did not tell the people
10 that it was Angkar, but they informed the people not to go to
11 that place. So this is what I mean by the principle of keeping
12 secret.

13 And when we were in the jungle, we were not supposed to travel
14 freely. Only one person was appointed to -- for example to buy
15 things. Sometimes we had to erase our footprints after we travel.

16 [15.50.13]

17 Q. Thank you.

18 Can you tell us about the situation at the place you called
19 headquarter?

20 A. The headquarters was a hut. When there were guests, for
21 example Mr. Nuon Chea, Bong Hem or Bong Ieng Sary, small huts
22 were established. Those were small huts which can accommodate a
23 person, and there were no walls. Trees were the walls.

24 Q. Can you tell the Court how many huts were there?

25 A. There were five, including a kitchen.

1 Q. How about the areas surrounding that headquarters? Was this a
2 desert or -- were there any bushes?

3 A. There were bushes, small bushes in the Kampong Chhnang
4 Province.

5 [15.52.22]

6 Q. If they stood in the hut, was it possible for us to see
7 outside?

8 A. Yes, it is possible -- it was possible for us to see outside.

9 Q. How clear could we see the outside?

10 A. It's difficult to explain. We could see 30 metres away, for
11 example.

12 Q. Thank you. Can you indicate again about the state of the huts?
13 You mentioned earlier that there were no walls. Can you further
14 describe the huts? Were there any walls at all?

15 [15.53.41]

16 A. There were pillars, there were roofs made from palm leaves,
17 and when there were rains, we used tent to cover the huts.

18 Q. Thank you. You mentioned just now that the roofs were made
19 from palm leaves. In talking about the pillars of the huts, what
20 were those pillars made of? Were they made of wood or other
21 things?

22 A. They were made of wood, small wood, and we used bamboos for --
23 to support the roof. And there were no bricks or cement.

24 Q. Thank you. Did you know what those huts were used for?

25 A. Are you talking about the hut that I lived?

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1 Q. Could you describe the uses of all huts in the compounds of
2 the headquarters?

3 A. Those huts were for the cadres, for them to rest in, for one
4 or two only. As for the guests who came to the place, some of
5 them had to use hammocks. One hut was used as kitchen, and we
6 also had some other small huts where we stored ammunition. We
7 separated the ammunition so that, if some of it was to be
8 destroyed, only that small amount of the ammunition was to -- to
9 be destroyed.

10 [15.56.53]

11 Q. Can you inform the Court as to the sizes of the hut? What was
12 the biggest size of the hut? And what was the smallest size of
13 the hut?

14 A. The biggest size was no longer -- bigger than a 10 by 10 metre
15 hut, and the smallest was the one that can accommodate a person.

16 Q. Thank you. How far was it between each hut?

17 A. The huts for the combatants were far away from the huts for
18 the leaders; they were about 30 or 40 metres away from each
19 other. Some of those huts were built under trees where there
20 were, for example, two trees next to each other, and then the
21 huts would be built under those two trees.

22 [15.58.14]

23 MR. KONG SAM ONN:

24 Thank you.

25 Mr. President, I finished this point. Then I move on to my other

1 next point.

2 MR. PRESIDENT:

3 How much time do you need, Counsel?

4 MR. KONG SAM ONN:

5 (Microphone not activated)

6 THE INTERPRETER:

7 Counsel's mic is not activated.

8 MR. KONG SAM ONN:

9 As I informed the Court last time, we need one hour and 30
10 minutes, and we have now used 20 minutes, so I probably need
11 another hour.

12 [15.58.57]

13 MR. PRESIDENT:

14 Well, you asked for the time, and perhaps you should use this
15 time more efficiently. Your questions should touch upon the
16 substance of the issue so that you perhaps will need a shorter
17 time.

18 The witness has spent a lot of days at this Court, and tomorrow
19 is a holiday. If possible, today's hearing can be extended until
20 4.30 to accommodate your questions so that we can conclude the
21 testimony of this witness today.

22 Do you think you can finish your questions by 4.30?

23 MR. KONG SAM ONN:

24 Thank you, Mr. President. We are planning to question the witness
25 on four main topics. We have already finished one, three more to

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1 go. And we have received a letter from senior legal officers that
2 the counsel for Khieu Samphan may also use the time given on
3 Wednesday to put question to the witness if possible.

4 [16.00.22]

5 MR. PRESIDENT:

6 Thank you. We have noted that the proceedings to hear the
7 testimonies of the witness cannot be concluded.

8 And the Chamber wishes to ask witness to be very patient with us
9 because we need to put -- party need to put question to you for
10 about 1 hour and 10 minutes.

11 For that reason, we would like to ask that you be coming back to
12 the Court on Wednesday morning, and we assure that your testimony
13 will be complete before the first adjournment of the morning on
14 Wednesday.

15 And duty counsel is also asked to come and assist the witness on
16 that day.

17 The Chamber notes that it is now appropriate time for the
18 adjournment. Today's session is adjourned.

19 The next session will be resumed on Wednesday, the 2nd of -- May,
20 rather, at 9 a.m.

21 Court officer is now instructed to coordinate with the WESU to
22 ensure that the witness can be assisted regarding his travel and
23 that -- ensure that he be returned to the courtroom on Wednesday.

24 [16.02.00]

25 Security personnels are now instructed to bring all the accused

1 persons back to the detention facility and have them return to

2 the courtroom on Monday, the 2nd of May 2012, by 9 a.m.

3 The Court is adjourned.

4 (Court adjourns at 1602H)

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