



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

31 July 2012

Trial Day 87

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

The Accused: NUON Chea
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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. IANUZZI	English
MR. KARNAVAS	English
JUDGE LAVERGNE	French
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PICH ANG	Khmer
MR. ROCHOEM TON (TCW-564)	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 Ms. Se Kolvuthy, could you report the attendance of the parties
6 and the individuals to the proceeding today?

7 THE GREFFIER:

8 Mr. President, all parties to the proceeding are present except
9 the accused Ieng Sary, who is present in the holding cell
10 downstairs. He requests to waive his direct presence through his
11 counsel to participate in today proceeding for the whole day. A
12 letter of waiver has been submitted to the greffier.

13 MR. PRESIDENT:

14 Thank you. The Chamber has received the request by the accused
15 Ieng Sary, dated 31st July 2012, through his counsel, to waive
16 his direct presence in the proceeding today and instead to follow
17 it through a remote means for the whole day.

18 Vann Mich, the treating doctor of the Accused at the detention
19 facility, examines him and finds that he has some heart problem
20 and fatigue and has a back ache that he cannot sit for long and
21 recommends that the Accused shall be authorized to follow the
22 proceeding in the holding cell downstairs through audio-visual
23 means.

24 [09.03.51]

25 As Mr. Ieng Sary has some health problem and he cannot

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1 participate directly in the proceeding, but instead can follow it
2 through the holding cell downstairs and that he can communicate
3 directly with his defence team, the Chamber agrees to the request
4 to have his direct presence in today's proceeding and that he is
5 authorized to follow it through the audio-visual means from the
6 holding cell downstairs for the whole day.

7 The AV Unit, you're instructed to link the proceeding to the
8 holding cell downstairs for him to follow.

9 Before I hand the floor to the defence teams, Judges of the
10 Bench, do you have any question to be put to this witness?
11 Judge Lavergne, you may proceed.

12 QUESTIONING BY JUDGE LAVERGNE:

13 Indeed, thank you, Mr. President. Good morning to all parties.

14 Good morning, Witness. I have a few follow-up questions to put to
15 you in order to clarify some of the explanations that you have
16 made before this Chamber.

17 [09.05.20]

18 Q. First and foremost, let us return to the period during which
19 you were part of the maquis, that preceded the fall of Phnom
20 Penh. You were very close to Pol Pot as well as two other
21 leaders. Now, if I understood what you explained to this Chamber,
22 it would appear that you met Mr. Khieu Samphan for the first time
23 in 1971; is this accurate or do you have any further
24 specifications or clarifications to provide?

25 MR. ROCHOEM TON:

1 A. That is correct.

2 Q. Do you recall the circumstances in which you were led to meet
3 Mr. Khieu Samphan?

4 A. I first met him after he arrived from his residence. He
5 entered the kitchen hall -- the military kitchen hall and I met
6 him there. And he asked how I was and I said I was fine and we
7 just exchanged the greeting.

8 [09.07.28]

9 Q. Now, aside from those formalities, were you aware or did you
10 discuss with any one of the uncles the role being played by Mr.
11 Khieu Samphan? Was there any discussion about his participation
12 in the GRUNK, the Royal Government of Cambodia?

13 A. No, I did not know the details about that matter. I learned of
14 his role through listening to the radio broadcast.

15 Q. Did you know or did you hear about Mr. Khieu Samphan's
16 involvement in the armed forces of -- for the liberation of the
17 people of Kampuchea? Were you aware of the role that he played?

18 A. I learned of -- of his clear role after I met him, and later
19 on I met him at his house or sometimes while he was working with
20 Om Pol Pot and Nuon Chea. And sometimes I observe him at his
21 residence sitting down and writing the documents. However, I did
22 not know the details of his exact role. At that time, we were in
23 the jungle and I learned of his role through the radio broadcast,
24 as I said earlier.

25 [09.10.07]

4

1 Q. As far as the army is concerned, the RAK -- the -- or the
2 Revolutionary Army of Kampuchea, who was the head of the army?
3 Who was the commander who had overall responsibility?

4 A. From what I observed, at that time, Om Ieng Sary came to work
5 in Office K-7 which was mainly the farming part. At that time, he
6 did not speak of the soldiers, but he talked about the mobile
7 forces. He was -- at that time, it was Bong Kham (phonetic) who
8 was in charge of the mobile unit; that's how I initially learned
9 about that mobile unit. That was back in Rattanakiri and it was
10 in late 1968.

11 Q. Let's move forward in time a little bit. I'm not so concerned
12 with what happened in 1968; I'm rather interested in knowing what
13 happened after King Norodom was -- fell from power. Was there any
14 centralized power? Was there anyone who was in charge of the
15 armed forces or were those armed forces being led by individual
16 zone leaders? What exactly was the state of affairs?

17 [09.13.14]

18 A. After the coup d'état, at that time, I was in Office 1 and I
19 engaged in rice farming. At that time, they referred to the
20 mobile force; not the military or soldiers. They were sent in a
21 group of a hundred fifty for two times to rest and to assist in
22 rice farming.

23 The road from Bar Keo to Andoung Meas was interrupted by the
24 enemy activities and another road from Bar Keo to Ou Ya Dav -- or
25 which was known as Road 19 -- was also intercepted by the enemy

5

1 from time to time. So the mobile forces were in charge of the
2 security for these two roads; that is for the Andoung Meas Road
3 and for Road 19.

4 I, myself, did not know who was the -- their commander. There was
5 no such introduction. I only saw these groups of mobile forces
6 who assisted in rice farming at the time.

7 Q. Let's try and make some inroads here. Did the situation
8 improve following the departure of a certain number of Vietnamese
9 troops after 1973? Were the roles of zone leaders enhanced or
10 changed or how did the role of the leaders change following the
11 departure of those Vietnamese troops?

12 [09.16.18]

13 A. In 1973 the main office was S-71. I did not observe any
14 changes in the leadership role back then, but I could not say
15 about the zone level.

16 Q. Mr. Phy Phuon, you talked about several meetings between the
17 uncles; that is to say, Nuon Chea, Ieng Sary, Pol Pot, Khieu
18 Samphan, and others. At the time, were you a first-hand witness
19 of those meetings or did you simply hear about those meetings
20 taking place? Did you hear about these meetings as they were
21 being reported by other people?

22 A. In 1973, in some areas, I was the first-hand witness; that is,
23 I, myself, was there and I was not told about other meetings
24 where I was not present.

25 [09.18.26]

6

1 Q. And concerning those meetings for which you were a direct
2 witness, did you ever observe any disagreements that would have
3 arisen amongst the uncles; that is to say, Pol Pot, Khieu
4 Samphan, Nuon Chea or between Nuon Chea and Ieng Sary? Do you
5 have a recollection of any matters or problems that were
6 discussed and that led to disagreements or was there always
7 perfect harmonious consensus?

8 A. Since I had known him and throughout the period, I did not
9 observe any disagreement. They were in harmonious agreement. It
10 was peaceful amongst them, themselves.

11 And as I stated earlier, in 1972 I took a journey with Om Nuon
12 Chea to Samlaut. It was quite a long journey.

13 And prior to that, in 1971, as I earlier indicated, there was a
14 mass meeting throughout the country and then there was a congress
15 in Trapeang Prei as I stated earlier. Of course, I did not stay
16 permanently wherever the meeting took place. I was only present
17 in the certain locations where I witnessed those meetings and I
18 only spoke of the meetings where I personally participated and I
19 had no knowledge of other meetings. For example, if -- at Office
20 K-5, I was a guard; I did not participate in any other meetings,
21 I so stated.

22 [09.20.56]

23 So I state whatever I know. And, of course, I could not be in a
24 position to know every detail of every meeting amongst themselves.

25 Q. Are you aware of how communications were exchanged between the

7

1 forces within Cambodia and the figureheads who were located
2 outside of Cambodia? For example, do you know of how
3 communications were sent to contact Mr. Ieng Sary, who was in
4 China, or the means of communication to establish contact with
5 those located within the country?

6 A. In regards to such communication, it existed; for example,
7 where the communication took place through a form of a telegram
8 exchange. And this continued after 1973 between themselves and
9 between the zone level. And, of course, through such
10 communication, it facilitated the journey from one place to
11 another.

12 [09.23.08]

13 Q. Therefore those communications were achieved primarily through
14 the use of telegrams; is this accurate?

15 A. Yes, through telegram.

16 Q. And I would presume that in preparation of Prince Norodom's
17 trip in 1973, there must have been many telegrams that were sent.
18 Were you, yourself, associated or involved in the preparation of
19 that particular trip?

20 A. I did go to greet Samdech Sihanouk when he came to visit the
21 liberate zone -- the Liberated Zone in 1973. At that time, many
22 people came from -- throughout Rattanakiri province, including
23 Siempa (phonetic) district to greet him and many people
24 accompanied him throughout his visit -- even to Siem Reap -- and
25 upon his departure.

1 [09.24.32]

2 I actually provided and act as a personal protection for him;
3 that is, for Samdech Sihanouk.

4 Q. Did you ever hear about the occurrence of a Special National
5 Congress that would have been held on the 24th and 25th of
6 February in 1975 under the auspices of Mr. Khieu Samphan? Did you
7 ever hear about a large meeting that was held in February 1975
8 and that was presided over by Mr. Khieu Samphan in his capacity
9 as Vice Prime Minister of the GRUNK?

10 A. I heard about that through radio broadcast, but I did not know
11 the place where the -- where they convened that meeting.

12 Q. And when you did hear about that meeting, did you also hear
13 about a list of seven super traitors?

14 A. No, I did not pay my attention to the so-called seven
15 traitors.

16 [09.26.29]

17 Q. After the fall of Phnom Penh, were any proclamations made by
18 the leaders and that were broadcast over the radio airwaves --
19 this is following the fall of Phnom Penh?

20 A. It was broadcast on the radio that all the spearheads, after
21 9.30 a.m. on that day, had liberated the city and that they would
22 meet in the centre of the city.

23 Q. Who was intended to be the recipient of those radio messages
24 and who authored those messages?

25 A. The announcement was made to the entire nation; probably also

1 listened by the international side.

2 At that time, I also had my own radio, and actually Om Khieu
3 Samphan, who was the commander of the military troops of the
4 GRUNK, made that announcement.

5 Q. Did you hear about a Special National Congress summoning
6 representatives of the people of Kampuchea and the three
7 categories of the Peoples' Army and -- as well as the monks and
8 the FUNK? This meeting reportedly occurred on the 24th, 25th, and
9 27th of April 1975 and presided over by Mr. Khieu Samphan.

10 A. I heard of that announcement on the radio; that is, his
11 announcement, yes.

12 [09.29.52]

13 Q. And what do you remember of this broadcast? If you don't
14 remember anything, just tell us; that's fine, as well, of course.

15 A. I don't remember this.

16 JUDGE LAVERGNE:

17 Well, for the purposes of the record, I would like to let the
18 Chamber know that this was the Special National Congress of
19 Cambodia that took place on 24 and 25th February 1975, presided
20 over by Mr. Khieu Samphan, and the document is D108/43/3. Now,
21 regarding the statements that were made on the radio after the
22 fall of Phnom Penh, you can refer to document D359/1/1.37 and
23 E3/18.

24 [09.30.53]

25 BY JUDGE LAVERGNE:

10

1 Q. Now, I would like to turn to the actual experience of the
2 evacuation. You told us, during your previous statements, that
3 this is a topic that was brought up often in many meetings. And,
4 in particular, you spoke about the major meeting that was held in
5 June 1974 and that apparently was a meeting that was organized by
6 the Central Committee of the CPK. This is a meeting in which you
7 mentioned the -- which you -- which you said Monsieur Ieng -- Mr.
8 Ieng Sary attended.

9 Do you confirm that during this major meeting that took place in
10 June 1975 -- 1974, the evacuation was brought up; the evacuation
11 of the cities as well as the evacuations of the Liberated Zones,
12 and when I speak about the cities, I'm referring to Udong, Skun,
13 Stung Treng, Kratie, and other cities? So can you -- do you
14 confirm this or do you have any specifications to make?

15 MR. ROCHOEM TON:

16 A. I do not have more to add on this. I already stated -- stated
17 my position.

18 Q. When you say that the experience of this evacuation was
19 discussed, I imagine that you -- this has positive connotations;
20 that is to say that these evacuations had a positive effect at
21 least in military terms and maybe also in terms of the
22 revolution. Can you maybe provide us with some clarification on
23 the possible positive effects of this evacuation?

24 A. I already indicated I only understand the term "evacuation". I
25 learned about this only on one occasion at B-5 and I have no idea

11

1 of others -- detailed aspect concerning this.

2 [09.34.10]

3 Q. And during your statement last Thursday, you also spoke about
4 study sessions or training sessions that apparently were chaired
5 by Pol Pot, Nuon Chea, or Khieu Samphan. And in the records, or
6 at least in the draft transcripts of last Thursday's hearing, we
7 can find this at 11.04 and you said the following:

8 "I learned this during his presentation. Pol Pot, Nuon Chea, and
9 Khieu Samphan presented this idea to us. It was the experience
10 that they had learned and we had to learn from these positive
11 experiences in order to liberate Phnom Penh in the end; that's
12 how I learnt about this evacuation."

13 So can you confirm, first, that these three figures, separately
14 or together, presented to you, indeed, the experience, so to say
15 -- the positive experience, so to say, of evacuation?

16 [09.35.50]

17 A. I already confirmed, in my testimonies, that these three
18 people remained permanently at the office before the liberation
19 of Phnom Penh. And after the liberation, the three of them
20 remained together permanently as well. And I do not think I have
21 anything else to add. I'm afraid my statement will be repetitive.

22 Q. So can you please provide us with some clarification? As far
23 as I understand, the training sessions -- the study sessions that
24 you spoke about, did they take place before the capture of Phnom
25 Penh or after the capture of Phnom Penh or before and afterwards?

12

1 A. Before the liberation of Phnom Penh, it was early April -- on
2 early April and also after the liberation of Phnom Penh, there
3 was another occasion when the meeting was convened. I think I
4 already told the Chamber all about this and I have nothing else
5 to add. I have nothing else other than what I saw to tell the
6 Court.

7 [09.38.02]

8 Q. So, Witness, you did speak, indeed, about a major meeting or
9 in any case, an important meeting that took place at B-5 at the
10 beginning of April 1975. And the training sessions that you spoke
11 about, were they different meetings from the meeting that took
12 place in April 1975 and did these training sessions take place
13 before or after that meeting in April 1975?

14 A. I'm afraid I do not understand Your Honour's question because
15 it's rather confusing.

16 Q. Witness, you described in length how the -- the meeting that
17 took place at the beginning of April 1975 and you also spoke
18 about study sessions -- training sessions. So were these two
19 different events or was it the same thing? Did the study sessions
20 take place before the meeting of April 1975 or did these study
21 sessions take place after this meeting in April 1975?

22 A. The whole moment to liberate the country. I think that was the
23 meeting; the meeting that was convened for the nation and for the
24 country. I don't know what else I haven't made clear to the
25 Chamber because I have already told the truth.

13

1 [09.40.24]

2 MR. PRESIDENT:

3 Witness, you are now instructed to compose yourself because you
4 are now advised to tell the Chamber the truth and, indeed, if you
5 don't know, you just said you don't know. And we note that you
6 appear to be behaving improperly in making the statement. So you
7 already been advised, from the very beginning, that you should
8 only respond to the Chamber on what you witnessed -- what you saw
9 and if you don't know, you're supposed to say you don't know and
10 you said a lot about the meetings that you attended and some
11 other meetings that you have never attended, but you heard of.
12 Judge Lavergne, you may now proceed, but we feel that when the
13 question is rendered through the Khmer rendition, it would not be
14 easy so you may simplify the question so that it is short and
15 precise so that -- that the witness may be able to address it
16 precisely as well.

17 BY JUDGE LAVERGNE:

18 Q. Yes, thank you, Mr. President. I will try to simplify things.

19 [09.41.59]

20 To put things in simpler terms, Witness, before the capture of
21 Phnom Penh, did you witness several meetings during which Pol Pot
22 or Nuon Chea or Khieu Samphan presented to you, or presented the
23 experience of the evacuation?

24 MR. ROCHOEM TON:

25 A. I may not wish to respond to this question because I do not

14

1 want to contradict myself in this.

2 Q. I am not trying to have you contradict yourself. I'm simply
3 trying to obtain clarification, because we did speak at length
4 about the meeting that was held at the beginning of April 1975,
5 but you also spoke about other meetings. So why are you afraid of
6 contradicting yourself? What is the issue here? I'm trying to
7 simply understand which meeting you are referring to.

8 [09.44.01]

9 A. I already stated that the meeting was held in B 5 on early
10 April concerning the evacuation of the population. That's what I
11 know, and I already said that I could not go further than this.
12 There would be other meetings, but the meetings was -- or held in
13 the form of study sessions, and during such sessions,
14 presentation on the global and national situations and aspects
15 were presented, and also how to build the Party and where the
16 revolutionary life view was also presented when people were told
17 to improve their performance.

18 So I feel that the question was rather repetitive, and I feel
19 that my statement will somehow be repetitive, and I don't know
20 what else I should say on this.

21 Q. So, now let's turn to this major meeting at the beginning of
22 April 1975. If I understood correctly how it took place, this
23 meeting involved the major leaders of the CPK, but also zone
24 leaders or even division leaders. Can you confirm this?

25 [09.46.20]

15

1 A. Yes, I already did so during my previous testimony session,
2 and I -- for that I did not wish to repeat because questions were
3 put to me to confirm this, and I already confirmed. Since I
4 already stated the detail already, I should not do that again
5 today.

6 Q. Sometimes it's necessary to provide clarification because the
7 transcripts exist in three different languages and sometimes
8 there are differences between the different versions.

9 You told us that the meeting started with the presentation of the
10 so called experience of the evacuation of the cities, and then
11 you said that during this meeting maps were shown, or this one
12 map that was displayed, and you also said that there was a
13 blackboard on which drawings were made and on which notes were
14 taken.

15 Can you confirm that that is what happened, that there was first
16 a presentation on the evacuation, which was followed by
17 discussions based on maps and on the notes that were written on
18 the blackboard?

19 [09.48.19]

20 A. Yes, it is correct.

21 Q. And was the map a map of Cambodia or was it a map of Phnom
22 Penh, or was the City of Phnom Penh drawn on the blackboard?

23 A. It was not a map. It was a white -- it was a blackboard with
24 some kind of drawing. For example, the drawing showing the
25 particular spearheads. They used the board for drawing of -- as a

16

1 visual aid for people who attended the session to understand the
2 presentation. So the board was used to draw these sketches.

3 Q. Were any military instructions given to the attendants in
4 order to know which divisions, which frontline forces were to
5 penetrate Phnom Penh, in which places, and in order to take
6 control of specific areas? Were strategic objectives assigned to
7 the different military forces?

8 A. In principle that was the case, certain targets would be
9 identified, the targets for each zone and each division before
10 they reached their main target to liberate Phnom Penh completely.

11 [09.51.03]

12 Q. Do you remember where the different divisions were placed and
13 which divisions took place in the capture of Phnom Penh, and
14 which zones were assigned to which divisions?

15 A. I don't remember the details because it was over 30 years
16 already and it would be easier to talk about the zones because
17 when Phnom Penh was attacked, forces from all zones engaged in
18 the attack.

19 Q. I imagine that the assignment of the areas to capture Phnom
20 Penh depended on the divisions that were -- you said that Koy
21 Thuon's forces were in charge of taking over specific roads, but
22 were other divisions in charge of other areas of -- do you
23 remember that, or do you not remember any of these military
24 details?

25 A. I forget a lot about this.

17

1 [09.53.07]

2 Q. And during this meeting, or during other meetings, was the
3 risk of bombing part of -- the risk that Phnom Penh would be
4 bombed?

5 A. This matter was raised also because it was said that at some
6 areas planes were used, airplanes were used in Siem Reap and
7 Sihanouk locations.

8 Q. So, if the bombing of Siem Reap and Sihanouk Ville was brought
9 up, were any risks of seeing Phnom Penh being bombed also
10 discussed when Phnom Penh was being -- was about to be captured?
11 If you don't remember, just say so. I'm not trying, of course, to
12 put you in a difficult spot.

13 A. I don't remember.

14 Q. Did you hear people giving any directions such as
15 disseminating messages within -- to the people and using
16 loudspeakers to do so? Did this kind of -- were these kind of
17 practical details discussed during the meeting or during other
18 meetings?

19 A. No, I'm not aware of this.

20 [09.56.04]

21 Q. Did you ever hear any directions in regard to which
22 explanations were to be given to the people who had to be
23 evacuated? Were the people told, for example, or were you told
24 that you had to tell the people who were evacuated that they
25 could come back after a short while? Was this kind of direction

1 given?

2 A. I don't know. (No interpretation)

3 Q. (No interpretation)

4 MR. KARNAVAS:

5 My apologies--

6 MR. PRESIDENT:

7 (No interpretation)

8 MR. KARNAVAS:

9 My apologies, Mr. President, Your Honours; I heard some mumbling

10 in Khmer. It wasn't translated, so the gentleman, after he

11 answered he made some further comments that was not translated.

12 Perhaps we could get that translated. Thank you.

13 [09.57.31]

14 BY MR. LAVERGNE:

15 Q. Witness, can you please repeat the answer that you gave to the

16 previous question?

17 MR. ROCHOEM TON:

18 A. I just said that I didn't know. That's all. I didn't know the

19 details.

20 Q. Witness, did you hear people giving directions on how much

21 time would be given to the population to leave their homes and to

22 exit Phnom Penh? Was it immediate? Did the people have to leave

23 immediately or were the people given a certain amount of hours or

24 maybe more time to leave?

25 A. I didn't hear anything like that.

19

1 Q. So, now I would like to revisit an issue that is, in any case,
2 not very clear in the French transcript, and this is the issue of
3 the duration of the evacuation.

4 [09.59.13]

5 Can you tell us if the one week delay you spoke about in your
6 previous statements was the time allotted for the evacuation
7 itself or was it the time after which the population would be
8 allowed to return?

9 Maybe my question is a bit convoluted. If you would like me to
10 repeat it and to clarify it, I can do so.

11 In the clearest terms possible, was there discussion about a
12 timeframe of one week for the evacuation of Phnom Penh, and was
13 that the timeframe given to schedule the total evacuation of
14 Phnom Penh -- that is, for the entire population of Phnom Penh to
15 leave -- or the timeframe during which people would be allowed to
16 return to Phnom Penh?

17 A. The plan was to evacuate the people and everyone had to be
18 evacuated in one week, by one week's time, but I did not know
19 about when or if there was a plan for them to return to the city,
20 but they had to leave all in within one week.

21 [10.01.13]

22 Q. Very well. I wish to thank you for that very significant
23 clarification.

24 Witness, you talked about your arrival to Phnom Penh alongside
25 Mr. Son Sen. You made mention of your arrival at Pochentong. Do

20

1 you recall which military forces were stationed at Pochentong? Do
2 you know which division was at Pochentong at the time and who was
3 the commander of that division at the time?

4 A. Son Sen and Ta Mok were in charge of that spearhead, or target
5 area.

6 Q. Were there any other division heads present?

7 A. There were but I could not recall their names.

8 Q. If I'm not mistaken, you also stated that you went to the
9 stadium. Was there a special reason why you had to go to the
10 stadium? Was it for a meeting or was it a strategic location?

11 A. I went to the stadium through National Road Number 4. At that
12 time, in between the current Ministry of Defense and the current
13 Council of Ministers, there was a road leading to the stadium. I
14 went to that location and I saw two helicopters and they would go
15 and inspect the strategic locations throughout Phnom Penh, and
16 the stadium was one of the strategic locations which would be
17 entrusted by both national and international setting.

18 [10.04.42]

19 And another strategic location was the vicinity in front of the
20 Royal Palace and another one was the Monivong Bridge, and from
21 that Monivong Bridge on through the Independence Monument, and
22 through Wat Phnom, and then from Wat Phnom through a hotel, but I
23 did not know the name of that -- proper name of that hotel but it
24 was known during the regime as House Number 2, and then we would
25 go to the site of the Chrouy Changva Bridge, but the bridge was

21

1 then destroyed.

2 So these was the strategic locations identified, and it would be
3 -- it would need to be reported to the upper echelon of our
4 reaching of that particular strategic locations, and of course,
5 we -- where we went to such a strategic location there would be
6 the troop -- the revolutionary troop present.

7 [10.06.10]

8 In your question you said that Son Sen accompanied me. In fact,
9 it's the opposite. He was in a senior position than me. I
10 accompanied him. It's not him accompanying me, because I was in a
11 kind of a -- providing the protection for him.

12 Q. Thank you very much, Mr. Witness, for those clarifications.

13 Can you please tell us if at each and every one of those
14 strategic locations you had met with certain individuals? Can you
15 please tell this Court who you met with? Could you please tell us
16 if there were any forces that were based in Phnom Penh prior to
17 the fall of the city? I believe that they were given a particular
18 label. They were called "city agents" or they were a special
19 section of the CPK. Were there any such contacts in place in the
20 city at the time?

21 A. No, I did not meet those kind of people. I only met with some
22 of the people whom I knew earlier. For example, from the East, it
23 was So Phim, Ta Tum, Ta Phuong and Ta Roeun (phonetic). They were
24 from the East.

25 [10.08.02]

1 And from Mukh Kampul through National Road Number 5, there was
2 Koy Thuon, Ke Pauk, and Doeun.

3 As for the infiltrated force in Phnom Penh, I was not to that
4 knowledge as I had not met them before and they were already at
5 their designated strategic locations.

6 Q. You talked about the Japanese Bridge, and during your
7 testimony you also made mention of the French Embassy. What I
8 seek to know is the following: Did you receive any special
9 instructions regarding people who were either diplomats or people
10 who were taking refuge within embassy compounds?

11 And when you arrived at the Japanese Bridge, was there a
12 particular point at -- before the French Embassy at which any
13 meeting or encounter was held?

14 [10.09.34]

15 A. Regarding the Chrouy Changva Bridge, at that time that was the
16 first time I knew about it, and of course I knew about the French
17 Embassy then as it was introduced to me by Son Sen. That
18 embassy's gate was closed.

19 At the site of the bridge, I saw that the bridge was destroyed
20 and when I reached the stadium he also told me that was the
21 stadium, and as I said earlier, I saw two helicopters, and when I
22 arrived at the Royal Palace he introduced the Royal Palace to me
23 as well.

24 And the same thing happened when we arrived at the Monivong
25 Bridge. Because these was the main strategic locations. So in --

1 he introduced those locations to me, so that's how I learned
2 about it.

3 And the entry from the West, it would mean the Pochentong
4 Airport, and that's how he told me, and that's how I learned of
5 it.

6 Q. On the topic of the French Embassy, Son Sen simply told you
7 that the gate was closed; he didn't provide any other
8 information? Did he tell you what had happened? Did you -- did he
9 tell you what was to be done?

10 [10.11.35]

11 A. He did not say anything, but the road from the main street to
12 the gate was completely closed, so the gate was fully closed.
13 That's how I saw it.

14 Q. Who was the division leader in charge of the sector within
15 which the Embassy of France was located?

16 A. That location was in charge by Koy Thuon and Ke Pauk. And
17 regarding the military commanders, there were Oeun, Paing
18 (phonetic), and Si.

19 Q. Were you able to follow the developments surrounding the
20 French Embassy? Or were you kept informed of it in one way or
21 another?

22 A. I did not know of the later development at that Embassy.

23 Q. I have very few question remaining, sir, but I do wish to move
24 on to a different topic. You told this Chamber that one of your
25 first tasks following the fall of Phnom Penh was to oversee

1 shelter and housing -- accommodation for visiting delegations. Do
2 you confirm this?

3 A. Yes, I stand by my statement.

4 Q. Can you please tell us which was the first foreign delegation
5 that came to Democratic Kampuchea and when did that visit take
6 place?

7 A. The delegation was from China.

8 [10.14.23]

9 At that time, it was Ta Sing Chea who first arrived in the
10 Democratic Kampuchea.

11 Q. Was this a very large delegation? Were there many members
12 travelling with that delegation?

13 A. Yes, there were quite a number of colleagues, but the total
14 number was less than 10.

15 Q. Did you hear about the uncles discuss the return of Prince
16 Sihanouk? I mean, what did you hear, if, indeed, you heard
17 anything at all?

18 A. I did not know about the plan or the visit of Samdech
19 Sihanouk. I did not know about that plan, but I saw him when he
20 was already in the country.

21 [10.16.11]

22 But when it comes to the conception of the plan, I was not aware
23 of it.

24 Q. During your previous testimonies, you spoke extensively about
25 Boeng Trabek. I'd like now for you to talk to me about Chraing

1 Chamres and -- I beg your pardon for my pronunciation, but I do
2 hope that you understand what I'm referring to. Now, was Chraing
3 Chamres under your watch? Were you responsible for Chraing
4 Chamres?

5 A. Initially, Chraing Chamres was part of Koy Thuon's office.
6 Later on, it was designated as part of B-1.

7 Q. And who exactly from B-1 was responsible for Chraing Chamres?
8 Was it you yourself, sir?

9 A. Yes. When it comes to B-1 and that location, I was in charge.
10 But the one who stayed permanently in Chraing Chamres was a man
11 known as Sim.

12 Q. And what role did Chraing Chamres play within B-1? Was it a
13 place that was used simply for farming vegetables, or was it a
14 place that was destined for re-education?

15 A. There was a fishing -- a fishery section, a poultry section,
16 and also the portion to deal with the rice farming. And there
17 were about 30 palm trees as well as part of that compound.

18 Q. Was Chraing Chamres a rather ordinary cooperative, or was it a
19 place for re-education?

20 A. No, it was not a re-education location.

21 [10.19.35]

22 On the weekend -- that is, on Saturday and Sunday -- then the
23 staff from the ministry would go there to visit the place or to
24 cultivate the crop or the poultry or other fish -- or to get the
25 palm tree juice. And that was not really a major location. There

1 was only one main shade -- it's near the -- a water area.

2 Q. Did Ieng Sary ever travel to Chraing Chamres?

3 A. Yes, he did. And So Hong also went to that location.

4 Q. You stated that, with respect to your duties at B-1, you held
5 the responsibility for -- and I quote -- "general oversight of
6 the administrative and moral management of -- psychological
7 management of personnel". What does that mean, exactly? What do
8 you mean by "psychological control over staff"?

9 A. Yes, that's -- I did. It's important to control the staff
10 psychologically. Because I was overall in charge in that office,
11 and I needed to grasp their status and position and their
12 psychology and their stance of living -- their view, whether they
13 had a clear view -- and also regarding the organizational matter
14 -- whether they were satisfied with where they were living, for
15 instance.

16 [10.22.08]

17 Q. Therefore, "psychological control" meant determining whether
18 or not people were satisfied, or whether or not people were good
19 or bad revolutionaries, whether or not they had good or bad
20 conducts and mentality. What exactly do you mean by
21 "psychological control"?

22 A. When it comes to the psychological management of the staff --
23 whether they had good stands, had clear revolutionary view, and
24 fulfilled their task to their best level -- that was within --
25 encompassed within that term or phrase of the psychological

27

1 management.

2 Q. And if you had taken note of certain staff members who did not
3 display the level of enthusiasm or good will required, what would
4 happen?

5 A. We would give the comment. And of course if they're clearly
6 and happily satisfied with the performance -- with the revolution
7 stance -- just let it be, and it would continue that way.

8 [10.24.00]

9 Q. "If we were not satisfied". Who are you referring to when you
10 say "we"? Are you talking about yourself or somebody else?

11 A. If they're not satisfied, then we would convene a meeting.
12 Then the group would report about the matter. Because they
13 themselves would give opinions to assist one another when one was
14 not satisfied within the group or did not have a clear view or
15 was not happy.

16 So the meeting was to improve and try to avoid such a situation
17 in the future; that is, to better the situation.

18 Q. Very well.

19 [10.25.13]

20 Thank you for those answers, Mr. Witness. I have no further
21 questions to put, Mr. President.

22 MR. PRESIDENT:

23 Thank you, Judge. The time is now appropriate for a short recess.

24 We will recess for 20 minutes, and return at a quarter to 11.

25 Court Officer, please assist the witness during the recess as

28

1 well as the duty counsel, and have him return at a quarter to 11.

2 (Court recesses from 1026H to 1049H)

3 MR. PRESIDENT:

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

5 Without further ado, we would like to proceed to hand over the
6 floor to counsels for Mr. Nuon Chea to put questions to witness
7 Rochoem Ton if they would wish to do so.

8 [10.49.48]

9 We have been informed by the AV booth officers that there is a
10 technical problem and we cannot display documents up on the
11 screens yet. During this time, parties to the proceedings are
12 advised to be prepared for that. You may put questions that can
13 be put, and relevance to the document that need to be put on the
14 screen should be deferred to at a later stage when the technical
15 glitch is fixed.

16 QUESTIONING BY MR. SON ARUN:

17 Good morning, Mr. President. Good morning, Your Honours. And very
18 good morning, Mr. Phy Phuon. I am Son Arun, representing Nuon
19 Chea with my colleague. I have a few questions to put to you as
20 follows.

21 Q. Mr. Phy Phuon, you told the prosecutors on 25 July 2012 that
22 you saw the "Revolutionary Flag" and "Youth" magazines.
23 My question is: Did you ever read or have really seen the
24 magazines, and how many copies of them have you seen?

25 MR. ROCHOEM TON:

1 A. I have read them because the materials were distributed to us.
2 When they were distributed we were supposed to read the whole
3 books and then kept them aside.

4 [10.52.15]

5 Q. Could you tell the Court the type of "Revolutionary Flags";
6 was it in the form of a magazine, a journal, and was the text
7 typed or handwritten?

8 A. What I saw was that on the cover there was a "Revolutionary
9 Flag" and "Youth" magazines; they made into books with the title
10 as indicated, the "Revolutionary Flag" and "Revolutionary Youth"
11 magazines.

12 With regard to the colour, I don't remember the detail but I
13 think the flag was red.

14 Q. I asked you another question as well, but you didn't answer.
15 The question was whether the text in that book was written or
16 hand -- typed?

17 [10.54.00]

18 A. On the cover page I do not know whether it was the -- handmade
19 work, but it appears to me that the cover page, the picture on
20 the cover page, was drawn by hand rather than by printing.

21 Q. What about the text -- the text inside? You said you read
22 them. Was it handwritten or typed?

23 A. It was printed before it could be made into books.

24 Q. You read the "Revolutionary" and "Youth" magazines -- I mean
25 the "Revolutionary Flag" and "Youth" magazines. In which year did

1 you read them?

2 A. I read them from 1977. I don't remember whether it was early
3 1977 or late 1977, but I remember that the copies were
4 distributed to all ministries.

5 I read about the movement, the actual movement within the
6 country. I remember reading the Party's building and other
7 detailed aspects of that in the book, and I read the comments
8 made by visiting guests and delegates in Cambodia during that
9 time.

10 [10.56.44]

11 Q. Do you recall who wrote the magazines and who was actually the
12 author of these magazines?

13 A. I don't know who wrote the "Revolutionary Flag" magazines and
14 the "Youth Flag" magazines; I don't know.

15 Q. Thank you.

16 In your response to the prosecutor, after the 17 of March 1970,
17 you mentioned about the spacious area in the Northeast. Could you
18 please be more precise on that?

19 A. I was referring to the wider Liberated Zones. During the
20 sessions, we were told that in Rattanakiri and Mondulkiri, the
21 areas were completely liberated. In Preah Vihear, the area in
22 Preah Vihear was also completely liberated, so we were told that
23 the Liberated Zone now was expanded widely and there would be no
24 further obstacle -- there was no area left to be under control of
25 the enemies because we controlled the whole area already.

1 [10.59.21]

2 Q. Thank you.

3 Also, you told the Court that at that time there were American
4 bombardments, heavily American bombardments. Do you know the
5 reason for such a bombardment; were there any infantry --
6 American infantry -- on the ground as well as the Vietnamese
7 troops?

8 A. On this point, the bombardment started in 1962. It was dropped
9 on the residential villages where people were living, mainly the
10 name of Nhang that is known as Nhang commune.

11 I don't know what happened to that village now. Maybe that
12 territory is now part of the Vietnamese territory. Those seven or
13 eight villages now belong to Vietnam. I refer to the land where
14 we did the farming on. That's point number one.

15 And since the bombardment also continued in '64, '65 through to
16 '67, '68, and '69, and the bombardment was even intensified in
17 '69. I here refer to the bombardment on the Kampuchean territory
18 that is part of the Rattanakiri province in Lua (phonetic)
19 village, in Nhang village, in Ta Nga village -- half of it was
20 destroyed - and Kong (phonetic) village was half destroyed as
21 well. And Muy village was also destroyed in half. So these four
22 or five villages were destroyed.

23 [11.02.15]

24 During 1968 and '69, even the rice field had been bombarded
25 heavily. We did not know why they were angry and dropped those

1 bombs. There were various types of planes, including C-130, and
2 they dropped the bombs at those villages. Cattles -- in one day
3 more than 1,000 cattles were strafed and died in the rice field.
4 I did not know the reason of such anger by the Americans and why
5 they dropped those bombs.

6 In fact, starting from 1964, villagers did not stay in the
7 village; they were afraid, so they went and stayed in the jungle
8 because of such a heavy bombardment.

9 [11.03.33]

10 Q. Thank you. You just stated that you did not know the reason
11 for the bombardment, and later on have you come aware of the
12 reason -- that is at a later stage, not at the time of the
13 bombardment.

14 At that time, the Lon Nol government had not yet been formed as
15 we did not have any conflict with the American government.

16 So please tell us if you know the reason for such bombardment at
17 a later stage?

18 A. Later on, I knew of the reasons. Number one was for them to
19 track down the Vietcong troops, and because they noticed that the
20 Vietnamese people residing along the Vietnam/Kampuchean territory
21 and took refuge in part of the Kampuchean territory. That's why
22 they dropped the bombs.

23 Q. Thank you. Before and during the -- or after the bombardment,
24 did you ever see the American infantry or the Vietnamese troops
25 entering Kampuchean territory?

1 A. In fact, there was no Vietcong troops mixing within the
2 village. Previously, I said that there were North Vietnamese
3 troops in 1963 and '64, but they only transited through the
4 territory and they made it as quietly as possible.

5 [11.06.03]

6 They actually went and transit through the forests as they
7 gathered people to make a path through the jungle. Actually, it
8 was initially just a footpath, but later on you could travel by
9 bicycle through that path. And they also used the path or trail
10 to carry rice for the soldiers' supply.

11 Q. Thank you. When the Americans bombarded the Kampuchean
12 territory, can you estimate how did -- or how far was the
13 bombardment within the Rattanakiri Province?

14 A. Where I lived, initially, first they bombarded to the south of
15 the Se San river. It was rather deep inside the country, but I
16 could not estimate how many kilometres. It could be 10 to 15
17 kilometres further in through the Kampuchean territory or up to
18 30 kilometres. Also, the bombardment was in Bar Keo and Ban Lung,
19 which was deep, deep inside the Kampuchean territory.

20 [11.07.48]

21 Q. Thank you.

22 Mr. Witness, you said you joined the revolution in 1963. At that
23 time, did you know whether those who joined the revolution,
24 including yourself, and were you armed and were they all armed?

25 A. When I joined the revolution in 1963 and up through 1966, '67,

34

1 I was armed only in late 1967. Here I only talked about myself.
2 It was MPL, a kind of gun. And then I carried a 16 - or, in
3 French, a "trente-six" -- rather, it's a 36 -- but, as I stated,
4 when I joined I did not wear -- I did not have any -- or carry
5 any weapon, only later on in '67 or 1968 that I was armed,
6 because at that time the mobile unit was also armed and I was
7 armed.

8 Initially, my office did not have any weapons, but Vietnamese
9 troops who passed through the area they were exhausted and they
10 wanted some food, they wanted pork or dog meat, so then they
11 exchanged the meat with their weapons, and that's how it happens
12 there we got into possessions of those weapons. So, later on,
13 gradually, we were in more possession of those weapons through
14 the exchange with the Vietnamese troops.

15 [11.10.26]

16 Q. So those weapons as were armed by those who joined the
17 revolution, they were bought off the Vietnamese troops or by any
18 other means; is that correct?

19 A. Yes. In Rattanakiri province starting from 1968, we already
20 had in our possession the -- our manually loaded the guns, so we
21 make those customized guns by ourselves manually.

22 Q. Thank you.

23 On 26 July this year in response to the Prosecution you said, Son
24 Sen was the chief of the special zone. Can you clarify further,
25 was it him who was in charge of the Special Zone or was it

1 somebody else?

2 A. I think it could be mistaken. I did not say Son Sen was a
3 Special Zone. It was actually Vorn Vet who was the chief of the
4 Special Zone. Son Sen was actually in charge of military since he
5 had been in Rattanakiri province. First the mobile unit and then
6 he moved to the Kampong Thom battlefield.

7 Q. Thank you.

8 You also informed the Court that in 1972 you accompanied Nuon
9 Chea to Samlaut. Before you accompanied him, where were you
10 because you also informed the Chamber that you were a bodyguard
11 of Pol Pot? And how come you instead accompany Nuon Chea to
12 Samlaut?

13 [11.13.13]

14 A. Regarding this point, Nuon Chea, Pol Pot and Khieu Samphan
15 were together at the time and because I was there too, and
16 sometimes I accompany Pol Pot and other time I accompany Om Nuon
17 Chea. And that was in 1972.

18 Q. When you accompany Nuon Chea to Samlaut, can you recall
19 whether it was a mission -- that is, his official mission -- or
20 what was the purpose of his journey?

21 A. I already replied earlier that I accompanied him to carry out
22 his task at the West and the Southwest Zones. And also he went to
23 work in the Northwest Zone, as -- that's what I described
24 earlier.

25 Q. Let me go back a little bit. When the Americans conducted

1 heavy bombardments in Rattanakiri -- that is, tonnes of bombs
2 were dropped -- were people injured and died? You touched upon
3 the issue but I would like you to clarify a little bit further as
4 you said cattle died. How about human lives? Were there any lost?
5 [11.15.55]

6 A. As for human lives, when we were in the village and we was not
7 aware of the bombardment -- I referred to in 1962 -- some
8 villagers were injured and died. But the bombardment in 1969 --
9 that is, after the continuation of bombardments -- we learned the
10 -- or we get used to it, so when there was bombardment in the
11 village, we would flee into the jungle and we would avoid any
12 injury.

13 But as for the cattle, the cattle were grazing in the rice field
14 and they died. So usually at that big rice field after we
15 harvested the crops, the cattle were let there and, yes, a lot of
16 the cattle died as a result of the bombardment. That was the
17 second phase of the bombardment.

18 And the third bombardment, which was in 1973, that is in Ta Nga
19 village. One big family composing of 31 members was completely
20 killed, and they were my relative.

21 [11.17.52]

22 Q. Thank you.

23 During the heavy bombardment by the Americans in Rattanakiri
24 province, did you observe any American infantry or Vietnamese
25 troops or any other soldiers entered into Rattanakiri province

1 and make their base there, or they just drop the bombs and they
2 left?

3 A. After the bombardments they would go back, but I did not know
4 where they would return. I only heard from other people that they
5 returned to their base in Prey Nokor, or maybe they return to
6 their base in Tapao -- that is in Thailand.

7 In 1966, they made their base in two locations. One was at Nhang
8 village. I refer to the American infantry; they made their base
9 in that village. And another base was made at the Ta Nga village,
10 but they did not stay for long.

11 From what we knew at that time - and that's the information
12 second-hand -- that the Vietnamese troops actually shot down six
13 planes. So, at that time they were also bombarding the Vietnamese
14 troops and also encroaching in our Kampuchean territory.

15 [11.20.19]

16 Q. Thank you.

17 You've been here on several days now testifying before this
18 Court, and you always refer to Pol Pot as Bong, Bong Pol Pot or
19 Brother, or Brother Number One, and Nuon Chea as Brother Number
20 Two. Can you clarify why you refer to Pol Pot as Brother Number
21 One and Nuon Chea as Brother Number Two; is it a well-known fact
22 or it is your custom, your personal habit, in calling them such a
23 title?

24 A. Let me clarify this point. When we were in the jungle I did
25 not refer to them by such a title. At that time, I called him

1 Bong. However, starting from 1974 -- that is, after Udong
2 provincial -- Udong town had been liberated -- I actually heard
3 Bong Pang saying that Om Pol Pot was now known as Om Number One
4 and Om Nuon Chea was known Om Number Two.

5 [11.22.25]

6 And from that on, it was known as Number One and Number Two
7 because we did not want to refer to them by using the name -- the
8 real name -- so we'd just use Om Number One and Om Number Two.

9 Q. Thank you. So it means the title Brother Number One and Number
10 Two were designated by Pang; is that correct?

11 [11.23.01]

12 A. I did not know whether it was Pang who came out with such a
13 title, but as Pang was our superior, and that's what he told me.
14 I did not know whether "Om Om" themselves and designated such a
15 title and passed it on to him.

16 Q. Thank you.

17 Since mid-1973, did you know whether the Khmer Rouge troops
18 fought and reached the Kampong Cham province or town?

19 A. Yes, I knew about that. At that time, one of the main target
20 was to liberate Kampong Thom province because there is a location
21 called Trapeang Veang, which was a vast location. But then, the
22 troops were transferred to attack the other location in 1973
23 aiming to completely liberate that location. And we were in
24 control of all the textile factories at the time. And with
25 another spearhead coming from the river, I passed through the

1 area at the time and there was fighting in Kampong Cham province.
2 Those troops coming from Rattanakiri, mainly they were ethnic
3 minorities. Sixty of them died and they buried -- were buried at
4 Stueng Trang location. And they actually built a small memorial
5 symbol in respect of those ethnic minority soldiers who died.

6 [11.25.48]

7 Q. Thank you. What I want to know is in regards to the refugees,
8 that is, after the intensified attack at the Kampong Cham
9 provincial town, those residents in the provincial town and in
10 the nearby vicinity were guarded out. Do you know what happened
11 to them, or where they had been taken to?

12 A. During the fight at the Kampong Cham provincial town, it seems
13 that there had been no evacuation, as we did not control the town
14 for long, because we withdrew and then the people came to -- came
15 back into town. We were in control only for a short period of
16 time.

17 [11.27.17]

18 Q. During the attacks on Kampong Cham provincial town, were
19 senior leaders including Nuon Chea, Pol Pot, and Son Sen -- Where
20 were they?

21 A. Om Pol Pot, Om Nuon Chea were in the office near Office S-71,
22 because at that time there were many mobile offices. As for Son
23 Sen, he was at Bos Khnaor. That was his headquarters there.

24 Q. So, during the intensified attack on the Kampong Cham
25 provincial town, was it commanded by Son Sen himself?

1 A. Because the soldiers, or the troops were -- or belonged to the
2 Centre, and the 304.

3 Q. Thank you.

4 Now I move on to another topic. During the past few days that you
5 have been testifying before this Chamber, it seems that you were
6 so close to Om Nuon Chea, and to have worked with him -- probably
7 as much as you have worked with Pol Pot, because you always
8 mention when there was Pol Pot there would be Pol Pot and Khieu
9 Samphan.

10 [11.29.40]

11 My question is the following: Did you know Nuon Chea well -- that
12 is, his behaviour, his attitude, and everything else or -- yes, I
13 mean his personality?

14 A. Since I had known him, I considered him as one of the leaders
15 that I loved and respect, and that I would serve him from the
16 bottom of my heart. When it comes to his personality, he's an
17 educated person. He's humble and gentle and he knew about the
18 disciplines. He was well educated into Buddhist religion. That's
19 how I observed.

20 Q. Some people allege that Mr. Nuon Chea is a cruel person, a
21 person of barbaric nature -- although he was educated -- and that
22 Nuon Chea ordered to -- ordered that the arrests and executions
23 of some people. According to your knowledge, and as you already
24 indicated about his personality, characteristics, was he the
25 person as alleged?

41

1 [11.31.51]

2 MR. PRESIDENT:

3 Witness is now instructed not to respond to the question because
4 it is not in the capacity of the witness to respond to a question
5 that is to express his own view, because he is not an expert on
6 this.

7 BY MR. SON ARUN:

8 Thank you, Mr. President. I may now proceed to another question.

9 Q. You already testified before the Chamber that you attended
10 meetings and study sessions with senior leaders. Did you ever
11 hear that these senior leaders in these study sessions, or
12 meetings -- including Pol Pot, Nuon Chea, Khieu Samphan -- talked
13 about smash, about arrests -- or sort of things like this?

14 [11.33.35]

15 MR. ROCHOEM TON:

16 A. I attended study sessions and already stated time and again
17 that during study sessions we were briefed on the internal and
18 external situation, the organizational aspects, the victories
19 over this and that battle and that there were progressive
20 cooperatives in this location and that location. When it comes to
21 documents relevant to smashing people in the study sessions, I do
22 not recollect having seen or being handed out such documents. We
23 were indeed taught in the sessions on how to find out our
24 weaknesses and strengths, and we were asked to be open to
25 criticism, and be criticised by others, and that we needed to

1 correct ourselves after being criticised, and extract experience
2 -- lessons -- learned from the sessions.

3 [11.35.07]

4 Q. Thank you.

5 On the 18th and 19th of April 1975, when the troops attacked
6 Phnom Penh, at that time Phnom Penh was attacked by the military
7 -- by the army -- by the troops, and you already stated about
8 this.

9 My question to you is: Were you aware where Nuon Chea was located
10 during that time? Did you join the other commanders in the
11 attack, or you were elsewhere?

12 A. I already told the Court on this that Om Pol Pot was at Sdok
13 Taol office before the attack on Phnom Penh happened. Om Nuon
14 Chea was at the other side of the river, because there were a few
15 offices -- offices at Thnal Bambaek and also at Y-1. Also, there
16 was an office in 74 location, but I did not know where he was
17 located. I remember that immediately after the attack, everyone
18 met in a gathering.

19 Q. May I seek a point of clarification? When the attack happened
20 in Phnom Penh, you went to Phnom Penh with Son Sen.

21 So my question is: Do you know where Nuon Chea was at that time?
22 Indeed, you said that he could have been in other locations,
23 although you don't have enough information on this. But where was
24 he at that time?

25 [11.37.45]

1 A. I don't have any information to support my knowledge of where
2 he was, except where Pol Pot was, which I know.

3 Q. Thank you.

4 Mr. Witness, you knew Son Sen very well. Son Sen was the Minister
5 of National Defense and National Security. Son Sen was the
6 minister. Ieng Sary was the Minister of Foreign Affairs. But the
7 second person in command to Son Sen was So Hong. I would like to
8 know who was in the second command from -- or to Son Sen?

9 A. There were people like Bong Met, Bong Thien (phonetic), Bong
10 Nat, Bong Pit (phonetic) , and Bong Saroeun, 14, and Bong San. In
11 the military there are a lot of other people who was under the
12 supervision of Son Sen.

13 [11.39.58]

14 Q. Thank you. Son Sen had a few people, as you indicated, to help
15 him when he was absent from work. When Son Sen went to the East
16 on mission, indeed, when there was attack and when help was
17 needed in the East, Son Sen had to go there. Did you know that
18 Son Sen went to the East?

19 A. Yes, I did. He stayed at Suong. Later on he was relocated to
20 Kampong Cham.

21 Q. Thank you. When Son Sen went to the East, according to your
22 knowledge, was anyone appointed to be in his place in his
23 absence, in particular, to help him cover the security, national
24 defense matters?

25 A. I don't know about this, because we worked at different

1 ministries.

2 Q. Thank you.

3 I have another question to you. You testified that you were on
4 mission with Pol Pot to China. When with Pol Pot and other
5 delegates in China, what -- where were you? In what capacity did
6 you go there?

7 [11.42.24]

8 A. I went there in my capacity as a person who went to study how
9 things like housing was managed in that country, how tourism was
10 managed. It's more like a trip to study how visitors would be
11 received and welcomed. This is what Ieng Sary told me. I was told
12 to keep my eyes open on how people managed tourists and visitors.
13 He would like me to have some knowledge of things managed in a
14 foreign country.

15 [11.43.26]

16 Q. When you went there with Pol Pot, during the trip, and did --
17 when the delegates met with senior leaders of the China -- did
18 you also accompany them to such meetings?

19 A. No, I didn't attend that meeting because I only attended
20 sessions where movies were shown.

21 Q. There was a meeting before April 1975 on the evacuation of the
22 population from Phnom Penh. You talked to the Court already that
23 there was support from Nuon Chea, Khieu Samphan and other senior
24 leaders. Members of the meeting applauded in the meeting to
25 approve the plan to evacuate the population from Phnom Penh.

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1 My question is: After such applause by the members, was the
2 meeting concluded immediately, or did it go on?

3 A. The meeting was concluded by lunch time.

4 Q. Was there, on another occasion, that a follow up meeting was
5 conveyed to discuss about the evacuation?

6 A. No. In another meeting, evacuation was no longer the subject
7 matter of the meeting.

8 [11.46.10]

9 Q. Did you, or were you aware, or heard, that Pol Pot, or Nuon
10 Chea and Khieu Samphan talked about the division, the
11 classification of people, or the population, officially or
12 unofficial?

13 A. I never heard of this. Never.

14 Q. Thank you.

15 Can you tell the Court -- in the Ministry of Foreign Affairs,
16 Ieng Sary would be the Secretary of the Party, and Deputy
17 Secretary would be So Hong.

18 My question is whether in other ministries, whether the same
19 structure would be applied as that of the Ministry of Foreign
20 Affairs, or each different ministry would just follow their own
21 random structure, or structuring.

22 [11.48.35]

23 A. Through my observation and through what I heard from friends
24 in other ministries, the organizational structure appeared to be
25 the same.

1 Q. Thank you. To the best of your recollection and knowledge of
2 working at the Ministry of Foreign Affairs and as a senior
3 individual in the ministry, did you know that these senior people
4 were educated people who were emanating from the GRUNK? Is that
5 true?

6 A. Yes, it is.

7 Q. Apart from the senior officers from GRUNK created by Sihanouk
8 and other Khmer Rouge senior officers who were assigned from the
9 Khmer Rouge side, did they work or get along together at the
10 ministry when working?

11 A. The work went smoothly. People were friendly. They were
12 cooperative. There was no problem.

13 [11.51.26]

14 Q. I have about two more questions to put to the witness.
15 Mr. Witness, you testified on the 30th of July, which was
16 yesterday, to the counsels for the civil parties that, at
17 different locations people were treated differently. Some people
18 received some rice for their meals, some were offered rice or
19 porridge, and you say that you saw this and reported to Ieng Sary
20 and on some occasions you met directly with Om Number One and
21 told him about this. And he said that such a report should be put
22 or raised in the self-criticism sessions instead.

23 My question is that the Party - or, rather, Pol Pot was of the
24 opinion that the cooperatives could have decent food to eat; and
25 that this happen. Was it the direct order from the superior or

1 was it the -- just arbitrary decision by each leader of the
2 cooperative to treat their members of cooperative accordingly?
3 [11.53.25]

4 A. With regard to this, there was no instruction from the
5 superior. People supposed to have enough food to eat that what
6 would be the simple instruction. In Rattanakiri, we did farming
7 and we were told to be self-sufficient, self-mastery and we had
8 to control what we did. For example, like charity begins at home.
9 We had to really care for ourselves first before we care for
10 other. But what I saw was not really the same as what was agreed.
11 I just challenged this practice because I refer to the document
12 and I said that if this thing happened at the cooperatives, then
13 it was against the core principle because I saw that people ate
14 porridge with just a few -- mixed with water lily. And I knew
15 that people were badly treated and it was not really the
16 intention of the Party to mistreat the people and why people were
17 still mistreated. So I believe that these people were not those
18 who were the honest followers of the Party's policy. They could
19 have been just a few people who would like to ruin the Party,
20 that's why they did so to their people. And I noted that it was
21 against the line set by the Party. That's why I shared my concern
22 in the meeting.

23 [11.55.38]

24 Q. Thank you.

25 Time changes from 1970 to 1975. And from 1975 to early 1979,

1 according to your best recollection to the Northeast Zone, my
2 question is: During the period from 1975 to 1979, I said there
3 was a change during that period of time, were there any
4 Vietnamese troops attacking Cambodia or were there any Cambodian
5 troops attacking the Vietnamese troops in Vietnam? What is your
6 impression on this?

7 A. In Rattanakiri province, the location was -- is adjacent to
8 Cambodian Vietnam border. From 1970 through 1978, I did not go to
9 Rattanakiri during the time when I worked with them. However,
10 during the three-year period, my in-law who was holding a senior
11 position there -- he was a member of the Northeast Zone -- and I
12 met him in Phnom Penh, I talked to him, I asked him some
13 questions about the situation there. And he said "Before Vietnam
14 had conflict with us, they asked us to offer them refuge at the
15 Dragon's Tail area."

16 [11.58.20]

17 However, after the liberation Vietnam never gave back the land
18 and the land is still under the control or in possession of the
19 Vietnamese. And this is the location where I stated I ferry
20 letters to people in the barracks. And the location it belonged
21 to Cambodia but now it's in the possession of the Vietnamese. And
22 we understood that Vietnamese asked us to offer them refuge on
23 Cambodian territory, but they would give us back after some time.
24 But later on they never wanted to give us back the land.
25 And at the O'Yadav along the Se San River, there was also

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1 fighting, fighting that took place in Cambodian soil. The
2 Vietnamese just said that any land on the other side of the Se
3 San River belong to them. So this happened only after the
4 liberation, they did never say so before the liberation. And I
5 had a lot of family and relatives who lived in villages in those
6 areas. I went there in 2010 to Preah Kou, Yalay (phonetic), and I
7 asked questions to people about this and they said that these
8 Khmer land now is Vietnamese land because after the liberation of
9 1979, they could take any land they would prefer because they
10 could really bring their whole troops to grab the land.

11 [12.00.30]

12 I just wish to tell you the details of how I got to know what
13 happened in the -- those locations and the evidence can be
14 substantiated by my relatives who are still living there. I think
15 this is political issue, I talked to them that it was about
16 politics, you did not need to think about it, we just do farming,
17 that's all. That's what I told my relatives about.

18 MR. SON ARUN:

19 Thank you, Mr. Witness.

20 Thank you, Mr. President. I think I have no further questions to
21 put to the witness.

22 Since it is now lunch break, may we proceed to my colleague with
23 questions after the adjournment?

24 MR. PRESIDENT:

25 Thank you, Counsel. And thank you, Mr. Witness.

1 [12.01.24]

2 Since it is now appropriate time for the lunch adjournment, we
3 may now adjourn for lunch and the next session will be resumed by
4 1.30.

5 Court officer is now instructed to assist the witness and his
6 duty counsel during the lunch adjournment and have the witness
7 and counsel return to the courtroom by 1.30 p.m.

8 Counsel for Nuon Chea, you may now proceed.

9 MR. IANUZZI:

10 Thank you, Mr. President. Good morning, everyone. Very briefly,
11 I'm just on my feet to make our usual request. I'm informed that
12 my client is suffering from lower back pain, a headache and lack
13 of concentration. Accordingly, he would like to follow the
14 proceedings -- attempt to follow the proceedings from the holding
15 cell this afternoon.

16 And one more -- one more point on this issue -- further to a
17 conversation or discussion or some submissions that were made on
18 the record on Thursday. And I'm referring specifically to
19 something Judge Cartwright said -- the responsibility is -- I'm
20 quoting now: "The responsibility is yours to raise this issue..."
21 That's the issue of a lack of active participation: "The
22 responsibility is yours to raise this issue if your client at any
23 point is unable to participate."

24 And I note that my colleague, Maître Son Arun, made that point
25 yesterday, in the middle of the morning session.

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1 I would just like to note for the record and perhaps for the
2 purpose of any future application on this point which may need to
3 be made, I am informed that for a period of time yesterday
4 afternoon and also for a period of time on Thursday afternoon,
5 our client was not actively participating in the proceedings.
6 And again, let me make it very clear, I'm not criticizing the
7 facilities that have been made available to us. I'm just saying
8 that that's a fact and I hope and I trust that the Chamber
9 appreciates the difficulty that this may present to us when we're
10 trying to engage in a meaningful way with our client.

11 As I said, that's -- that's all I have to say. I'd just like to
12 put that on the record. We may come back to it later. Thank you.

13 (Court recesses from 1211H to 1331H)

14 MR. PRESIDENT:

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

16 The floor will then be given to Nuon Chea's defence team to put
17 questions to Rochoem Ton.

18 And, Mr. Witness, before I hand over the floor to Nuon Chea's
19 defence team, I'd like to remind you that please listen carefully
20 to the questions put to you, and if you are not sure of the
21 question, please ask them to repeat it. And please limit your
22 response to the question put to you, trying to avoid any
23 unnecessary comment or -- which are not relevant to the questions
24 put to you.

25 Nuon Chea's Defence, you may proceed.

1 [13.33.12]

2 MR. IANUZZI:

3 Thank you, Mr. President. Good afternoon, everyone.

4 First, just to clarify something, is that technical issue -- has
5 that been resolved? You mentioned this morning that there was
6 some trouble with the -- with the documents on the screen. Has
7 that been resolved?

8 MR. PRESIDENT:

9 The technical problem with the IT Unit has been resolved, so you
10 can proceed.

11 QUESTIONING BY MR. IANUZZI:

12 Thank you.

13 Q. Good afternoon, Mr. Witness. I will be as brief -- as brief as
14 possible this afternoon. However, as you -- as you do appear to
15 be a man with quite a bit to say about quite a number of things,
16 I may need to take a little longer than I normally do. But I hope
17 you'll bear with me. And I will try to speak very, very slowly.

18 [13.34.12]

19 And just to give my friends on this side of the stage an
20 indication, I think, I will finish in about one hour. That's my
21 estimation.

22 So, first of all, Mr. Witness, I'd like to ask you some questions
23 about B-1. And before I do that, just let me begin with your
24 position at the Ministry of Foreign Affairs and that so-called
25 Office B-1. And just in terms of orienting my questions to you,

1 I'd like to very quickly just recapitulate a few things that
2 you've told us already.

3 [13.34.44]

4 First of all, you mentioned that you were the head of the B-1
5 administration section and that you were overly in charge of the
6 administration there; is that correct?

7 MR. ROCHOEM TON:

8 A. Yes, that is correct.

9 Q. Thank you, Mr. Witness. And this was covered partially this
10 morning by Judge Lavergne. I just want to reiterate it again.

11 As the head of the administration at B-1, you were overly in
12 charge of psychologically -- and that's the point Judge Lavergne
13 covered -- and politically controlling or administering the
14 people there at B-1; is that -- is that also correct?

15 A. Yes, that is correct.

16 Q. Thank you. And finally, on this -- on these preliminary
17 points, you were personally engaged, you told us, in the process
18 of selecting certain people who were assigned to work at B-1; is
19 that also correct?

20 A. Yes, that is correct.

21 [13.36.04]

22 Q. Thank you, Mr. Witness.

23 Now I'd like to ask you some specific questions regarding certain
24 former members of Office B-1, some staff members. I don't think
25 I'll need to make reference to any documents, but I'll try my

1 best not to.

2 First of all, Mr. Witness, was there someone in the office at B-1
3 while you were there, while you were in charge, who went by the
4 alias of Mut? And forgive me if I'm mispronouncing that; Mut.

5 A. Yes, there was a person by the name of Mut.

6 Q. Thank you, Mr. Witness. What was that individual's full name
7 or what is that individual's full name, if that individual is
8 still with us?

9 A. At that time at the ministry in the office -- in the ministry
10 he was known as Bong Mut. And his official name is the current
11 Excellency Keat Chhon.

12 [13.37.41]

13 Q. Thank you, Mr. Witness. What was -- what was his position at
14 B-1, Keat Chhon, the man you just mentioned?

15 A. At that time, he was responsible for writing speeches. That
16 was part of his responsibility -- that is, writing speeches.

17 Q. Thank you, Mr. Witness. Did he have any other responsibilities
18 within the office that you know of?

19 A. When there was a delegation, he had the duty to engage in the
20 negotiation and keeping the records.

21 Q. Thank you, Mr. Witness. Could you give us an example of the --
22 of some of the negotiations that he was involved in? For example,
23 to your knowledge, did he ever attend a round of border talks
24 with Vietnam?

25 A. At the time, there was no border negotiation. It was mainly

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1 dealing with the Chinese delegations and some diplomatic corps
2 who had their diplomatic representatives in Democratic Kampuchea.
3 [13.40.24]

4 Q. Thank you, Mr. Witness. Was Mr. Keat Chhon involved in
5 formulating any particular policies that you know of?

6 A. He was dealing with the diplomatic corps, with the speeches;
7 also, the speeches to be represented at the United Nations and
8 the -- at the Non-Aligned countries.

9 Q. Thank you, Mr. Witness. Following up on that question, did Mr.
10 Keat Chhon accompany Norodom Sihanouk to a meeting in New York
11 with the Secretary-General of the United Nations? At the time,
12 that was Mr. Kurt Waldheim. Are you familiar with that trip that
13 he took to New York?

14 A. I didn't know whom he went to see. I might have heard that
15 name through a radio broadcast, but I was not familiar.

16 [13.41.56]

17 Q. Thank you, Mr. Witness.

18 Another witness in this case has testified before this Chamber
19 that if Keat Chhon had to be removed from the ministry -- from
20 the Ministry of Foreign Affairs, that is -- it would grind to a
21 halt. Based on your position as the head of the administration at
22 B-1, do you agree with that assessment?

23 MR. PRESIDENT:

24 Witness, please wait. The Chamber will first hear the objection
25 raised by the Prosecution.

1 The Prosecution, you may proceed.

2 MR. LYSAK:

3 Thank you, Mr. President. Our objection is that that is a
4 misstatement and mischaracterization of that testimony, so if
5 counsel wishes to put some prior testimony to the witness, he
6 should specifically quote and cite from the record because that
7 -- that is certainly not my recollection of what the testimony
8 was.

9 [13.43.04]

10 BY MR. IANUZZI:

11 Thank you. I'll -- I'll rephrase that question.

12 Q. Mr. Witness, if Keat Chhon had been removed from the Ministry
13 of Foreign Affairs, would it have ground to a halt or would there
14 have been significant repercussions?

15 MR. PRESIDENT:

16 The Lead Co-Lawyer for Civil Parties, you may proceed.

17 [13.43.32]

18 MR. PICH ANG:

19 Good afternoon, Your Honours, Mr. President. This is a
20 hypothetical question.

21 MR. PRESIDENT:

22 The objection raised by the Lead Co-Lawyer for civil party is
23 valid.

24 Mr. Witness, you do not need to respond to this question.

25 MR. IANUZZI:

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1 Thank you, Mr. President. If I may be allowed to respond to the
2 objection -- it seems like there's no point now, but for the
3 record--

4 MR. PRESIDENT:

5 It's been ruled.

6 MR. IANUZZI:

7 Well, thank you very much, then.

8 Just for the record, let me say that, first of all, it's been our
9 stated position all along that what was happening in Democratic
10 Kampuchea at levels below the so-called upper echelon is highly
11 relevant, highly relevant to the larger question of the general
12 manner in which DK operated. And I don't think there was anything
13 inappropriate in the question I just asked.

14 Now, of course, you pre-emptively sustained that objection, so I
15 will move on to my next question.

16 BY MR. IANUZZI:

17 Q. Mr. Witness, the closing--

18 [13.44.54]

19 MR. PRESIDENT:

20 Please make your time effective to put questions to the witness.

21 Put relevant questions to the witness in relation to the facts
22 charged and alleged in the Closing Order. You are not authorized
23 to stand on your feet to make comments.

24 Don't -- avoid any questions which are not relevant to the
25 Closing Order, the facts mentioned in the Closing Order.

1 Otherwise, you will not be allowed to be on your feet or to waste
2 the Court's time.

3 [13.45.35]

4 BY MR. IANUZZI:

5 Thank you very much for that useful clarification. I will do just
6 that. Let me turn to the Closing Order.

7 Q. The Closing Order describes Mr. Keat Chhon as a senior B-1
8 cadre. Mr. Witness, based on your experience within the Ministry
9 of Foreign Affairs and the kind of, how shall we say, the
10 psychological assessments you were doing -- you've discussed this
11 with Judge Lavergne this morning -- would you agree with that
12 assessment, that Mr. Keat Chhon was a senior B-1 cadre?

13 MR. ROCHOEM TON:

14 A. He was one of the senior cadres at the ministry, in particular
15 in dealing with the outside politics, as he had a lot of
16 knowledge in this area.

17 Q. Thank you, Mr. Witness.

18 One last question about Mr. Keat Chhon: Based on your position as
19 the head of the administration there and, again, based on your
20 psychological experience, do you know why Keat Chhon refused to
21 appear before the OCIJ to give testimony in this case? Is the
22 government worried about him providing testimony?

23 I see we have two objections.

24 MR. PRESIDENT:

25 Mr. Witness, you don't need to respond to this question. It is

1 not your role to reply to this question.

2 [13.47.24]

3 MR. IANUZZI:

4 Thank you, Mr. President. Again, if I could just make my record,
5 it's our position that an inquiry into the actions of certain
6 individuals will greatly assist us and the Chamber, among other
7 things, as to why those individuals have been reluctant to appear
8 before this Tribunal.

9 And if I may -- if I may just quote from two individuals who have
10 been able to put this better than I have so far in this case:

11 "We are of the view that no reasonable trier of fact" -- and I'm
12 quoting now. "We are of the view that no reasonable trier of fact
13 could have failed to consider that one of more members of the RGC
14 [that's the Royal Government of Cambodia] may have knowingly and
15 willingly--"

16 [13.48.09]

17 MR. PRESIDENT:

18 Are you putting questions to the witness or are you running out
19 of the questions? If you're running out of the questions, I will
20 hand over the floor to another defence team.

21 Your questions are irrelevant to the facts in the Closing Order.
22 The procedure of summoning this individual or that individual is
23 beyond your capacity and, of course, the Chamber did not allow
24 the witness to respond to such questions in the past. And if you
25 prefer to make your submission, go ahead and do it in writing

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1 based on the Internal Rule 92 regarding the written submission
2 based on the procedures before the Chamber. And you can do that
3 at any time until the conclusion of the hearing, which will be
4 the time that you will make your closing statement.

5 MR. IANUZZI:

6 Thank you, Mr. President. I will certainly -- or we will
7 certainly take you up on that offer and make voluminous closing
8 submissions.

9 What I'm trying to do now is to make a record with respect to
10 specific questions I am posing which are drawn directly from the
11 Closing Order.

12 Am I to understand the ruling of the Bench that I'm not allowed
13 to respond to objections or to make a record? Is that what you're
14 telling me? Is that the position of this entire Trial Chamber,
15 that objections are not allowed to be addressed on the record?

16 [13.50.18]

17 MR. PRESIDENT:

18 The Chamber just ruled in regards to the objection, but then
19 there was no objection. But the Chamber exercised its discretion
20 to avoid any unnecessary questions or comments which are not
21 trying to ascertain the truth.

22 The Chamber has given you the opportunity and the floor
23 repeatedly to put question to the witness at almost every stage
24 of the proceeding when your team has the floor, before the floor
25 is given to another team. Just then, we gave you the floor --

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1 that is, the international counsel for Nuon Chea -- to put
2 questions to the witness and not to allow you to make any
3 political statements or any comment at this juncture of time.
4 And if you would like to do so, please examine Rule 92 of the
5 Internal Rules. And I read that rules to you previously whether
6 it is a submission based on the current proceeding or your
7 written submission, at the conclusion of the trial proceeding so
8 that it can become part of the case.

9 [13.51.54]

10 BY MR. IANUZZI:

11 Thank you, Mr. President. I will move on to another topic.

12 Q. Mr. Witness, yesterday morning -- I believe it was just before
13 the lunch break and again, I believe, just before we finally
14 broke for the day -- you referred to a Mr. Hor Namhong in
15 relation to Boeng Trabek.

16 Now, if I'm not mistaken, in your second reference you indicated
17 that he had fled the country at some point, gone to France for
18 some time, and then returned to Cambodia to occupy -- and I have
19 you down as saying "a very senior position here"; is that
20 correct? Is that a correct and accurate summary of what you've
21 told the Chamber so far?

22 MR. ROCHOEM TON:

23 A. This morning, I stated that. Yes.

24 [13.53.07]

25 Q. Thank you, Mr. Witness.

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1 Then my first question to you is: What position or positions, if
2 any, did Mr. Hor Namhong hold within the Ministry of Foreign
3 Affairs -- B-1?

4 A. While he was at the ministry, it was not that long. I believed
5 it was in late 1978. So he was there only for a short period of
6 time. He was part of Bong Keat Chhon's group and Bong Thiounn
7 Prasith as well.

8 Q. Thank you, Mr. Witness. What about B-32? What is B-32? What
9 does that mean to you?

10 A. B-32 is a mobile office for the leadership.

11 Q. Thank you, Mr. Witness.

12 One more question -- another question, I should say. The witness
13 I mentioned earlier, who has testified previously in this case,
14 has testified here -- and I'm quoting now: "So far as I
15 recollect, he" -- that's Mr. Hor Namhong -- "was the ambassador
16 to Cuba, but he had been at B-1 for a shorter period of time. But
17 he spent a longer period of time at Boeng Trabek."

18 [13.55.20]

19 Does that seem like an accurate statement to you, based on your
20 experience at B-1? Was Mr. Hong -- Hor Namhong -- did he spend a
21 longer time at Boeng Trabek?

22 A. Yes, that is correct.

23 He was at B-1 for a short period of time, but before he went to
24 the ministry -- I could not grasp his exact situation, but he was
25 within the circle of the leadership.

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1 Q. Thank you, Mr. Witness. Was he ever the chairman or the
2 vice-chairman of Boeng Trabek -- that is, Mr. Hor Namhong?

3 A. When the ministry representative went to receive him, he was
4 in charge of the Boeng Trabek.

5 [13.56.46]

6 Q. Thank you, Mr. Witness.

7 One last question: Again, based on your administrative experience
8 and your psychological talents, do you know why Mr. Hor Namhong
9 refused to appear before the OCIJ to give testimony in this case?
10 Is he -- excuse me. Is the government worried about his
11 testimony?

12 MR. PRESIDENT:

13 Witness, you do not need to respond to this question. It is not
14 at -- your role to do so.

15 MR. IANUZZI:

16 Thank you. If I may just quote from something I've got in front
17 of me here:

18 "Further investigations are warranted for two reasons: first, the
19 Chamber is under an obligation to ensure the integrity of the
20 proceedings, as preserved; and, number 2, preventing testimony
21 from witnesses that have been deemed conducive to ascertain the
22 truth may infringe upon--"

23 [13.57.50]

24 MR. PRESIDENT:

25 The Prosecution, you may proceed.

1 MR. LYSAK:

2 Thank you, Mr. President. I believe counsel is making a
3 submission and reading from a PTC decision, which is not the
4 purpose of why we're here. Counsel should be -- know -- well
5 aware that is completely inappropriate question to ask a witness
6 to speculate on why -- on the government's position on people's
7 testifying.

8 And, further, he has raised the issue of the Court not
9 entertaining arguments. It is quite common in Courts not to hear
10 sustained argument on every objection. If we did that, we would
11 never finish trials. When counsel asks questions that are
12 knowingly improper, I think it is entirely appropriate for the
13 Court to rule on objections, without hearing sustained argument.
14 [13.58.52]

15 MR. IANUZZI:

16 Well, I obviously disagree with that position. I think it's our
17 right to make a record, and to make it known. And, just for the
18 record, that was, in fact, a quote from a PTC decision. In fact,
19 it was the dissenting opinion of Judges -- former Judge, excuse
20 me -- Catherine Marchi-Uhel and Mr. Rowan Downing -- Judge Rowan
21 Downing. That was, indeed, a quote from their dissenting opinion.
22 And just let me add, again for the record, an inquiry into the
23 past actions of certain individuals will assist us and the
24 Chamber in understanding why they have been reluctant to appear
25 before this Tribunal, and why the government -- the Royal

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1 Government -- has actively encouraged them from doing so. And we
2 do adopt the position of the PTC Judges I just mentioned, for the
3 record.

4 And now if I could move on to a -- to a document. Excuse me.

5 (Judges deliberate)

6 [14.00.06]

7 MR. IANUZZI:

8 If I could just ask for some clarification. I hear Mr. Lysak say
9 -- I wasn't sure if he said "annoyingly" or "knowingly", but I
10 certainly am knowingly putting these questions. I intend to do
11 that, I am--

12 MR. PRESIDENT:

13 The objection raised by the Prosecution is sustained.

14 Counsel, you are reminded that the time given to you is to put
15 questions to the witness. Again, if you intend to make a
16 submission, you have to do it pursuant to Rule 92 of the ECCC
17 Internal Rules.

18 MR. IANUZZI:

19 Thank you, Mr. President.

20 [14.00.49]

21 Q. If we could turn now to a document -- Mr. Witness, do you
22 recall giving an interview, or being interviewed by certain
23 investigators -- members -- of the organization DC-Cam. That's
24 the Documentation Center of Cambodia. Did you ever give a
25 statement to anyone from DC-Cam?

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1 A. I never gave interview to people from DC-Cam.

2 Q. Thank you. Just let me ask a few questions. And your name is
3 Phy Phuon, correct?

4 A. Yes.

5 Q. Excuse me. And you also go by the name Rochoem Tun -- or Ton?
6 I believe we've been referring to you by that name in Court.

7 A. Yes, that's my name.

8 Q. And have you ever gone by the name Chiem? Forgive me if I'm
9 mispronouncing that. C-H-I-E-M, as it's transliterated in
10 English.

11 A. Yes, I do also use that name.

12 Q. Thank you.

13 [14.02.32]

14 Mr. President, if I could have a document put before the witness,
15 to perhaps refresh his recollection as to whether or not he's
16 given an interview to anyone from DC-Cam. I'm referring now to
17 document -- excuse me -- document number E190.1.406.

18 And that, as we're all well aware, I think -- is -- has been on
19 the document interface for some time in all three languages. It's
20 a document, I believe, proposed by the Prosecution. I don't see
21 any reason why it should not be utilized here in Court. Could we
22 please put that document to the witness?

23 MR. PRESIDENT:

24 Co-Prosecutors, could you please confirm whether the document is
25 listed in the proposed documents by the Prosecution?

1 MR. LYSAK:

2 Yes, I can confirm that it was. It was originally listed as a new
3 document, because the interview was conducted after the judicial
4 investigation was completed and it was the subject of a Court
5 ruling on new document.

6 [14.03.58]

7 I believe that E190, paragraph 38 and 39 provided -- ruled that
8 that document could be added to the Case File. So we don't have
9 any objection to this document being put -- placed before the
10 Court and before the witness.

11 MR. PRESIDENT:

12 You may now proceed, Counsel.

13 BY MR. IANUZZI:

14 Thank you, Mr. President.

15 Q. If I can just get this over with so that we can get into the
16 substance, let me just read out the ERN numbers here. That's
17 English, 00660621 through 00660651; Khmer, 00660820 through
18 00660874; and French, 00754243 through 00754297. I think a hard
19 copy has just been put before the witness.

20 [14.05.19]

21 I've got four questions on this particular document. Well,
22 actually, let me start -- Mr. Witness, you have that document in
23 front of you now. I see you're looking at the cover page. Do you
24 see your name listed there at the top of the -- could you turn
25 back to the cover page please? And let me just read to you what

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1 it says in English, and then you can tell me if you agree with
2 this:

3 "Interview with Rochoem Ton, alias Phy Phuon and Cheam, male, age
4 63. Interview at" -- I'm skipping now -- "Interview at Daung
5 village, Malai commune, Malai district, Banteay Meanchey
6 province, 19 December 2010. Interviewed by: Long Dany; translated
7 into English by Ten Sok-Sreinith." If I'm pronouncing those words
8 correctly.

9 [14.06.26]

10 And at the very bottom of the page is the footer which reads
11 "Documentation Center of Cambodia". That's the DC-Cam
12 organization I was referring to before. Does this refresh your
13 recollection at all, Mr. Witness, about this interview that you
14 seem to have given to the DC-Cam individuals I mentioned?

15 MR. ROCHOEM TON:

16 A. I don't think that I met these people concerning this
17 document. The Documentation Center of Cambodia didn't meet me
18 regarding this document.

19 Q. Okay, Mr. Witness. In that case, let's try it step by step.

20 [14.07.23]

21 Let's - let's turn to page -- excuse me, strike that. Let's turn,
22 if we could, to page 14 in English. That's -- the English ERN is
23 00660634. I've got the Khmer ERN here as 00660845. I apologize,
24 Judge Lavergne, I don't have the French -- and I apologize to Ms.
25 Simonneau-Fort and my colleagues here on this side of the stage

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1 of course. This is page 14 in English, at the bottom of the page.

2 I think we can put that on the screen.

3 Mr. Witness, it appears that you are having a discussion with the
4 interviewers about some certain reassignments, and let me just
5 read what it seems that you have said.

6 The question was: "Do you know the reasons for these
7 reassignments?"

8 And your answer was: "Yes, I do. The assignment of new cadres to
9 oversee the southwest region caused mass killings. Many of them
10 were proud and rigid. Ta Mok is a bad person, I hate him. In
11 1979, there seemed to be a heated argument over the management of
12 the southwest region -- in the
13 Southwest region, where Ta Mok built up cruel cadres to commit
14 execution."

15 [14.09.10]

16 Does that - does that sound like something you would have said?

17 Do you - do you recall making that statement?

18 A. Normally, when I met with people, I could have recorded their
19 names. I think the document has taken me by surprise, because I
20 have never known the person by the name Dany, as in the document.

21 Q. Well, let me try this, Mr. Witness: Did you ever say that Ta
22 Mok was a bad person, or did you ever make those comments that I
23 just read to you, or something of a similar nature?

24 A. I think I was talking when -- during Ta Mok funeral, from
25 Phnom Penh to Anlong Veng. I did not know that the people from

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1 the "Searching for the Truth" magazine coming to see me, but I
2 did say something about this. I said Ta Mok, in 1977 and '78 --
3 it was in my statement that, so far, there was evidence in --
4 from the zones who were victims that, during that year, the
5 cadres from the Southwest executed people from all zones, people
6 from Northeast, North, Northwest -- 304 -- and the West. These
7 cadres were executed by cadres from Ta Mok's zone.

8 [14.12.20]

9 Q. Thank you, Mr. Witness. Would you stand by this statement that
10 you seem to have made that you thought Ta Mok was a bad person
11 and that you hated him?

12 A. I and Ta Mok had some contradictions. He looked down on me as
13 an ethnic minority group, and I also had argument with him. I
14 accused him of being a Khmer, but then why he started executing a
15 lot of cadres?

16 The contradiction was intensified. There was almost a kind of
17 riot against him, and I said very clearly that I had nothing to
18 be afraid of Ta Mok. He was a human being like I am. And I really
19 respected the Party's line, but as a person, individually --
20 people could fail to respect individual rather than the political
21 -- or, the line.

22 And I met a lot of people -- people from my district said that
23 cadres from the Southwest Zone were very heinous, very cruel.
24 They killed a lot of people. So I said that people who was the
25 most -- the worst human being during the Democratic Kampuchea was

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1 no one other than Ta Mok. And it's the truth.

2 [14.14.25]

3 From 1979 onwards, when I left Phnom Penh, I went to Trapeang
4 Chrab, Aural, and other location. I observed that people along
5 the areas that I passed were living in very difficult conditions,
6 and people from the East were all smashed. And I saw this. And
7 we, from Phnom Penh, were about to be killed by Ta Mok forces,
8 but we came with forces. That's why they couldn't do us. And we
9 heard people exchange verbal arguments.

10 MR. PRESIDENT:

11 Witness, could you please hold on? Please try to regain your
12 composure and be ready to respond to questions.

13 Counsel, you may put more questions to him.

14 BY MR. IANUZZI:

15 Thank you, Mr. President. Thank you, Mr. Witness. I certainly
16 didn't mean to upset you.

17 Q. One last question on Ta Mok -- and I hope this doesn't give
18 you a hard time -- would you consider Ta Mok to be a warlord,
19 with respect to his management of the Southwest Zone?

20 MR. PRESIDENT:

21 Witness, could you please hold on? Wait until we hear from the
22 prosecutor before we proceed.

23 [14.16.19]

24 Co-Prosecutor, you may now proceed.

25 MR. LYSAK:

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1 Mr. President, I object to that. The question is a little vague.

2 I think counsel should specify what he means by "warlord", so the
3 witness knows what he is responding to. I think that different
4 people could interpret the term "warlord" in different ways.

5 BY MR. IANUZZI:

6 I think that's quite fair.

7 Q. I'll move on to another document. Briefly, for a moment, I'll
8 move away from this DC-Cam interview. I'd like to come back to
9 it.

10 [14.16.47]

11 If we could show the witness -- and I'm looking now at document
12 E3/24, formally at D91/10? This is one of the witness's previous
13 statements to the OCIJ. This has already -- already been used in
14 Court here, I think so. I don't know if I need to go through all
15 the litany of numbers. Or do I? Yes, okay. I'm getting a nod from
16 Judge Cartwright.

17 I'll just quickly read those out. That's -- yes, excuse me --
18 E324. It's a written record of interview of Mr. Phy Phuon, the
19 witness. And that's English ERN 00 -- I can't see that - 223578
20 through 00223588, French ERN 005093917 through 00503929, and
21 Khmer ERN 00204066 through 00204075. Excuse me.

22 Turning -- very briefly, if we could actually, yes, put this
23 document before the witness. Thank you.

24 I think you've seen this before, already, in Court, Mr. Witness.

25 [14.18.14]

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1 Very briefly, if we could turn to page 9 -- and that's English
2 ERN 00223586; Khmer, 00204073. And I apologize again, this time
3 first to my colleagues here and to all the French speakers in the
4 room; I don't have the French ERN, but this will be very brief.

5 Mr. Witness, about the middle of that page, you were talking
6 about zones, and you said: "Each zone had a leader like a
7 warlord."

8 Maybe you could just tell us in your own words what you meant by
9 the word "warlord". What does that word mean to you?

10 MR. ROCHOEM TON:

11 A. "Warlord", I referred to Ta Mok, because they -- he killed
12 cadres from the -- from the Southwest.

13 Q. Thank you, Mr. - Thank you, Mr. Witness.

14 A. Rather, he really brought cadres from the Southwest to kill
15 other -- in other zones.

16 Q. Thank you very much for that answer.

17 If I could go back -- if we could go back, now, to that DC-Cam
18 interview? I hope you still have it in front of you, there. I've
19 got three more questions on that, and then that should be all for
20 me.

21 [14.19.58]

22 Do you still have it in front of you, Mr. Witness? Mr. Witness,
23 have you still go the DC-Cam interview that we were discussing
24 before in front of you? Oh, sorry. I apologize for being
25 impatient, sir.

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1 (Short pause)

2 So, Mr. Witness, we're looking now -- or, I'm looking now, and I
3 think you are as well -- at page 29. And that's English 00660649;
4 Khmer, 00660870. Very briefly, on this page, you mention
5 something about the "win-win policy" of the prime minister, and
6 you note that it's very effective. What is the "win-win policy"?

7 MR. PRESIDENT:

8 Witness, could you please hold on? Wait until we hear from the
9 International Co-Prosecutor. International Co-Prosecutor, you may
10 now proceed.

11 MR. LYSAK:

12 Yes, Mr. President. We object to this being outside the scope of
13 the Closing Order issues that are at play here. A lot of this
14 DC-Cam interview deals with post-'79 events in Cambodia,
15 including the question that counsel is asking now.

16 [14.21.42]

17 So we would object to the relevance of this to the current trial.

18 MR. IANUZZI:

19 If I may very briefly respond, Mr. President, obviously we take a
20 slightly different position in terms of context and relevance.

21 BY MR. IANUZZI:

22 Q. Let me try to rephrase my question in a way -- to make it very
23 clear what I'm saying: As far as you know, Mr. Witness, does the
24 "win-win policy" include, as one of its key components, a firm
25 commitment to bury the past of former Khmer Rouge members, other

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1 than Duch and the three men on trial here today? Are you aware of
2 that firm position on the part of the Royal Government of
3 Cambodia, Mr. Witness?

4 MR. ROCHOEM TON:

5 A. This "win-win policy" was meant to serve the interests of both
6 sides. Everyone won. For that reason we have peace until these
7 days, and I am satisfied.

8 [14.23.18]

9 The context is appropriate. It was suitable for that period of
10 time, and it's still suitable for the future situation.

11 Q. Thank you for that answer, Mr. Witness. Does that mean that
12 you agree with the proposition that I put to you? That one of the
13 key components of that policy was to bury the past of former
14 Khmer Rouge members other than Duch and the three gentlemen on
15 trial here today? Is that how I should understand your answer, as
16 an agreement with that position?

17 MR. PRESIDENT:

18 Witness, could you please hold on?

19 International Co-Prosecutor, you may now proceed.

20 MR. LYSAK:

21 Yes, sorry to interrupt again, but the witness's view or
22 understanding is one thing, but whether the witness personally
23 agrees or disagrees with the policy is totally irrelevant to the
24 proceedings here.

25 MR. IANUZZI:

1 Thank you.

2 [14.24.21]

3 I'll just respond to that briefly, and then move on. Our
4 position, given this witness's stated past, his background, his
5 psychological training, his proximity to the government, his
6 knowledge of key government figures -- all these things that
7 we've been talking about today. I think they put him in a very,
8 very unique position to comment on the remark I just made.

9 But, again, let me just state for the record that we take the
10 position that government's motives for blocking testimony and
11 limiting the scope of trials is quite relevant.

12 BY MR. IANUZZI:

13 Q. But let me move on to my third point. And we're staying with
14 this DC-Cam interview, Mr. Witness.

15 [14.25.05]

16 So, if we could turn to page 26--

17 MR. PRESIDENT:

18 The objection is sustained. The question put was not within the
19 scope.

20 Witness is instructed not to respond to that question.

21 BY MR. IANUZZI:

22 I'm sorry, Mr. President. I just assumed that that was sustained.
23 I apologize for not waiting.

24 Q. Let me move on to my next question. And that's page 26, as I
25 mentioned. That's English 00660646; Khmer, 00660865. And, now,

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1 Mr. Witness, this is the same interview that we've been talking
2 about. And on this page, you made a reference to the K-5
3 mobilization, located along the Thai-Cambodian border. And you
4 briefly described that as being filled with mines and spikes.
5 First of all, what is the K-5 mobilization? Could you please
6 explain that for the Court, but please wait -- we have two
7 objections on the other side of the stage here.

8 [14.26.23]

9 MR. PRESIDENT:

10 Witness, you are instructed not to respond to the current
11 question by counsel for Nuon Chea because it is not relevant at
12 all to the alleged facts.

13 MR. IANUZZI:

14 Thank you, Mr. President. If I could just make a reference to
15 document number E131/1/9 -- and those are our - "our" being the
16 Nuon Chea defence team - "Objections, Observations, and
17 Notifications Regarding Various Documents To Be Put Before the
18 Trial Chamber", that document of 14 November 2011.

19 [14.27.02]

20 And at paragraph 3 (sic) in that document -- let me just quote
21 this:

22 "According to the modified indictment, under the rubric devoted
23 to crimes against humanity, the alleged criminal 'system
24 [implemented in DK] resulted in millions of victims [...]. Though
25 rarely discussed openly in this country, it has been publicly

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1 report that upwards of 50,000 individuals may have died in the
2 implementation of the so-called 'K-5 Plan', which took place
3 shortly after the DK period but well before any assessments of
4 the regime's alleged death toll were undertaken. [And] as far as
5 the Defence is aware, none of those forensic inquiries took the
6 potentially numerically-distorting effect of the K-5 episode into
7 account. The Defence--" that's obviously us, I'm quoting still --
8 "has recently obtained certain documents indicating that Mr. Hun
9 Sen may bear responsibility for the implementation of the K-5
10 Plan and any resulting deaths; and at the very least, he--"

11 [14.28.04]

12 MR. PRESIDENT:

13 This matter is far outside of the fact and you had already been
14 informed -- you have sung the song that has already been stated
15 in the written statement. And if you wish to do so, you could do
16 in writing, and you're not allowed to do that in this courtroom.

17 MR. IANUZZI:

18 Thank you, Your Honour. I'll move on. I was just making the point
19 about the relevance of that statement to our position on the
20 death toll.

21 [14.28.42]

22 We do take the position that it's relevant to an assessment of
23 the death toll. Allow me -- pardon me, the alleged death toll--

24 MR. PRESIDENT:

25 Indeed, you're not allowed to dwell on that matter. You may

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1 proceed with questions. If no more questions, then we would hand
2 over to other counsels.

3 BY MR. IANUZZI:

4 Thank you, Mr. President. I'm well aware of that, I'm trying to
5 conserve some time for my colleagues here on this side of the
6 stage. I did promise them quite a bit of our time.

7 [14.29.14]

8 Q. One last question, then, with respect to this document -- this
9 DC-Cam interview -- and this will be my last one, Mr. Witness.

10 If we could just look at page 2 -- and that's English ERN

11 00660622, Khmer ERN 00660821.

12 And Mr. Witness, if I could just quote what you said here: "Are
13 you still--"

14 Question: "Are you still working for the Party?"

15 "Yes I am."

16 "Are you working for the Cambodian People's Party?"

17 "Yes! I am a permanent member of the Party."

18 Is that an accurate statement of the fact, Mr. Witness? Are you a
19 permanent member of the CPP?

20 [14.30.20]

21 MR. ROCHOEM TON:

22 A. Yes, that's what I stated.

23 Q. Thank you, Mr. Witness. And just -- my very last point. I
24 notice that, following the "S", the interviewers have included an
25 exclamation point. Can we take that to indicate that you are not

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1 only a member, but a very enthusiastic one?

2 MR. PRESIDENT:

3 Mr. Witness, you don't need to respond. It's not being relevant
4 to the alleged facts.

5 [14.31.01]

6 MR. IANUZZI:

7 Mr. Witness, thank you for answering my questions. I've got
8 nothing further.

9 Thank you, Your Honours. I hand over to my colleagues now.

10 MR. PRESIDENT:

11 The time is appropriate for a short recess.

12 [14.31.26]

13 We will take a 20-minute break and resume at 10 to 3.00.

14 Court Officer, could you assist the witness and the duty counsel
15 during the recess and have them back in the courtroom at 10 to
16 3.00?

17 (Court recesses from 1431H to 1451H)

18 MR. PRESIDENT:

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

20 The floor is now given to Ieng Sary's defence to pose questions
21 to the witness, Rochoem Ton. You may proceed.

22 QUESTIONING BY MR. KARNAVAS:

23 Good afternoon, Mr. President. Good afternoon, Your Honours, and
24 good afternoon to everyone in and around the courtroom, and good
25 afternoon, Witness.

1 [14.52.16]

2 Unless there are any objections, I will refer to you as Cheam.

3 Q. Sir, first I want to make sure that we clear up a couple of
4 matters. One, you gave two statements to the Office of the Co
5 Investigative Judges, one on 5 December 2007, and the second one
6 on 21st September 2008. Is that right?

7 ROCHOEM TON:

8 A. I am not sure regarding the interview in 2005. I am certain of
9 the one I did in 2007.

10 Q. Maybe there's a mistranslation. One is 2007, and the second
11 one is 2008.

12 A. Yes, I recall the two statements I made respectively in 2007
13 and 2008.

14 Q. And at the conclusion of giving those statements, you were
15 read out a summary and you signed them or you put your thumb to
16 it -- thumbprint to it; is that correct?

17 A. Yes, I provided my thumbprint on the statement which is true
18 and correct.

19 [14.54.17]

20 Q. And, of course, before answering the questions that were being
21 posed to you, you took an oath?

22 A. Yes, I did.

23 Q. Now, previously you were shown a third document, a third
24 statement, dated December 19, 2010 by DC-Cam, and I'm referring
25 to Your Honour's E. -- E190.1.406, and that's what I want to

1 briefly talk about. Do you recall giving that interview, sir?

2 A. Regarding the interview with the Documentation Center of
3 Cambodia, I don't seem to recall that or the statement itself. If
4 I knew that was the record they produced, then I would not have
5 made them. I did not know how they came up with this interview. I
6 did not hear any introduction of searching for the truth at all
7 when they came to see me.

8 [14.56.03]

9 Q. Okay. If -- perhaps if we could provide you with a copy of
10 that document, or you may still have it in front of you, because
11 I want to first clarify a couple of points. Are you suggesting,
12 sir, that the interview never took place?

13 A. Yes.

14 Q. So, if I understand you correctly, and -- you are telling the
15 Trial Chamber that you were never interviewed by a Long Dany back
16 in December 19, 2010, an interview that took place in Daung
17 village, Malai commune, Malai district, Banteay Meanchey
18 Province? That is your testimony under oath?

19 A. I made two interviews and I took an oath twice, and besides
20 that, no, I did not take any oath.

21 Q. That wasn't my question. Did you give an interview to Long
22 Dany from the Documentation Center of Cambodia? It's a yes, it's
23 a no, it's a, I don't remember. Which of the three?

24 A. As I just said, regarding searching for the truth
25 organization, I did not take any interview with them, or to my

1 best recollection I cannot recall it.

2 [14.58.28]

3 Q. All right. Let me point out to -- if we can look at one page,
4 and this would be Khmer ERN No. 00660835; English 00660629; and
5 French 00754259. If you could look at that document -- that page
6 on this particular document. Once you find it, I'll pose a
7 question.

8 You were asked during this interview who appointed you or who
9 ordered you to go to the Ministry of Foreign Affairs -- it was a
10 question by Dany: "Did Ieng Sary ask you to go with him or did
11 you make a request yourself?"

12 Answer -- Cheam: "No. We had no authority to make any requests. I
13 was simply assigned by Pol Pot to go with Ieng Sary. My work was
14 to provide hospitality to the guests and to look after the house
15 [building of the Ministry of Foreign Affairs]. Somehow, it was
16 hard work."

17 Did you find that passage, sir?

18 (Short pause)

19 [15.00.44]

20 A. What I read from here is that -- I still do not know the
21 person by the name Dany. I don't know how this thing could come
22 up like that.

23 Q. All right. I'm going to pose some simple questions and I would
24 appreciate some simple answers. Assuming that this document is an
25 authentic document and DC-Cam did not fabricate an interview with

1 you, as you are suggesting here today, on December 19th, 2010. So
2 let's make that assumption.

3 Do you see on page -- on this particular page that I've shown
4 you, where you say that Pol Pot assigned you to go with Ieng Sary
5 to the Ministry of Foreign Affairs? Do you see that, sir?

6 A. Yes, I do. I saw this statement.

7 Q. Now, is it your testimony here today, under oath, that you
8 never made this statement to the person who is interviewing you,
9 that is -- that it was Pol Pot that assigned you to the Ministry
10 of Foreign Affairs?

11 [15.02.48]

12 A. I still am ambivalent as to why the search for the truth
13 people came to me and when and how this thing was set up. I
14 remember that I gave interviews to the Co Investigating Judges,
15 but not to this.

16 Q. All right, just so we're clear, and the Trial Chamber is
17 vividly clear on this point. When the Prosecution was asking you
18 questions about events that happened 37 years ago, you were able
19 to tell us, with specificity, when a meeting took place, who
20 attended, but you cannot tell us here today, under oath, of an
21 interview that you gave less than two years ago, is that what you
22 wish the Trial Chamber to believe, sir?

23 [15.04.08]

24 A. I may say time and again that I do not recollect such
25 interview with Dany, and indeed, I just tell the Court the truth,

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1 what I saw, but I -- now, in my feeling, I feel that I never met
2 people from the "Search for the Truth" magazine, and I did not
3 know how this document could be made.

4 And I -- if this document were of -- were my interview, I perhaps
5 cannot contest, and then it can be used as a Court document.

6 Q. Well, the reason we're using it as a Court document because it
7 has been admitted, sir, and so is it possible that you said that
8 it was Pol Pot that assigned you to the Ministry of Foreign
9 Affairs? Did you say that, sir, and is that what happened? Was it
10 Pol Pot that assigned you there?

11 [15.06.01]

12 A. Since it is the Court document and that's my statement, I will
13 stand by the statement.

14 MR. PRESIDENT:

15 Witness, I think for the sake of clarity, and perhaps that was a
16 misunderstanding, if you look at this document, the footnotes, on
17 the bottom of the page, you may see that the transcription -- the
18 transcript or the text was copied or transcribed from the audio
19 recording, and this document is not similar like the documents or
20 the records of the interview you made before the Co Investigating
21 Judges on those two occasions.

22 Because on those documents, in 2007 and 2008, you gave thumbprint
23 to all pages of the document, but not this one, and Long Dany was
24 the one who took record of the recording of this document from
25 DC-Cam.

1 [15.07.08]

2 My question is to you to seek clarification whether you met
3 anyone and gave such interview to a person in 2010 -- in October
4 2010, because you mentioned about the conversation with an
5 individual when you mentioned about Ta Mok's funeral.

6 This document is not in the same form as the previous documents
7 before the ECCC, so could you tell the Court whether you remember
8 having given any other interview to other individuals concerning
9 the Khmer Rouge regime? And that's question number one.

10 Number two, if you do not remember what being said or written in
11 that document and you remember or be able to respond to questions
12 by counsel, you may respond to counsel accordingly. The document
13 is here only to assist you, and it has already been admitted and
14 placed on the case file.

15 [15.08.25]

16 Do you understand this, Mr. Rochoem Ton?

17 MR. ROCHEOM TON:

18 Mr. President, yes, indeed, I do.

19 MR. PRESIDENT:

20 Co Prosecutor, you may now proceed.

21 MR. LYSAK:

22 Yes, just briefly, Mr. President. There may be a discrepancy in
23 the dates between the English and the Khmer, too. I'm told that
24 the date in the Khmer version may be October. The date indicated
25 in the English version is December. So perhaps that's something,

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1 as well, that should be clarified with the witness.

2 [15.09.26]

3 BY MR. KARNAVAS:

4 That's my understanding. I was just passed a note saying that it
5 was 19 October.

6 Q. The date of the interview would have been 19 October, 2010.

7 Does that help you -- does that help refresh your recollection?

8 MR. ROCHOEM TON:

9 A. Yes, it helps refresh my recollection.

10 Q. And just a couple of matters just to make sure that we have
11 the right Cheam here.

12 Are you familiar with this village, Daung village, Malai commune,
13 Malai district, Banteay Meanchey province?

14 [15.10.29]

15 A. Yes.

16 Q. And if we look on the very first page, which is Khmer
17 00660820, the very first page of this interview - French,
18 00754244; in English, 00660621 -- it says that you acknowledge
19 being the deputy provincial governor from 1997 until 2005; is
20 that correct? Did you hold that position in that area?

21 A. Yes.

22 Q. Now that we've clarified that, isn't that a fact that you said
23 that Pol Pot assigned you to the Ministry of Foreign Affairs?

24 A. I agree with the statement that I once made.

25 Q. Okay. Does that mean that you agree that it was Pol Pot that

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1 assigned you to the Ministry of Foreign Affairs?

2 [15.12.11]

3 A. Yes.

4 Q. Thank you.

5 Now, you do know a So Hong, do you not?

6 A. Yes, I do.

7 Q. And as I understand it, you have been following these
8 proceedings; have you not?

9 A. No.

10 Q. You were not here in the gallery when opening statements were
11 given by the Prosecution -- and this would have been, I believe,
12 Monday, November 21, 2011. Were you not in the gallery, sir?

13 [15.13.40]

14 A. In November 2011, I was in the public gallery observing the
15 proceedings. I did not join directly in this courtroom. I was
16 observing the proceedings for one day before I left.

17 Q. And have you observed by any chance -- or had a chance to
18 speak with So Hong concerning his public testimony?

19 A. Yes.

20 Q. When you say "yes" you mean, yes, you did speak to So Hong
21 about So Hong's testimony here in Court; that is the questions
22 that were posed to him and the answers that he provided?

23 A. No, I have not--

24 (Short pause)

25 [15.15.13]

1 Q. Have you completed your answer, sir?

2 A. I have already completed.

3 Q. Okay, thank you. Thank you very much.

4 Now, would it surprise you to -- if I were to tell that when So

5 Hong was here testifying, he had indicated that when you were

6 working at the Ministry of Foreign Affairs when it came to

7 security matters, you were under the supervision of Pang?

8 A. In reality, I was at the Ministry of Foreign Affairs under the

9 supervision of Om Ieng Sary and So Hong, not under Pang

10 supervision.

11 [15.16.33]

12 Q. All right. Well, let me just read what he says after our

13 lengthy passage of some questions. And this would be found on

14 Khmer, 00804560; English, 00806504; and in French, it's 00806388

15 to 89. This is from the testimony on the 30th of April 2012, I'm

16 reading -- it's page 17 in English and it's approximately at line

17 18.

18 The question starts a little bit further up but then I get to the

19 thrust of my question, which is:

20 "And now my question is: While Comrade Cheam was at the Ministry

21 of Foreign Affairs although -- and although he was your

22 subordinate, was his superior still Pang, at least when it came

23 to security matters?"

24 Answer: "Pang was still his superior."

25 [15.17.54]

1 And this was So Hong's testimony under oath. Would you like to
2 comment on that? Is he mistaken or is he lying?

3 A. Perhaps he have been mistaken. As I already indicated, I was
4 never under his supervision.

5 Q. All right. Now you were, however, under So Hong's supervision;
6 were you not? He was your immediate superior?

7 A. Yes, my immediate superior was So Hong.

8 Q. Now we're going to get to that perhaps tomorrow in great
9 detail.

10 But for now, let me ask you this question. In the statements that
11 you have provided before under -- in not a single statement have
12 you indicated that you ever worked for the security apparatus
13 within the Ministry of Foreign Affairs; is that a correct
14 statement?

15 A. No, it isn't. I did not work in security section.

16 [15.19.57]

17 Q. And if So Hong were to say that in fact you did, and if others
18 were to say -- from the Ministry of Foreign Affairs -- that you
19 did; would they be mistaken? Or is it -- perhaps you are being --
20 are providing us with false testimony; which of the two?

21 MR. PRESIDENT:

22 Witness, could you please hold on? Wait until we hear from the
23 International Co-Prosecutor.

24 International Co-Prosecutor, you may now proceed.

25 MR. LYSAK:

1 Yes, Mr. President. We object to the form of this question.
2 Asking this witness to speculate on whether other people were
3 mistaken or lying or that -- it's an entirely inappropriate
4 question. Counsel is perfectly entitled to ask the witness
5 whether there was a security section or not; to ask him a factual
6 matter. But he should not be asking -- putting questions to the
7 witness that ask him to comment on whether other witnesses were
8 telling the truth or not.

9 [15.21.18]

10 MR. KARNAVAS:

11 Mr. President, if I may briefly respond.

12 Those other people are either mistaken or lying; that's one
13 possibility. Or the other possibility is this gentleman is lying
14 when he says he was not part of security. That's the universe of
15 choices.

16 So -- and that's what I'm trying to get this gentleman -- I'm
17 trying to pin him down under oath.

18 MR. PRESIDENT:

19 The objection and the reason behind this argument are
20 appropriate. The objection is therefore sustained.

21 Witness is now instructed not to respond to the question just now
22 put by counsel for Mr. Ieng Sary.

23 And, secondly, counsel is advised to be mindful with your
24 wordings when putting questions to the witness. Please try to
25 refrain from using some terms that are intimidating. For example,

1 by way of pinning down witness to suggest that he's making false
2 testimony or lying. These wordings are really belittling the
3 dignity of the witness.

4 [15.22.57]

5 BY MR. KARNAVAS:

6 Thank you, Mr. President.

7 Q. So, just that we're clear, under oath, right now, you're
8 saying that under no circumstances while you were working with
9 the Ministry of Foreign Affairs, you were either in charge of or
10 part of the security apparatus; that is your testimony under
11 oath?

12 MR. ROCHOEM TON:

13 A. With regard to security section, I already stated that I did
14 not engage in security matters, I was engaged in administration.
15 Whether other people said so or implicated me in their
16 testimonies, I have nothing to say. But I will say -- telling all
17 the truth.

18 [15.24.13]

19 Q. All right. Well, let me ask you this then, since you were at
20 the Ministry of Foreign Affairs and you would -- in
21 administration, can you please tell us who was in charge of
22 security matters at the Ministry of Foreign Affairs?

23 A. As stated, with regard to security matter, sir, it was Om Ieng
24 Sary who was overly in charge, who supposed to know this. And I
25 was not assigned any security related task and I don't remember

1 having been assigned such task before, because I only was engaged
2 in administration.

3 Q. And So Hong never tasked you or supervised you on security
4 matters; is that your testimony under oath?

5 A. No, he has not assigned me on any security task.

6 Q. Okay. And that is never, never ever assigned you to any
7 security tasks? I just want to be very, very clear that that is
8 your position.

9 A. No, never.

10 [15.26.21]

11 Q. All right, we'll get back to that at some point.

12 But let me -- let me ask you -- now that you've acknowledged
13 being appointed to the Ministry of Foreign Affairs by Pol Pot, it
14 would appear from your statement -- your first statement that you
15 also had a special relationship with Pol Pot when it came to the
16 Ministry of Foreign Affairs; would that be correct?

17 A. I already stated that I only met him when I was called to meet
18 him. But in -- on a regular basis, I would meet with Om Ieng Sary
19 and So Hong.

20 Q. Well, let's look at what you said and we'll discuss this a
21 little bit. And I'm referring to your first statement and this is
22 E3/24 at Khmer 00204070 to 71; English 00223583; and French
23 00503922 to 24. And I'm looking at -- in the English version at
24 the lower part of page 6:

25 "When Pol Pot wanted to know the situation at B-1, he called me

1 and asked me. He trusted me; whatever he instructed I could do,
2 especially work related to the reception of visitors and setting
3 up the houses. He praised me for making good arrangements."

4 [15.28.38]

5 Now, let me ask you this, how was it that Pol Pot called you; did
6 he summon you by messenger? Did he send you a letter or did he
7 call you on the landline?

8 A. Whenever he wanted to see me, he did not use any phone or any
9 letter. In fact, when I came to see Om Ieng Sary his desk was not
10 that far, so then he asked people working nearby him to call me
11 to meet him. So, when somebody came to call me to see him, I
12 simply went along to see him.

13 Q. Now let me get this straight, because I don't see anything
14 about Ieng Sary involved here. You said: "When Pol Pot wanted to
15 know the situation in B-1, he called me and asked me."

16 So my question is: Based on your words, how did Pol Pot call you
17 to find out what is happening in B-1?

18 MR. PRESIDENT:

19 Mr. Witness, please wait.

20 The Prosecution, you may proceed.

21 [15.30.35]

22 MR. LYSAK:

23 Mr. President, we'd object, this question was just asked and
24 answered by the Witness. Mr. Karnavas may not like the answer but
25 the witness indicated how it was that he would come into contact

1 with Pol Pot in these situations. So I think the question is
2 improper.

3 MR. KARNAVAS:

4 If I may respond, Your Honour, there's nothing in the statement
5 here, either in this version or the one that was transcribed,
6 that mentions anything about Pol Pot being with Ieng Sary and
7 them being together. I'm using exact -- the exact words of this
8 witness and I'm asking the witness to give me a concrete answer.
9 How was it that Pol Pot called him? Did he use a landline? Did he
10 send a messenger?

11 [15.31.23]

12 Because yesterday the gentleman under oath said that it was Ieng
13 Sary that appointed him. Today, under oath, he acknowledged that
14 it was Pol Pot. And this is why I'm asking this question. He
15 acknowledged to having a special relationship. So I'm entitled to
16 know how was it that Pol Pot called him.

17 MR. PRESIDENT:

18 Mr. Witness, you do not need to respond to that question, you
19 already answered. So there is no need to answer a repetitive
20 question or we might have too many responses which might lead to
21 contradiction and a waste of time.

22 MR. KARNAVAS:

23 Thank you, Mr. President. Although contradictions demonstrate the
24 weight to be given to a witness's testimony, that's the whole
25 purpose of examination.

1 BY MR. KARNAVAS:

2 Q. When you did meet with Pol Pot, can you please tell us how
3 long did these meetings last?

4 MR. ROCHOEM TON:

5 A. It did not last that long, maybe 15 to 20 minutes.

6 [15.32.56]

7 Q. And did you meet him in his office or at some other location?

8 I'm told we weren't translated in French, so I'll slow down.

9 Where did you meet him? In his office or somewhere else?

10 A. I mainly met him in the evening after dinner. Usually, I met
11 him at the dining hall; it was a common dining hall.

12 Q. And this is where you would meet Pol Pot, at the dining hall?

13 A. Yes, that is correct.

14 Q. And could you please tell us where that dining hall was
15 located and how you would get there?

16 A. The common dining hall at K-1 -- it was under the longhouse.

17 Usually, when I left the ministry I would ride my motorbike to

18 meet Om Ieng Sary and that if Om Pol Pot would like to meet me or
19 to meet OM Ieng Sary, then Pol Pot would send a messenger to call
20 him to meet with him.

21 [15.35.11]

22 Q. And how often did you meet with Pol Pot?

23 A. It was not that often, it was on an occasional basis.

24 Q. All right. Let me switch to another topic since we don't have
25 that much time this evening.

1 You indicated that you did not know where S-21 was; correct? Is
2 that your testimony?

3 A. Yes, that is correct; I did not know where S-21 was.

4 Q. And in fact, you were asked yesterday about Duch's comment and
5 that you had indicated that you never knew of S-21, whatever he
6 wants to say that's his affairs. That's what you're quoted of
7 saying and this is -- can be found on your second statement E3/63
8 on Khmer version, 00228845; English, 00231410; and French,
9 00376055 to 56.

10 Now, are we to understand that you never, ever met with Duch?

11 A. That is correct; I did not meet him at all at the time.

12 [15.37.19]

13 Q. All right. So, when he says -- so I take it you are asserting
14 that Duch is not being accurate or truthful when he claims that
15 he saw you?

16 MR. PRESIDENT:

17 Witness, please wait until the Chamber hears the objection by the
18 Prosecution.

19 The International Co-Prosecutor, you may proceed.

20 MR. LYSAK:

21 Yes, Mr. President, our objection is, I believe that misstates
22 Duch's testimony. I do not believe he said he saw the witness.
23 But if counsel wishes to refer him to specific -- a part of
24 Duch's testimony, I think that would appropriate. But my
25 recollection of Duch's testimony is somewhat different than that.

1 BY MR. KARNAVAS:

2 I'll rephrase, Mr. President.

3 [15.38.30]

4 Q. If we look at E3/60 at Khmer 00195598; English 00195606; and
5 French 00195616 -- and this is from a written record of an
6 interview of Duch, this is the 3rd of June 2008 and here he says:
7 "As for the Ministry of Foreign Affairs, there was a messenger
8 who brought the prisoners to S-21, named Cheam, who is roughly my
9 age."

10 So this is the part that you -- you dispute, you're claiming that
11 Duch is either mistaken or providing false testimony; is that
12 your position, sir?

13 MR. ROCHOEM TON:

14 A. I already stated that I never met Duch in person. Maybe Om
15 Ieng Sary knew Duch well and maybe Om Ieng Sary introduced me to
16 Duch. Yesterday I already stated that I took some people to the
17 870 group and I did not know where that 870 group would take them
18 to further.

19 [15.40.37]

20 Q. All right. But here Duch is saying, sir, that you, Cheam, a
21 messenger for the Ministry of Foreign Affairs, brought the
22 prisoners to S-21, not to 870, not to some house -- not to some
23 hotel, but to S-21. This is what Duch is saying. So is Duch
24 providing false information to the Investigative Judges when he's
25 saying this?

1 MR. PRESIDENT:

2 Witness, wait until the Chamber hears the objection by the
3 Prosecution.

4 The Prosecution, you proceed.

5 MR. LYSAK:

6 Again, I have -- we have no objection to counsel asking the
7 witness whether -- whether that is correct or incorrect. But I
8 think it's inappropriate for him to comment on the state of mind
9 of Duch in terms of whether he was lying, whether he was
10 mistaken, or the nature of the information. He should simply ask
11 the witness whether that is correct or incorrect, and not ask him
12 to comment on Duch's testimony.

13 [15.42.01]

14 MR. KARNAVAS:

15 Well, you may recall, Your Honour, that Duch, first of all, was
16 under oath when he gave this statement.

17 Second of all, when he was confronted here in Court, he stood by,
18 under oath, to the statements that he made.

19 So either Duch was mistaken or he was providing false testimony
20 under oath, or the gentleman there perhaps is not being truthful
21 today. These are the possibilities, and I'm entitled to press the
22 gentleman.

23 MR. PRESIDENT:

24 Witness, please wait.

25 (Judges deliberate)

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1 [15.44.02]

2 MR. PRESIDENT:

3 The objection and the ground for its objection raised by the
4 Prosecution is substantiated and sustained. The question which
5 would elicit the assumption of a subjective conclusion is
6 inappropriate in this proceeding.

7 The Witness, you do not need to respond to the last question put
8 to you by the counsel.

9 MR. KARNAVAS:

10 We have a confession, IS 5.10 -- Khmer, 00022816; English,
11 00662311; we don't have the French version. This is - was - this
12 is on Annex 10 of the S-21 confessions, of the Prosecution's
13 document, Rule 83(d) document list. And in this confession, on
14 page 2 -- that's Khmer 0002285--

15 MR. PRESIDENT:

16 Counsel, please wait until we hear the objection by the
17 Prosecution.

18 The Prosecution, please proceed.

19 [15.45.51]

20 MR. LYSAK:

21 It sounds to me, Mr. President, as if Mr. Karnavas is about to
22 attempt to introduce the content of a confession. The Defence has
23 spent a lot of time objecting to the use of S-21 confessions, and
24 so I'm rather surprised that Mr. Karnavas is now attempting to
25 introduce the content of a confession.

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1 So, before he proceeds, I suggest that he clarify whether that is
2 what he's trying to do and what the legal basis would be.

3 MR. KARNAVAS:

4 Well, it seems that the Prosecution wants to have it both ways.

5 When it suits them, they use confessions. When it suits us,
6 especially to contradict a witness, we cannot.

7 The information that I'm about to put into evidence is not about
8 somebody being a CIA agent, KGB, or someone being tortured. It
9 has to do with this witness – – this confession saying that that
10 person brought them to S-21. That's what this is all about.

11 And it completely contradicts what the gentleman indicates and
12 supports what Duch is saying, and I think this is proper. And we
13 should have a fast and hard rule; either nothing from
14 confessions, and at one point, may I remind the Trial Chamber
15 that even Judge Lavergne corrected us and showed us as to the
16 date when Pang ended up at S-21.

17 So confessions have been used. So either we don't use them at
18 all, and that goes to all parties and the Bench, or we have some
19 sort of a rule that makes sense and is fair to both sides. So I'm
20 entitled to put this to the witness and to get an answer. Did he
21 take this person to S-21 as the confession states?

22 [15.47.55]

23 MR. PRESIDENT:

24 The Prosecution, you may reply.

25 MR. LYSAK:

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1 Well, Mr. Karnavas' characterization of the use of confessions
2 that we have made is entirely inaccurate. We have used
3 confessions for annotations that were not by the detainee. We
4 have used confessions under the exception allowed by the
5 convention, which is to show that a person was in fact at S-21 on
6 a certain date, but we have not attempted to use the content of
7 the confessions -- that is, the statements made by the person
8 being interrogated.

9 So I think that this is entirely inappropriate. His argument that
10 it's either all or nothing ignores the legitimate uses of
11 confessions. So I would disagree with his position. And I think
12 his attempt to read that before the Chamber in his statement here
13 is entirely outside the rules of this Court.

14 [15.49.11]

15 MR. KARNAVAS:

16 The confession is rather clear that on 12-27-78, the person
17 providing this confession is noting how that person got to S-21.
18 And that's why we believe it's pertinent and it contradicts this
19 gentleman's testimony that he's -- (microphone not activated).

20 (Judges deliberate)

21 [15.51.21]

22 MR. PRESIDENT:

23 I designate Judge Lavergne to clarify the matter with the
24 counsel, Michael Karnavas, and then we will rule on the objection
25 raised by the Prosecution to the last question to put to the

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1 witness in regards to the confession obtained through torture.

2 Judge Lavergne, you may proceed.

3 JUDGE LAVERGNE:

4 Yes, thank you, Mr. President. I have just a request for
5 clarification from Counsel Karnavas because of course being
6 questioned is something that's not that common. So I do not
7 believe that it's useful to just have unclarified allegations.

8 [15.52.18]

9 The Defence indicated that it had used the content of -- that I
10 have used the content of confessions regarding Pang's arrest. So
11 I'd like to know if Counsel Karnavas has specific references to
12 substantiate this.

13 But as far as I remember, I don't remember referring to the
14 content of a confession.

15 MR. KARNAVAS:

16 I don't have it at this moment, I can find it; it will be one
17 second.

18 I know exactly how it was used because I objected to that at some
19 point. It had to do with -- you're trying to assist the witness
20 as to the exact date when Pang entered S-21. And you intervened
21 while the witness was being questioned to point out that, based
22 on the S-21 records of a confession, Pang had entered in '78.

23 [15.53.25]

24 I will find -- I will find the reference because I can assure you
25 that I'm not making any false accusations towards you. I have it,

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1 in fact it's here someplace, but I'll find it very shortly.

2 JUDGE LAVERGNE:

3 Counsel, are you referring to the S-21 lists or to the
4 confessions? Because referring to the prisoner lists is one
5 thing, but referring to the content of confessions is something
6 else. So I believe that it would be a good idea to avoid mixing
7 up both sources. Lists can be used that contain, of course,
8 indication such as entry dates as well as execution dates, that's
9 one thing. But the content of confessions is something else.
10 So I would like to be sure that we're speaking about the same
11 thing. On the one hand you're speaking about confessions and I
12 believe that I was speaking about lists.

13 [15.54.33]

14 MR. KARNAVAS:

15 Well, I'll look into it and I could be -- that I was -- that I'm
16 in error, that it was because it was in reference to an S-21 that
17 you might have pointed out as to when the individual went in, as
18 opposed to looking at the confession itself and the date; so I
19 could be mistaken.

20 But being that -- be that as it may, we insist that where the
21 person giving the confession is merely indicating how they
22 arrived there, should be admitted -- at least in this very narrow
23 instance -- where it contradicts the witness's testimony under
24 oath. And if the answer is that it can't be used, then fine, then
25 we'll limit ourselves to only the list, the numbers on the list

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1 and nothing more.

2 But we need a clear answer as to what we can and cannot use
3 because it seems that whenever the Defence wants to use
4 something, it's forbidden. When the Prosecution wants to use it,
5 it's allowed. And that's the frustration that we tend to feel on
6 this side, because here we are trying to confront the witness
7 under oath with what we believe is evidence that demonstrates the
8 quality of his testimony, or the lack of.

9 [15.56.12]

10 MR. PRESIDENT:

11 The Prosecution, I think you already expressed your objections
12 and I believe there is no need for us to -- just take the
13 opportunity to be on your feet.

14 MR. KARNAVAS:

15 To answer Judge Lavergne's question, we tried to get it right,
16 we're not trying to make any false accusations here. This is on
17 E1/70.1, I have the English version, it's ERN number 00806528,
18 the date is the 30th of April 2012, and it says here -- Judge
19 Lavergne, line 15:

20 "Thank you, Mr. President. I am sorry for interrupting the flow
21 of the questioning from Counsel Karnavas, but I would like to
22 draw the parties' attention to the fact that, on the 24th of
23 April last, the Prosecution put before the Chamber a document IS
24 5.14. This document is submitted as being Pang's statement -
25 confession, rather, and as regards to the dates that are

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1 mentioned, it appears that the first date on which Pang's
2 confession was reported is the 28th of May 1978.

3 [15.57.43]

4 "And the last date that is available on the document of which we
5 do have the French and English translations, is the 22nd of July
6 1978. I think this is important because several times the witness
7 said that Pang's arrest might have taken place in the days before
8 the arrival of the Vietnamese in Phnom Penh, in other words, the
9 end of 1978.

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

12 Thank you."

13 So that was -- and I apologize if I got it wrong, but this is
14 what I have, Judge Lavergne, and I mean no disrespect by making
15 reference to this.

16 [15.58.38]

17 JUDGE LAVERGNE:

18 Well, of course, we might agree on the fact that these are
19 annotations indicating the dates of the confessions. But,
20 however, can we consider that these annotations refer to the
21 content of the confessions? I believe that there's a difference
22 between an annotation that specifies the date when a prisoner was
23 interrogated under torture and the content of the confession.

24 MR. KARNAVAS:

25 I think we're in total agreement on that, I don't disagree. And I

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1 was merely reading what's in the record. And from the record,
2 Your Honour, I was using that as a basis for answering the
3 response. Now, it's up to you to rule--

4 JUDGE LAVERGNE:

5 Counsel, what is the distinction between a judge referring to the
6 content of a confession or reference to dates that are entirely
7 different from the substance of a confession?

8 [16.00.01]

9 MR. KARNAVAS:

10 Well, there is a difference, but from what I'm reading here --
11 and perhaps I should have gone and checked to see exactly what
12 was being referenced, but there's nothing in the text here that
13 notes that it was a -- that this was in relation to an
14 annotation.

15 So, obviously, it is my error to have assumed that you were
16 actually looking into the document itself. But I'm reading what
17 it says here that you're pointing out a particular date and it
18 seems that we are using confessions, whether it's -- if we can
19 only use annotations, then we should have a rule that only
20 annotations provided by others than those who are providing the
21 confession can be admitted. I understand the nuance.

22 (Judges deliberate)

23 [16.02.52]

24 MR. PRESIDENT:

25 In order to clarify things -- and we still remember that from the

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1 very beginning of the trial proceedings, we abided by the
2 International Convention against the use of confessions that
3 extracted by means of torture. And the Chamber has maintained its
4 position firmly that it shall always follow this convention.

5 [16.03.31]

6 And during these proceedings, the Chamber shall not allow parties
7 to refer to the content of any of the confessions that were
8 extracted by torture because the contents of the confessions were
9 somehow the result of tortures. And if parties wish to refer to
10 other annotations or the dates on the confessions, parties are
11 allowed to do so.

12 MR. KARNAVAS:

13 Mr. President, I see we are past 4 o'clock.

14 MR. PRESIDENT:

15 Indeed, it is now appropriate time for the adjournment, the
16 Chamber will adjourn now, and the next session will be resumed by
17 tomorrow at 9 a.m.

18 During tomorrow's sessions, the hearing will commence with the
19 questions to be posed by counsel for Mr. Ieng Sary to the
20 witness.

21 Mr. Rochoem Ton, the Chamber still needs your testimony. So
22 please come back to the courtroom tomorrow. Please be here before
23 9 a.m.

24 Duty counsel is also advised to come back to the courtroom at
25 that same time.

1 [16.05.33]

2 Court officer is now instructed to ensure the witness is well
3 accommodated and taken care of during the adjournment.

4 Security personnels are now instructed to bring all the accused
5 persons to the detention facility and have them returned to the
6 courtroom by 9 a.m.

7 The Court is adjourned.

8 (Court adjourns at 1605H)

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