



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 20-Feb-2012, 13:20
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

13 February 2012

Trial Day 30

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

The Accused: NUON Chea
IENG Sary
KHIEU Samphan

Lawyers for the Accused:

SON Arun
Michiel PESTMAN
ANG Udom
Michael G. KARNAVAS
KONG Sam Onn
Anta GUISSÉ

Trial Chamber Greffiers/Legal Officers:

DAV Ansan
Roger PHILLIPS

For the Office of the Co-Prosecutors:

Vincent DE WILDE D'ESTMAEL
VENG Huot
Tarik ABDULHAK
CHAN Dararasmey

Lawyers for the Civil Parties:

PICH Ang
Élisabeth SIMONNEAU-FORT
LOR Chunthy
MOCH Sovannary
VEN Pov
Barnabé NEKUIE
CHET Vanly
Olivier BAHOUGNE

For Court Management Section:

KAUV Keoratanak

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
MR. CHAN DARARASMEY	Khmer
MR. DE WILDE D'ESTMAEL	French
JUDGE FENZ	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. VENG HUOT	Khmer

1

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

2 (Court opens at 0907H)

3 MR. PRESIDENT:

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

5 During this week session and at the beginning of this week, the

6 Chamber will hear parties putting documents before the Chamber.

7 And before we proceed, the Chamber would like to inform the

8 parties to the proceedings in Case File 002 that during the whole

9 week of this hearing, starting from today until the 16th of

10 February, and due to the fact that Judge Silvia Cartwright has

11 some health concern, she is not able to attend the proceedings.

12 And, having consulted with Judges of the Bench, I, the President

13 of the Chamber, has assigned Judge Claudia Fenz to be in the

14 place of Judge Silvia Cartwright during her absence. And this is

15 pursuant to Rule 79.4 of the Internal Rules.

16 [09.09.23]

17 The greffier of the Chamber, would you wish to make any

18 observation concerning the presence of the party?

19 THE GREFFIER:

20 Today, we note new counsel for Khieu Samphan. Ms. Anta Guissé has

21 not yet taken an oath. Thank you, Mr. President.

22 MR. PRESIDENT:

23 Counsel Anta Guissé, could you please be on your feet?

24 [09.10.06]

25 Counsel Anta Guissé, during these proceedings and that you have

2

1 not yet fulfilled the procedural formalities according to our
2 applicable law because you have not taken an oath before the
3 Appeal Court, the Chamber allows you to be present here only to
4 observe the proceeding, but you are not yet allowed to make any
5 observations until you have taken an oath before the Appellate
6 Court. Please be seated.

7 We would like now to proceed next to the Prosecution.

8 The Chamber has allocated certain time to the prosecutors and the
9 Lead Co-Lawyers for the civil parties for the purpose of the
10 evidentiary documents hearing before us today.

11 We would like to know how times have already been allotted among
12 the Co-Prosecutors and the Lead Co-Lawyers for the civil party.

13 Could you please advise us?

14 [09.11.45]

15 MR. DE WILDE D'ESTMAEL:

16 Thank you, Mr. President, Your Honours. Indeed, we have arranged
17 our time with the civil party lawyers as well, and we decided to
18 share time as follows.

19 This morning, we're going to begin presenting a certain number of
20 documents.

21 My colleagues, this afternoon and tomorrow, will continue with
22 this, and I believe until about 3 o'clock tomorrow.

23 And then, after that, the civil parties will speak until
24 Wednesday at noon, if I'm not mistaken. Thank you.

25 MR. PRESIDENT:

3

1 Lead Co-Lawyers for the civil parties, do you have any issue to
2 raise, or you agreed with what has already been indicated by the
3 prosecutor?

4 [09.12.45]

5 MR. PICH ANG:

6 Mr. President, thank you. We have already discussed with the
7 Co-Prosecutors and we agree with what has already been stated.

8 MR. PRESIDENT:

9 Thank you.

10 Counsel for Nuon Chea, you may now proceed, because it's been
11 noted you were on your feet twice.

12 MR. PESTMAN:

13 Yes. Thank you. Maybe, to make the proceedings run as smoothly as
14 possible and also to allow my client to digest all the
15 information that will be presented to him today and tomorrow, it
16 is better or easier to -- for him to respond--

17 (Technical problem)

18 [09.13.40]

19 MR. PRESIDENT:

20 Unfortunately, your message has not been rendered into the other
21 languages yet.

22 Counsel for Nuon Chea, could you please repeat your statement?

23 Because it was not yet conveyed through the interpreting channel
24 yet.

25 MR. PESTMAN:

4

1 Thank you, Mr. President. I hope it works now. Am I being
2 translated or interpreted?

3 My suggestion would be -- that was what I was trying to say -- to
4 allow my client to respond or to comment on all the documents
5 which are going to be presented to him today and tomorrow and on
6 Wednesday morning, after the Prosecution and the civil parties
7 have finished -- finished presenting their documents.

8 [09.14.51]

9 It takes time for my client to digest all the information that is
10 presented to him, and it's -- for us, it's easier to make copies
11 of the relevant documents, give them to him so that he can read
12 them in the detention centre. And then it's much easier for him
13 to comment on them. If he only hears one quote out of a document,
14 it's very difficult for him to react to that particular quote on
15 the spot. And it might also save time if he reacts in one go
16 instead of -- you know, it doesn't force him to repeat himself
17 all the time -- every time a document is presented to him. That's
18 the first thing I wanted to raise.

19 [09.15.27]

20 There's another point I would like to raise, and that is
21 regarding an incident that occurred last Wednesday -- I believe
22 it was the 8th, or Wednesday -- after I raised a controversial
23 point. I will not mention it again. But during that incident, I
24 was addressed by the President no less than 12 times, I've been
25 told, with "neak aeng"; it's an expression I'm not familiar with.

5

1 It was not translated into English. It is mentioned on pages with
2 ERN numbers 00777437 to 439.

3 I'm not familiar with the Khmer language, as you know, and it was
4 not interpreted, but I was later told by several people that the
5 expression is highly unusual in Court, certainly, to address one
6 of the other parties. I now even understand that the language is
7 inappropriate, if not simply rude, and it could even be
8 interpreted as intimidating, not just to me, but, more
9 importantly, also to my client.

10 [09.16.52]

11 Mr. President, I might have raised -- I may have raised issues
12 you're not happy with, but I've never addressed the Court
13 inappropriately, and I would like the Court to address us
14 appropriately as well.

15 The use of the work -- the word "neak aeng" to address me or my
16 client only helps to further undermine the integrity of this
17 Court, and, equally important, it could give the appearance of
18 bias. A neutral observer of these proceedings could be led to
19 believe that you, Mr. President, are unable or unwilling to judge
20 my client, Nuon Chea, with the necessary emotional distance and
21 objectivity.

22 It is what I wanted to note for the record today. Thank you.

23 MR. PRESIDENT:

24 Thank you for the observation made by counsel for Nuon Chea.

25 Next, we proceed to the Co-Prosecutors to proceed with the

6

1 documents they would wish to put before the Chamber.

2 Could you please hold on a little bit? Because counsel for Khieu
3 Samphan is on his feet. You may proceed.

4 [09.18.45]

5 MR. KONG SAM ONN:

6 My sincere apologies for interrupting the Co-Prosecutor, but I
7 would like to raise this concern before the Co-Prosecutors are
8 presenting their documents.

9 I would like to know how the lists of documents are going to be
10 presented at the best interest of the Court and that -- so that
11 the Chamber can find justice for all parties involved.

12 According to the observation by counsels for Khieu Samphan, we
13 note that the list of documents sent -- was emailed during
14 weekend contains 88 items, and the list itself does not include
15 all the documents to be allowed by the Chamber for debate. It is
16 therefore these documents, the majority of which are new
17 documents.

18 And the problem before us is that the presentation of the list by
19 the prosecutor, a moment - now, will be the opportunity for the
20 prosecutors to tell the public to understand or to learn of the
21 documents. However, there is no time for challenging such
22 documents being put.

23 My question to Your Honours is whether parties are allowed any
24 time to challenge such new documents.

25 [09.20.39]

7

1 And I also have another question as well, as to how new documents
2 are allowed to be put before the Chamber at this time and whether
3 such introduction of new documents impact the rights of the
4 accused persons or not.

5 I, therefore, would request that the Co-Prosecutors be allowed to
6 present only those particular relevant documents, and in
7 particular only documents that are stated in document E3. No
8 other documents shall be introduced here that are not relevant to
9 the historical background of the Democratic Kampuchea. Thank you,
10 Your Honours.

11 [09.21.35]

12 MR. PRESIDENT:

13 Co-Prosecutor, you may proceed first.

14 MR. DE WILDE D'ESTMAEL:

15 I wish to respond. The Defence is telling us that we're going to
16 present new documents, but we do not feel that these are new
17 documents as the Chamber has defined it in one of its memoranda.
18 New documents would be only documents that would have been put
19 before the Chamber after the table that was established in July
20 last year. The memorandum of the Chamber clearly states that we
21 are entitled to present documents that have already been put
22 before the Chamber or that have been identified by the parties
23 previously as being relevant to Case 002/1.

24 And we believe that the tables regarding this subcase 1, which
25 were sent out in July -- that is to say, a list of about 4,000

8

1 documents -- include these documents that are relevant to this
2 subcase, focusing on the historical context of Democratic
3 Kampuchea. So these are not new documents; these are documents
4 that have been identified previously and that the Defence was
5 able to analyze since long.

6 [09.23.14]

7 MR. PRESIDENT:

8 Counsel for Khieu Samphan first.

9 MR. KONG SAM ONN:

10 Thank you, Mr. President. I wish to respond to what the

11 Co-Prosecutor just stated.

12 He indicated that the list of documents were no new documents at

13 all. I think, having observed the table presented by the

14 Co-Prosecutors, 24 documents are irrelevant. And I would like

15 just to give you an example: document 1 -- document 17, 19, 21,

16 22, 33, 34, 37, 39, and 42; these are just examples of irrelevant

17 documents that I have picked from the list in the table. And they

18 are irrelevant to any of the proceeding before us.

19 I would like the Co-Prosecutor to review the documents and submit

20 the -- submit only relevant documents as discussed before this

21 Chamber. Thank you.

22 [09.24.50]

23 MR. PRESIDENT:

24 Counsel for Khieu Samphan, could you please advise us whether the

25 documents you indicated were irrelevant based on your observation

1 or they are new documents, genuinely?

2 And how can you identify whether these documents are new, whether
3 they are not yet put before the Chamber or in the case file or
4 whether the documents have not yet been placed for debate during
5 the hearings so far?

6 The documents to be put before the Chamber now are documents
7 subject for debate. And if you observed that they need to be
8 challenged, you can also make your general rebuttal statements.

9 And I think it is pursuant to the procedures set forth in the
10 Internal Rules.

11 The Chamber, indeed, will examine the documents, because we treat
12 that your observation may be of your personal point and that the
13 Chamber may think differently.

14 And if the party feels that the documents are useful for the
15 proceeding, they can propose and that they can ask that the
16 document be put before the Chamber, pursuant to Rule 87.4. And
17 the Chamber will also consider Rule 87.3 as well.

18 [09.26.49]

19 MR. KONG SAM ONN:

20 Thank you, Mr. President. With regard to the documents as
21 indicated by the prosecutor and sent to parties through email
22 during the weekend, they are not entirely new documents. However,
23 the documents have not yet been debated before the Chamber, and
24 these documents has not yet been classified by the Chamber as in
25 document in E3 yet.

10

1 I, therefore, am of the opinion that the -- these documents were
2 not be challenged by parties, as we see, because if the party --
3 if the prosecutor introduces these documents and their parties
4 have no opportunity to challenge, it perhaps be conclude that the
5 Chamber has acknowledged or recognized the documents.

6 [09.27.59]

7 MR. PRESIDENT:

8 Counsel for Ieng Sary, you may proceed.

9 MR. KARNAVAS:

10 Excuse me. Good morning, Mr. President. Good morning, Your
11 Honours. And good morning to everyone in and around the
12 courtroom.

13 Perhaps, if I could clarify some matters, we received a list over
14 the weekend, a list of documents which, while they may be on the
15 Prosecution's list for the entire Case 002, some of the documents
16 are not designated for Case 002/1.

17 This morning, we did send an email to Mr. Smith, noting that we
18 saw documents on their list which are -- which may be on their
19 overall list for 002, but not on the list for 002/01. We've asked
20 the prosecutor to identify all the documents, because we think
21 that this is appropriate.

22 [09.29.01]

23 And at this point, perhaps the Trial Chamber should clarify for
24 all the parties, so that we're all on the same page, we all fully
25 understand the procedure, whether the parties are allowed to use

11

1 whatever documents is on their list for the entire Case 002 or
2 limit the documents to those who are -- which are listed for
3 002/1. I think, with some clarification, this would alleviate the
4 need to have this debate in the future.

5 If it is to be limited to 002/01, then it is our understanding
6 that no such other documents should be attempted to be introduced
7 by the Prosecution, unless they first seek leave from the Court.
8 And in the future, if this is the -- if this is indeed the
9 procedure, they also notify the parties so we don't have to hunt
10 and double check their list.

11 I think that -- that's where we are, Your Honour. Thank you.

12 [09.30.24]

13 MR. PRESIDENT:

14 International Co-Prosecutor, you may now proceed.

15 MR. DE WILDE D'ESTMAEL:

16 Thank you, Mr. President. The Co-Prosecutors, of course, intend
17 to abide by the memorandum sent by the Chamber to the different
18 parties and thus only present documents that are relevant to the
19 historical context; that can only be documents that -- can not
20 only have been documents that have already been discussed with
21 the E3, but also other documents that have been included on the
22 Co-Prosecutor's list.

23 [09.31.06]

24 Among the 88 documents, some are particularly useful to
25 corroborate other documents, and as the discussions proceed on

12

1 these documents, I believe that you will understand that we are
2 not stepping outside this framework of trial number 002/1. Thank
3 you.

4 (Judges deliberate)

5 [09.35.45]

6 MR. PRESIDENT:

7 The defence counsel for Ieng Sary, you may proceed.

8 MR. KARNAVAS:

9 Thank you. And my apologies; but, from listening to the
10 prosecutor, he has not told us concretely whether, indeed,
11 they've added documents from 002, that they may have identified,
12 that are outside the list of 002 slash, or stroke 1. That's the
13 question. Because, if looking at your memory, Your Honours, of 8
14 February 2012, it would appear that the documents have to be
15 identified as being listed for Case 002/01.

16 [09.36.36]

17 So my question, Your Honours, is to the prosecutor, and for the
18 prosecutor to answer the Court concretely and forthrightly,
19 whether they have added documents.

20 We have pointed out, in an email sent this morning, two examples:
21 D312.2.8 and D366/7.1.632.

22 Now, we could be mistaken, but from listening Prosecution's
23 response to Your Honours, he did not concretely tell us whether,
24 indeed, they are going outside that list.

25 If indeed they are, then we suggest that they seek leave, and

13

1 perhaps you will grant that leave, but I think that is the
2 appropriate way to proceed. Thank you.

3 MR. PRESIDENT:

4 The International Co-Prosecutor, you may clarify on this
5 particular issue.

6 Referring to the memorandum of the Trial Chamber, dated the 9th
7 of February 2012, on the oral hearing of the documents to be
8 presented by parties, the Chamber is of the view that it is
9 abundantly clear, so this issue should not arise.

10 [09.38.18]

11 And Chamber reminds party in paragraph 2 in the memorandum that,
12 as previously indicated, the Chamber intends to grant the parties
13 an opportunity to present before it a limited number of documents
14 considered to be particularly relevant to the historical
15 background segment of Case 002/01.

16 The purpose of this hearing is to ensure a greater measure of
17 public accessibility to the documentary aspect of the trial, and
18 to provide an opportunity to those parties who seek it to
19 highlight for the Chamber key documents considered to be
20 particularly important to the historical background segment of
21 Case 002/01, from their perspective.

22 [09.39.20]

23 So this is a mere reiteration of what has been indicated in the
24 memorandum of the Trial Chamber, so parties should comply with
25 this memorandum.

14

1 The International Co-Prosecutor, you may now proceed with your
2 final clarification on the intention to put the documents which
3 have been objected by the defence counsels on certain matters
4 arisen from the document lists intended to be presented before
5 the Chamber by the Prosecution. You may now proceed.

6 MR. DE WILDE D'ESTMAEL:

7 Thank you, Mr. President. Let's shorten this debate by stating
8 two things.

9 The documents that will be presented this morning are all
10 documents that have been clearly identified and which would not
11 fall in the framework of the objection.

12 As for the rest, we will look at the email, which I haven't
13 received yet. But as far as I am aware, all of the documents that
14 we are intending to submit are well and truly on the July list
15 and which concern both the evacuation from Phnom Penh and the
16 second forced transfer and phase 1 of the trial, the historical
17 background and the other subjects that fall in the same
18 framework.

19 [09.41.15]

20 We will do some checks this morning, and this afternoon we will
21 be able to tell if, in the list, there are one or two documents
22 that were not on the original list and which could depart from
23 the instructions in the memorandum. I don't believe it's the
24 case.

25 In any case, this morning, all of the documents that we're going

15

1 to present are well known, and they have already been discussed
2 in the debate on annexes 1 and 5 or as part of the questioning of
3 the accused Nuon Chea. Thank you, Mr. President.

4 MR. PRESIDENT:

5 After having heard the argument by parties, now the Chamber would
6 like to proceed to the presentation by the Prosecution on the
7 documents intended to be presented. You may now proceed.

8 MR. DE WILDE D'ESTMAEL:

9 Thank you very much, Mr. President. Your Honours, this morning,
10 we'd like to present some 12 significant documents which concern
11 the general history of the Party and the development from before
12 April 1975 of certain policies. These policies are very often the
13 same ones as those that were fully applied or reinforced after
14 the 17th of April 1975, hence the interest in discussing them.

15 [09.43.23]

16 As we see it, there's a certain continuity between the period
17 that precedes the fall of Phnom Penh and the one afterwards.

18 Our colleagues, this afternoon and tomorrow, will look at
19 documents that particularly concern the past, the role, and
20 activities of the three Accused before the fall of Phnom Penh.

21 Since the list of documents has been communicated to the parties
22 in advance, it's not our intention to submit a paper copy of each
23 one of the documents to the Accused. And as Mr. Nuon Chea's
24 defence said, that team, at least, will be able to do what is
25 necessary for their client.

1 [09.44.19]

2 We will not be submitting originals either. A certain number of
3 key documents concerning the history of the Party Communist
4 movement before the 17th of April 1975 were written and
5 disseminated before Phnom Penh fell. Other documents that are
6 crucial to understanding the history of the Party and its
7 ideology consist, for a good part, in transcribed speeches and
8 other documents published by the Party itself and its leaders
9 after April 1975.

10 As the Co-Investigating Judges stated in paragraph 18 of their
11 Order - quote -- "the paragraph (sic) has had a tendency to
12 re-write its own history", meaning that these things cannot be
13 excluded.

14 [09.45.22]

15 However, all of these documents do present the vision of the
16 Communist Party of Kampuchea -- of its own history. And this
17 history is corroborated by a number of other documents,
18 statements, and testimonies which are contained in the file.

19 Let me come, therefore to our first document that we're going to
20 look at quickly this morning. It's IS 6.3, which is a decision of
21 the Central Committee on a certain number of matters, dated 13
22 March 1976. And if I come back to this document, it's because it
23 does give us a certain number of key dates in the history of the
24 Party, dates and events which -- of which the bulk, at least,
25 have been confirmed by the accused Nuon Chea in the hearing or by

1 the accused Khieu Samphan in his books.

2 So, in IS 6.3, if you look at point 5, which is entitled "The
3 Matter of the Party History", it says: "Designate the birth of
4 the Party back to 1960, not using 1951, in order to not let it
5 get attached to others -- to be clearly separate."

6 [09.46.48]

7 This is a reference to the establishment of the Vietnamese and
8 Laotian Parties in 1951, after the dissolution of the Indochinese
9 Communist Party. The CPK wants the creation of the Revolutionary
10 Party of the Khmer People to be associated with the same period,
11 but it to be clearly distinguished from the establishment of the
12 other parties or -- hence their doctrine of 1960 as the year of
13 the establishment of the Party.

14 In point 8, there are days when historic events. And I will quote
15 certain important dates in their chronological order rather than
16 the order that it's done in the document.

17 So points 10 and 11 is the anniversary of the birth of the
18 Democratic Youth Organization -- that was on the 5th of February
19 1961 -- and "The Birth of the Democratic Women's Organization",
20 on the 10th of July.

21 The second date is the birth of the Revolutionary Army -- that's
22 Revolutionary Army Day, the day of armed struggle throughout the
23 country, which is set at the 17th of January 1968. In point 7,
24 the commemoration of the -- day of the reactionary coup, which is
25 the 18th of March 1970 -- that's the Lon Nol coup.

18

1 [09.48.38]

2 Another event is "The Day of the Organization of our National
3 Democratic Front", which is set at the 23rd of March 1970. That's
4 the date of the Sihanouk appeal.

5 In 13, there's "The Birth of the Peasant Cooperative
6 Organization", 20th of May 1973, and that is the date that was
7 selected as being the one for the establishment of the
8 cooperatives.

9 Last couple of dates: the date of the Opening of the Decisive
10 Attack is set at the 1st of January 1975; and then there is "The
11 Independence Celebration", considered "the highest national
12 celebration", that's the 17th of April 1975.

13 That brings me to a close on IS 6.3. And unless the Accused wish
14 to make any statement at this stage, I will go on to the next
15 document.

16 [09.49.57]

17 This is D243/2.1 -- D243/2.1.12 or, more easily, E3/11. It's an
18 issue of the "Revolutionary Flag" from September 1977.

19 Judge Lavergne referred to another document, IS 4.40, which has a
20 similar kind of content, at a prior hearing. A great deal has
21 been said about this document, which is a kind of marathon speech
22 by Pol Pot, that was delivered on the occasion of the anniversary
23 of the establishment of the Party.

24 I will limit myself to one or two other points that are made in
25 the document. It's a very rich document in terms of the

1 information about key party dates, which echo the ones I
2 mentioned just now. It's also essential as a document for the
3 strategic and political lines of the Party and as concerns the
4 fate that was reserved to the enemies of the revolution.

5 The key dates in the speech are the following. I don't think,
6 unless it's absolutely crucial, I'm going to quote the ERN for
7 each one of these dates.

8 There's, first, 1957, in which Pol Pot's talk about -- talks
9 about setting up a committee in order to prepare the Party's
10 political line, according to Marxist-Leninist principles. You
11 will recall, no doubt, that Nuon Chea referred to this during a
12 prior hearing.

13 [09.52.08]

14 Following the chronological order, we see a reference to the 28th
15 to the 30th of September 1960, the three days during which the
16 first General Assembly or Congress of the Representative -- of
17 Representatives of the Party was held in the Phnom Penh Station,
18 at the national scale, bringing together 21 representatives of
19 peasants and workers.

20 Then, Pol Pot refers to 1964 to 1967; these are years when the
21 revolutionary resistance is getting organized and there are
22 demonstrations in Phnom Penh.

23 He refers to the Samlaut uprising, in 1967; and in the middle of
24 1967, there's the decision by the Party to launch the armed
25 struggle in 1968 to attack the enemy and defend the revolution.

1 Pol Pot also says that, in January 1968, the armed struggle
2 begins in the Northwest Zone; and in the months that follow,
3 that's followed by armed struggle beginning in all of the zones.

4 [09.53.35]

5 Still in 1968, Pol Pot declares that, in 1968, the Central
6 Committee Bureau is still in Rattanakiri. He refers of course to
7 the five-year war from 1970 to 1975, but he then looks more
8 particularly at 1973, the year of the creation of the
9 cooperatives, which represent the collectivist structure of the
10 population. And he says the following, on French page 00492846,
11 in English 00486256, and in Khmer 00063174:

12 "During the war, the cooperatives' resources, which provided
13 provisions for all forces -- armed forces, economic forces,
14 transport, and other forces -- after the war, they were capable
15 of providing all the subsistence needs in all areas to the new
16 inhabitants who were just about to be or had been freed on the
17 17th of April 1975."

18 [09.55.27]

19 Another date mentioned by Pol Pot in this speech is June 1974,
20 where he acknowledges that a meeting had taken place, a meeting
21 of the Party Central Committee, where it was decided to carry out
22 at any price a final attack to free Phnom Penh and the entire
23 country.

24 And finally, the last two dates, the first of April 1975, which
25 is the Liberation of Neak Loeung -- N-E-A-K L-O-E-U-N-G -- before

1 the liberation of Phnom Penh on the 17th of April 1975.

2 There are also, in the same document, some of the strategic
3 political lines and quotes -- and about the enemies.

4 It seems that, according to Pol Pot and the regime, the
5 identification of enemies initially comes from the analysis made
6 of the history of the country, and during successive periods,
7 during the slave period and during the feudal period and,
8 finally, during the feudal and capitalist period.

9 In the French version, on page 00492802, in English 00486218, and
10 in Khmer 00063125, Pol Pot says - and I quote:

11 "During the slave society, there was a struggle between the
12 exploiters (the slave owners) and the exploited (the slaves or
13 'owned servants'). These two factions were adversaries,
14 adversaries in life-and-death conflict."

15 [09.57.46]

16 On the next page, concerning feudal society, he says that in
17 feudal society, there were "two classes: the feudalist landlord
18 class and the peasant class". And Pol Pot tells us that, in both,
19 the oppressed class fought against the oppressing class, but it
20 did not win, because there was not a clear political line.

21 Later on, in the feudal and capitalist society -- the third the
22 kind of society, after the Second World War, Pol Pot tells us
23 that resistance movements against colonialists and foreign
24 imperialists were underway, but they did not have a suitable
25 revolutionary political line.

1 And he concluded, on French 00492808, in English 00486222, and in
2 Khmer 00063132-- He says - I quote:

3 "In the past, we didn't have a political line, there was no
4 correct line, so the force of the people cannot--"

5 "There was no line which could resist the foreign enemies who
6 invaded us; there was no line to fight back against the class
7 enemies who exploited us within the country", hence the need to
8 adopt a basic strategic line for the national democratic
9 revolution at the first Party Congress, on the 30th of September
10 1960, and to put this into the statute.

11 [10.00.00]

12 I won't go into the fundamental strategic line in great detail
13 because my colleague, Dale Lysak, has already done so, but Pol
14 Pot stresses that the society was made up of five well-defined
15 social classes, and he says there was the working class, the
16 peasant class, the petty bourgeois class, the capitalist class,
17 and the feudal class.

18 He then talks about inextricable, irreconcilable antagonism
19 between the peasants, who constitute the fundamental force
20 because they are 85 percent of the population, and the landowning
21 class.

22 [10.00.55]

23 And on page French 00492817, in English 00486231, and in Khmer
24 00063142: "It was necessary for the very poor peasants to
25 exterminate the land robbers."

1 A little bit further on, Pol Pot gives specifications on the
2 enemies -- and I will quote:

3 "There were two enemies that needed to be combated: the first,
4 the imperialists, and in particular, American imperialism; and
5 the second enemy was the feudal class, the landowners, and the
6 class of reactionary compradors." End of quote.

7 So, in order to combat these enemies, Pol Pot states that it was
8 necessary to gather the strategic forces as well as the tactical
9 forces, and he says, on page French 00492841 (sic), in English
10 00486234, and in Khmer 0063146 -- he says - and I quote: "We had
11 considered the forces of the workers and peasants as the
12 fundamental strategic forces."

13 [10.02.31]

14 On the following page, he says:

15 "Regarding the tactical forces, they were the prominent people
16 from the feudal aristocracy, the comprador capitalist class or
17 the landowner class, who are willing to struggle to some extent
18 against the enemy. We tried to gather up all these people,
19 nonetheless. Even Samdech Penn Nuth and Samdech Norodom Sihanouk,
20 the Supreme -- Samdech Supreme Patriarch Chuon Nath of the
21 Mohanikay Buddhists and the Samdech Supreme Patriarch of the
22 Thammayuth Buddhists were prominent people whom we strove to
23 gather up. We gathered up everyone." End of quote.

24 [10.03.29]

25 So, therefore, you can understand clearly what he means by

1 "tactical forces".

2 And regarding these tactical forces and these enemies, Pol Pot
3 explains on page French 00492822, in English 00486235, and Khmer
4 00063146, that -- and I quote:

5 "First of all, it was necessary to appeal to all of the enemies
6 that might follow us in certain occasions.

7 "Second of all, it was necessary to neutralize those who could be
8 neutralized, so they could not carry out actions against us.

9 "Third, it was necessary to isolate the most vicious in order to
10 attack them." End of quote.

11 This is, therefore, what regards the usage of these tactical
12 forces.

13 And finally, I would like to stress a passage that regards the
14 hatred of the regime on the part -- and a hatred of the cities,
15 which, we believe, could already justify, in itself, the
16 evacuation of the cities.

17 In his speech, Pol Pot explains. In French 00492826, English
18 00486238, Khmer 00063150 into the following page, he explains:

19 "The countryside was our support base. Why did we not take the
20 city as a support base? The city could not serve as a support
21 base. Of course, the city had many people but it had limited
22 space, and the enemies were everywhere there. The Assembly was
23 there, the courts, the prisons, the police, and the soldiers;
24 everything was there. The networks of the enemy's repressive
25 apparatus were concentrated there, and the class composition of

25

1 the cities was very complex. By contrast, the countryside was
2 vast. The enemy was spread thin there. In some villages, there
3 were no enemies, there were no soldiers. The number of peasants
4 was important, and the class elements were our -- were in our
5 favour as well. This is the reason why we chose the countryside
6 as a support base for the revolution." End of quote.

7 [10.06.37]

8 Let me now move on to the third document. This is E3/5, which is
9 also referenced as D243/2.1.1. This is an issue of "Revolutionary
10 Flag" from August 1975, and this, therefore, is a copy of this
11 official magazine that was published a little while after the
12 capture of Phnom Penh. And it contains four articles, but we
13 would like to focus especially on the two first articles. And I'm
14 going to focus in particular on the first article, which is
15 titled "The Cadres, Party Members, People, and Troops of the
16 Revolutionary Army Must be in Unity With the Party in Assessing
17 and Evaluating the Situation in Order to Fulfil The New Task of
18 Gaining Victory in Leaps".

19 [10.07.50]

20 This key article relates to the economic and financial situation
21 of the Party between March 1970, the date of Lon Nol's coup
22 d'état, until March 1975, the day before the fall of Phnom Penh.
23 In this article, they -- it is -- we focus again on the
24 domination of economics and finances and the domination of
25 capitalists, in particular in the cities. This analysis justifies

1 that, as of the middle of 1973, the Party has destroyed the
2 former oppressive ties, according to Pol Pot, and that this Party
3 has implemented the cooperative system and eliminated the spies
4 and the shop owners and sent the shop owners to work in the
5 countryside.

6 And you will see, therefore, that this article relates to the
7 definition of classes as well as to the definition of what an
8 enemy of a revolutionary -- of the revolution is, and also to the
9 creation of cooperatives and to the abolition of the market
10 economy. It regards certain articles regarding the evacuation of
11 cities, in particular the city of Kratie well before April 1975.

12 [10.09.15]

13 In a first -- at the beginning, ERN in French 00538953, in
14 English 00401478, and Khmer 00063313, the article explains what
15 was, according to the Party, the economic and financial processes
16 from mid-1970 until mid-1973.

17 And it states the following, regarding point one, the problems of
18 land and agriculture: "The State took into its grasp for
19 government the land of the traitors and those who ran to the side
20 of the enemy."

21 It also explains -- and I quote: "Our revolution has reduced --
22 eroded private ownership somewhat in terms of the exploitation of
23 the feudal land owners." The author stresses that these are
24 positive elements.

25 However, he also says on the following page, point B in French --

1 and I quote:

2 "Privatism remains in general. They were still acting as
3 landowners.

4 "For example: The land owners, the rich peasants, middle
5 peasants, the poor peasants, and the labourers to whom the state
6 distributed land worked that land privately. All the output fell
7 into private hands. Which private persons? The businessmen, the
8 capitalists--"

9 And the author concludes: "--and through them the harvests would
10 fall into the hands of the enemy." End of quote.

11 [10.11.22]

12 And on the following page, again, it is said -- and I quote:

13 "This was our revolution, for our own power, for our own land,
14 but we were not the masters." End of quote.

15 Now regarding handicrafts and industry, in French 00538955, in
16 English 00401480, and Khmer 00063315, the following is stated --
17 let me quote:

18 "The capitalists were not positioning themselves as nationalists
19 trying to serve the people and the war of national liberation.
20 They were only thinking about gathering the fruits of our
21 agriculture, of killing the revolution, of killing the war of
22 national liberation, of killing the people."

23 Now, regarding commerce -- and that's on the following page --

24 let me quote: "The private sector would steal from the people
25 when they would buy products from the enemy to sell to the State

1 and they would make profits on all sides."

2 And further, it is said again: "The private sector was entirely
3 free to do what it wished. They remained the masters. Rice was up
4 to them, salt was up to them, gasoline was up to them, cloth was
5 up to them, and machinery was also up to them. What they-- Our
6 State was subjugated to them."

7 [10.13.28]

8 And then the author mentions the example of the Kratie Market:

9 "The Kratie market was approximately the same as before. Our
10 militiamen had no shirts, no pants worthy of that name. This
11 meant that the private owners were still the masters and that the
12 shop keepers were the masters of the country."

13 [10.13.58]

14 And the article states again, regarding finance: "However, the
15 capitalists were the most fortunate and they gathered the most
16 money in order to buy products." End of quote.

17 And the article concludes this chapter with the following, on
18 page 00538957 in French, 00401481 in English, and Khmer 00063317

19 -- and I quote:

20 "In summary, assessing every sector of economics and finance in
21 mid-1973, our Party saw that:

22 "We had military state power and political state power, but we
23 were entirely economically and financially subjugated by the
24 businessmen. Therefore, the economic and political tasks of
25 serving the war of national liberation and serving the lives of

1 the people were insufficient. To the contrary, if we continued in
2 this fashion there was a danger that the businessmen would become
3 our bosses, the bosses of the army, the bosses of the revolution,
4 the bosses of the people." End of quote.

5 In the second part of the same article, which is titled "The
6 Economic-Financial Chronology of the Party From Mid-1973 Until
7 Early 1975", the following is said in the French page 00538958,
8 in English 00401482, in Khmer 00063318 -- it is said, and I
9 quote: "During this period -- that is to say from mid-'73 to
10 early 1975 -- we did not reform like before, meaning we carried
11 out absolute democratic revolution." End of quote.

12 [10.16.22]

13 And under heading 1, regarding "the problems of land and
14 agriculture", the following is said:

15 "We managed to -- we fundamentally eliminated exploitive
16 production contacts. Businessmen and pawnbrokers were totally
17 gone.

18 "In the liberated zones of the first category, we organized and
19 generalized the cooperative system progressively and rapidly,
20 whereas in the type 1 liberated zones, it was slower, but however
21 it was successful. We suppressed private ownership and private
22 ownership of production means, and we imposed cooperatives." End
23 of quote.

24 [10.17.18]

25 And just below "The outcome", under the heading "Outcome", point

1 1, it says:

2 "Agricultural products, in particular the paddy harvest, was in
3 the hands of the revolution. The businessmen and capitalists
4 died. They were no longer acting as the masters of the people.
5 The revolution acted as the master, along with the people."

6 On point 4 -- at point 4: "Government agents, spies, and
7 psychological war were eliminated."

8 And on page French 00538959, in English 00401483, and in Khmer
9 00063319, the following is stated:

10 "And how were the shopkeepers? They insulted us, they created
11 false resistance fighters, they created spies, they engaged in
12 psychological warfare, but they did not succeed, however."

13 And finally, heading 3, "Commerce" and "The outcome", and on the
14 same page as I just mentioned, it is said the following -- and I
15 will quote:

16 "State commerce was fundamentally sorted out. The people were
17 happy. The troops were happy. But the businessmen were not happy.
18 They were out of smiles for us. We were not subjugated to them.
19 Previously they were playful towards us. Now we have them do
20 production labour -- we order them to do production labour just
21 like everyone else. They did not react strongly, because the
22 people are pleased with the revolution and the troops are pleased
23 with the revolution." End of quote.

24 [10.19.22]

25 And you can see that all of this justified the evacuation of the

1 cities before Phnom Penh was evacuated.

2 And now let me move on to the second article in the same

3 document. This is Pol Pot's speech, which is referred to in this

4 article -- who is referred to as being the comrade leader of the

5 supreme -- Military Committee of the Party. This is a speech

6 dated from 22 July 1975, and this was a ceremony organized for

7 the Revolutionary Army of the Central Committee of the Party.

8 And on the French page 00538966, in English 00401491, and in

9 Khmer 00063328, under heading II, which is titled "The History of

10 the Building of the Revolutionary Army of Kampuchea Under the

11 Leadership of the Communist Party of Kampuchea", Pol Pot states

12 the following:

13 "The strategic and tactical lines of the Communist Party of

14 Kampuchea were clearly and fundamentally correctly drawn-up in

15 1960 during the First Party General Assembly (even though it is

16 true that our Party was created in 1951)." End of quote.

17 [10.21.00]

18 This is a quote that is -- we can see it on paragraph 20 of the

19 Closing Order, but there is more to this speech than what is

20 stated in the Closing Order. Pol Pot says a bit before on the

21 same page -- and we believe, again, that this is a reference to

22 the strategic political lines that were adopted during the First

23 Congress, in 1960 -- and I will quote:

24 "Our Revolutionary Army was born of the strategic political line

25 of the Communist Party of Kampuchea, which states in one clause

1 that: 'The enemy uses violence. They use acts of political and
2 military cruelty as weapons to oppress, to kill, to wreck and
3 destroy the people. Therefore, the Party must lead the people in
4 the use of violence, in the use of acts to repay in blood,
5 whether politically or militarily.'" End of quote.

6 And Pol Pot continues -- and I will--

7 "In other words, this means that the Party must use revolutionary
8 violence and must assemble the people to use revolutionary
9 violence to oppose the reactionaries and the oppressor classes
10 and to oppose the colonialists and imperialists." End of quote.

11 [10.22.30]

12 On the same page again, Pol Pot specifies that the revolutionary
13 army back then bore many names and that one of these names was
14 "Secret Unit of the Security Agents", and Pol Pot described this
15 secret unit as follows -- and quote: "It was necessary to crush
16 the enemies and the different reactionaries hiding as spies in
17 order to protect the Party, the revolution, and the revolution
18 (sic)." End of quote.

19 [10.23.09]

20 On the following page, he speaks about 1967 and he says:

21 "In 1967, the revolutionary movement, in general, was growing,
22 the Party was growing, and the conflict between the leading class
23 and the people had become very, very acute. It was necessary to
24 prepare and to transform the security agents into warriors and to
25 organize them into small or medium-size guerrilla units in all

1 areas."

2 And then he says: "These guerrilla units became our first
3 revolutionary army that fought against the enemy in 1968." End of
4 quote.

5 On the French page 00538969, English 00401494, and Khmer
6 00063322, Pol Pot says the following -- and I quote:

7 "Therefore, in 1968, we attacked in seventeen of the nineteen
8 provinces. By 1969, we attacked throughout the country. It was--
9 [...]Therefore, the revolutionary movement, back then, developed by
10 following the fairest political line, that is to say the line of
11 revolutionary violence and the line of independence, mastery and
12 self-reliance." End of quote.

13 And then, on page 00538972 in French, English 00401497, and in
14 Khmer 00063336, he confirms what happened in mid-1974 and he
15 quotes: "In mid-1974, we decided to capture Phnom Penh and the
16 entire country during the dry season between 1974 and 1975." End
17 of quote.

18 This, again, is a reference to the June 1974 Central Committee
19 meeting which Nuon Chea spoke to us several times during the
20 hearings.

21 And regarding the cooperatives, finally, and regarding the
22 victory of 17 April 1975, Pol Pot continues, on page 00538974 in
23 French, in English 00401499, and in Khmer 00063338 until 39 --
24 and I quote: "The second reason that allowed us to win such a
25 grandiose victory stems from the fact that the people were behind

1 us."

2 [10.26.31]

3 And he continues:

4 "This population was a population whose ideological conscience
5 was high and whose political revolutionary conscience was also
6 high. And in particular it was a population that was already
7 organized in cooperatives. These cooperatives were an
8 organizational line that was very effective from 1973 and 1974 up
9 until 1975." End of quote.

10 [10.27.06]

11 If you please give me the leave, Mr. President, may I continue
12 with a fourth document that will take me five to eight minutes to
13 read out before the break? And this fourth document is indexed
14 E3/50, and the reference is D33667.1.61 (sic), and this is a
15 publication from the Party, titled "Third Anniversary of the
16 Organization of Peasant Cooperatives (20 May 1973 to 20 May
17 1976)".

18 This document, once again, illustrates the vital role of
19 cooperatives in conquest of power by controlling the economy that
20 had been grasped from the enemies who were feudal people,
21 landowners and capitalists. The work regime that had been set up
22 within the cooperatives prefigures what would happen after the
23 17th of April 1975 because the tasks already consisted of rice
24 production and producing other strategic crops, but also building
25 dams and digging irrigation canals.

1 Here, therefore, are a certain number of quotations, on page
2 00623782 in French, in English -- 00636008 in English, and in
3 Khmer 00442207: "On the 20th of May -- I quote - 1973, the Party
4 decided to organize peasant cooperatives. The decision to
5 organize peasant cooperatives marked an important historical
6 event." End of quote.

7 On the next page, the words that we see in other publications
8 crop up again -- and I quote:

9 "In 1972 and 1973, the Party took measures to organize the people
10 based on political and ideological consciousness, in order to
11 thwart the economic power of land owners and capitalists, cut off
12 private trading, control traders, dismantle the former means of
13 production, establish new ones and organize cooperatives. Once we
14 were able to mobilize the base forces in the form of an alliance
15 between the workers and the farmers, we were able to mobilize the
16 forces of the higher strata."

17 [10.30.30]

18 In French, in 00623784, in English 00636011, and in Khmer
19 00442210 to 11, the article goes on to say -- and I quote:

20 "Cooperatives accelerated the movement to politically attack the
21 enemies. Thanks to the firm positioning of the worker-peasant
22 alliance national forces -- it was possible to isolate enemies
23 both inside and outside the country."

24 In other words, you see time and again this obsession with the
25 enemies ad infinitum.

1 Two pages later, it says: "The organization of the cooperatives
2 was the outcome of the mobilization of the poor peasant forces
3 and peasant forces from the lower middle class."

4 [10.31.43]

5 Further down, about the years '73 and '74, it says:

6 "The feudal-landowner, capitalist classes and foreigners lost
7 interest because cooperatives put up a strong resistance.

8 However, they could do nothing. They were in fact crushed by our
9 peasant cooperatives as time went on."

10 I now take you to 00623789 in French, in English 00636015, and in
11 Khmer 00442216, where it says:

12 "By basing itself on cooperatives, peasant cooperatives, the
13 Party not only caused the feudal class and landowner class to
14 collapse, but it also annihilated the capitalist class in the
15 towns and the wealthy farming class in the rural areas."

16 And so this document explains the true motives the true reasons
17 for the evacuations of the towns after the liberation as we see
18 it. It was not, as the Accused said, for reasons of food or out
19 of fear of U.S. bombing. The evacuation was the final and
20 necessary step that would bring the revolution to completion and
21 that's what the document says.

22 Let me take you to 00623789 in French, in English 00636015 to 16,
23 and in Khmer 00442217:

24 [10.33.41]

25 "After liberation we evacuated the people from Phnom Penh and

1 from all provincial towns. We launched attacks to demolish
2 markets, ownership, high-level capitalism, medium-scale
3 capitalism, low-level capitalism artisans and labourers. The
4 National Democratic Revolution had been fully achieved and its
5 continuation was the socialist revolution. This was made possible
6 through the socialist revolutionary bases in liberated zones, and
7 especially peasant cooperatives. Had there been no peasant
8 cooperatives in the rural areas, none of this would have been
9 possible." End of quote.

10 These are the things said by the Party itself and which seem very
11 clear.

12 Coming to an end on this particular article concerning private
13 property, vis-à-vis collectivization, the document says, in the
14 French, on page 00623809, in English, on 00636037, and in Khmer,
15 00442241-42:

16 "The Party's stance in the past, at present and in the future is
17 to eliminate absolutely all forms of private ownership,
18 eradicating it from the Party, revolutionary ranks and from
19 national society. The elimination is to be done without
20 compromise." End of quote.

21 Mr. President, this might be an appropriate moment for a quick
22 break before I continue my statement. Thank you.

23 [10.36.00]

24 MR. PRESIDENT:

25 It is now time to take a short adjournment. The Chamber will take

1 a short break until 11.

2 The defence counsel for Ieng Sary is on his feet. You may
3 proceed.

4 MR. ANG UDOM:

5 Thank you, Mr. President. And good morning, Your Honours.

6 Due to health reason of my client, Mr. Ieng Sary is now
7 requesting that he be excused from this courtroom and to follow
8 the proceedings from the holding cell, downstairs, for the whole
9 day.

10 We will of course submit to the Chamber the request for leave.

11 [10.36.56]

12 MR. PRESIDENT:

13 Having heard the oral request by the defence counsel for Ieng
14 Sary to leave -- to excuse himself from this courtroom and
15 instead follow the proceeding from the holding cell, downstairs,
16 due to his -- this health reason, the Chamber grants leave for
17 Mr. Ieng Sary not to be present in the courtroom, and he may
18 following the proceeding from the holding cell, downstairs,
19 through the audio-visual link.

20 However, the Chamber requires that the defence counsel for Ieng
21 Sary submit the letter of waiver with the thumbprint and
22 signature of the Accused.

23 And the audio-visual equipment technicians are instructed to
24 ensure that the equipment is linked so that the Accused can
25 follow the proceeding from the holding cell.

1 The security guards are now instructed to bring Mr. Ieng Sary to
2 the holding -- and the Accused to the holding cell, downstairs.
3 The Court is now adjourned.

4 (Court recess from 1038H to 1100H)

5 MR. PRESIDENT:

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

7 We would like to hand over to International Co-Prosecutor to
8 proceed with the documents to be put before the Chamber.

9 [11.00.32]

10 MR. DE WILDE D'ESTMAEL:

11 Thank you, Mr. President.

12 Now, let me turn to my fifth document. This is E3/10, also
13 indexed as D243/2.1.7. This is an issue of "Revolutionary Flag --
14 Special Issue - September-October 1976", and it seems that the
15 first article is probably a speech from Pol Pot, that he gave
16 upon the 16th anniversary of what was called the great victory of
17 the birth of the Communist Party of Kampuchea.

18 In this speech that he would give every year, we can find the
19 topics that were dear to the Party and that are similar to the
20 topics that were also spoken of the following year.

21 [11.01.38]

22 But there are two specific topics that I'd like to focus on: it
23 is the closing of the markets in 1972 and the creation of the
24 Party as well.

25 So, first of all, the speech specifies, following the decision of

40

1 the Central Committee of 30 March 1976 that we already spoke
2 about , it specifies when the Party was created, the year of
3 creation. 00491872 in French; in English, 00450505; and in Khmer,
4 00063063-064 -- let me quote:
5 "This past year we informed a meeting on 30 September 1975 that
6 the Party was 24 years old. Previously--
7 "[...] Now we say instead to recall the 16th anniversary, as if we
8 had made a new birth certificate for our Party. What is the
9 reason for this? [...] In 1951, we set up a temporary organization
10 in order to prepare to create a Party. At that time, the Party
11 had not yet been born. We just-- [...] We did not yet have our
12 strategic and tactical lines. Therefore, we could not say that it
13 was a revolutionary party. Indeed, it was a simple association.
14 It was necessary to create statutes, it was necessary to develop
15 a tactical and strategic line for the People's Revolution and for
16 the Democratic Revolution as well. And, once all of these
17 fundamental documents were drafted, it was necessary for them to
18 be adopted by the General Assembly of the Party at the national
19 level, and on -- and it was not until 30 September 1960 that we
20 organized the First Party Congress throughout the country." End
21 of quote.
22 And this is Pol Pot's explanation that he gave himself.
23 [11.04.04]
24 Now, regarding the suppression of the markets, on page 00491878
25 to 79 in French; in English, 00450510 to 11; and in Khmer, 063072

1 (sic)--

2 So it is -- the following is said regarding the suppression of
3 the markets:

4 "1971: We carried out national democratic revolution. [...]

5 However, the capitalists, the landowners, controlled the entire
6 economy.

7 " [...] In 1972: The Party made an assessment and saw that the
8 situation was like this and decided to close the markets in the
9 liberated zones. Closing the markets was no minor matter. It was
10 a very mighty revolutionary movement that struck right at the
11 economic foundations of the capitalists and feudalists. We did
12 not use military force to kill them. We got control of the
13 important products. Once we took hand of the strategic products,
14 we were able to control strategically the production means. And
15 we did not let various merchandise enter or leave the liberated
16 zone. Therefore, in just a short time the markets had nothing at
17 all to sell.

18 "[...] In 1973: We noticed that it was necessary to organize the
19 cooperatives in order to gain control of the economy; in
20 mid-1973, the Party decided to organize cooperatives throughout
21 the country. Actually, cooperatives are socialist in nature; they
22 are socialist revolution. Organizing cooperatives meant
23 organizing collectively in the countryside."

24 [11.06.35]

25 And in the same issue of "Revolutionary Flag", in the second

1 article, which is titled "Sharpening the Ideology of the
2 Proletarian Class So That It Be as Sharp and as Powerful as
3 Possible"-- This article speaks about -- justifies the evacuation
4 of the cities, and it is a clear example that evacuation was not
5 the result of lack of food or expected bombing, but it was the
6 result of a class struggle. And we saw that this was a central
7 issue in the Party's rhetoric.

8 On page 00491897 in French, in English 00450531, and Khmer
9 00063095 -- and let me quote:

10 "As for us, we carry out class struggle. When we evacuated the
11 people from the cities, we carried out class struggle. When we
12 strengthen and expand the cooperatives, that is doing class
13 struggle to strike and scatter the forces of the capitalists and
14 feudalists." End of quote.

15 [11.08.11]

16 So let me come up -- quote another passage to conclude on the
17 analysis of this article: 004918-- in English (sic), 00450535 in
18 English, and in Khmer 00063101. And let me quote:

19 "If we had not created the cooperative system, we certainly would
20 not have been able to conduct the popular democratic revolution.
21 However, certain elements did not accept this new situation.
22 Enemies are attacking cooperatives with a view to destroying
23 them. We have to set up solidarity groups so that the markets may
24 not come back to life.

25 [11.09.10]

1 "If there were no cooperatives, the real nature of the revolution
2 would disappear; the real nature of imperialism would come back
3 and revisionism would come back, as well. If there were markets,
4 the cities -- and cities, there would be a mess, and we would
5 become the lackeys of others." [This was interpreted, not
6 quoted.]

7 And you noted the word "city" in this segment, a segment that
8 justifies the evacuation of the cities before 1975 as well as in
9 April 1975 from an ideological and doctrinal standpoint.

10 Now, let me move on to the following document. This is document
11 E3/146 and also indexed as D175/6.2. And this is a document that
12 -- dated to a period that precedes the capture of Phnom Penh.
13 This is an example of "Revolutionary Youth" from August and
14 September 1974.

15 This issue was handwritten and includes five articles. And I will
16 only speak about articles 3 and 4. The third article is titled
17 "Dialectical Materialism and Historical Materialism", and this
18 article is capital because it describes the detailed conceptual
19 division of Cambodian society prior to 1975, which was divided
20 into five social classes. And I will quote from the following
21 pages: in French, 00611810 to page 00611816; in English 00538746
22 to page 51; Khmer, 00283409 to page 15.

23 [11.11.44]

24 So we can see, in this article from 1974, the description of the
25 five social classes that Pol Pot described later in his speech of

1 September 1977, upon the occasion of the 17th anniversary of the
2 CPK which we already spoke about. In this article, you will find
3 the five social classes that are carefully described and
4 presented with all of their subcategories: the first category is
5 the feudal class, which includes aristocratic -
6 feudalist-aristocrats and feudalist-landowners; and the second
7 class, the capitalist class, which includes comprador capitalist
8 and national capitalism; the third class, the petty bourgeoisie
9 -- the petty bourgeoisie, divided into three levels -- the upper
10 class, the middle class, and the lower class -- and in this
11 class, there's a distinction that is made between the
12 intellectual petty bourgeois and the shop-owner petty bourgeois;
13 and the peasant and farmer class, divided into rich farmers,
14 middle class farmers, and poor farmers; and finally the working
15 class, including workers working in factories, which are referred
16 to as the best workers, and then workers that are half
17 concentrated, such as in harbours or in rubber plantations. And
18 then finally , the pell-mell workers such as hauling cart
19 workers, cycle drivers. And you will remember that for -- that
20 the cooperatives were created and based on the poor farmer class
21 or the lower middle peasant class, and the Party always said that
22 it bases itself on the peasants and on the worker class.
23 [11.13.54]
24 And the fourth article, in this issue, is titled "The Young Women
25 of the Rear Front Are Willing To Do the Production Work 200%".

1 This article describes the situation of young Cambodian women
2 before and after the liberation in the liberated zones. So we're
3 speaking again about the period prior to 17 April 1975.
4 The article states the following, on page 24 in French, page 22
5 in English, and page 00283418 in Khmer -- and I quote:
6 "After liberation, young Cambodian women, thanks -- have
7 constantly educated - thanks to the education of the Communist
8 Party of Cambodia, ideologically and politically, have the same
9 integrity, and they're suffering terribly and are enraged with
10 those cheap and ignorant acts that took place before the
11 liberation. They want to take revenge and will not forget the
12 time when they were oppressed and looked down by the
13 colonist-imperialist-feudalist-capitalist. In return, they are
14 determined to smash those class, regime, and ideology until they
15 are absolutely vanished from Kampuchea." End of quote.
16 [11.16.00]
17 The article, therefore, draws a very clear tie between education
18 that the Communist Party of Kampuchea propagated and the
19 determination of these young women to smash these people, and
20 their class, and their regime, and their ideology so that these
21 classes may entirely disappear from Kampuchea. And in so doing,
22 from our point of view, the article clearly indicates that
23 political education of the CPK, which Nuon Chea claims he is
24 responsible for before this Court, had the goal of eliminating
25 the members of certain social classes.

1 And the following document is a document indexed D366/7.1.54. And
2 this is a publication from the Party titled: "Brief Study of the
3 History of the Kampuchean Revolutionary Movement under the
4 Leadership of the Communist Party of Kampuchea". There is no date
5 here, but we believe that this document was published under the
6 regime of Democratic Kampuchea or in the years or months that
7 preceded it. And, once again, this publication focuses on some of
8 the favourite topics of the Party, that is to say, the
9 life-and-death antagonisms between classes. And this conflictual
10 ideology, we believe, could only lead to the elimination of these
11 enemies, in compliance with the Party line.

12 [11.18.13]

13 And under chapter II, regarding the "National Democratic
14 Revolution", on page, in French, 00721067, in English, 00716595
15 and, Khmer, 00442559 and the following page -- and the following
16 is stated:

17 "We must identify antagonistic and life-and-death contradictions.
18 This is a complicated issue in our Party's history that is not
19 easy to uncover.

20 "In our country, we -- because of our analysis that found that
21 the contradiction between the feudal system and landlords was
22 antagonistic.

23 "Inside the Party, some say it is not like that.

24 "[...] Here, the Despicable Siv - A Siv, in Khmer -- said that
25 there was no class struggle and that Sihanouk was able to lead."

1 And the article concludes therefore:

2 "Among our ranks there is clearly in opposition to the National
3 Democratic Revolution. There's also the Contemptible Ya and
4 others who are hostile to our analysis of the antagonisms in our
5 society." End of quote.

6 [11.20.07]

7 So, as we can see, contrary to what Nuon Chea said during the
8 hearing, Sihanouk was well -- was perceived as belonging to an
9 oppressor class. He belonged, however, to a tactical force with
10 which the Party had to ally itself with, at least temporarily.

11 And regarding the same topic, on page 00721071 in French, in
12 English 00716599 to 00716600 and Khmer 00442569, the following is
13 stated:

14 "The former production interactions were destroyed. The
15 collectivist networks is more and more developed. We no longer
16 use currency. Here, we have solved the major conflicts in a
17 fundamental way. The conflict between the city and the
18 countryside has been solved in a fundamental manner." End of--

19 [Interpreted]

20 [11.21.30]

21 And before I give the floor to my colleague, I would like to
22 present to you two other documents. The first one is indexed as
23 D243/2.1.19, and this is an issue of "Revolutionary Flag" from
24 September 1978. And as each year, this again is a speech that Pol
25 Pot made on the 30th of September upon the 18th anniversary of

1 the birth of the Party. And, in this new speech, the topics,
2 again, are in line with the same obsessions as seen in the
3 previous speeches, but there are certain things that are
4 different, in particular the Vietnamese issue.

5 It seems that Pol Pot's perception has changed regarding this,
6 because the Vietnamese enemy is mentioned constantly as a
7 fundamental enemy of the CPK for years and for decades, which,
8 when compared to the other speeches, is something new.

9 So maybe, today or tomorrow, Nuon Chea might want to react to
10 these observations: Why has the -- why was the Vietnamese enemy
11 absent from Pol Pot's previous speeches? Or why was Vietnamese
12 enemy only brought up indirectly? Why is the Vietnamese enemy
13 suddenly present in this speech of September 1978? Is this a
14 result of the intensification of the war with Vietnam, and with
15 the intensification of Vietnam's threat?

16 [11.23.27]

17 So this is a first example of a change in the speech, and here is
18 the first -- and you can see on page 0052469 (sic) in French, in
19 English, 00488619 and, Khmer, 00064592 -- and I quote:

20 "From 1973 to 1975, our people fought against American
21 imperialism and its lackeys in Kampuchea. Outside the American
22 imperialists as well as the Vietnamese imperialists -- in the
23 English version, the word "Yuon", the derogatory word "Yuon" is
24 used, not in the French version; the American and Vietnamese
25 imperialists -- gathered their partisans to force us to negotiate

1 and stop the war. Inside the country we had to fight both the
2 American imperialists against the despicable Thieu, against the
3 Contemptible Lon Nol, and against the Yuon whose poisonous
4 manoeuvres intended to kill us behind our back in order to take
5 our territory." End of quote.

6 [11.24.58]

7 And further he continues -- and I quote;

8 "If we had ceased fire as the Americans -- in 1973 following the
9 trickery of the Americans and the Yuon, we would have seriously
10 lost, and we would have become the slaves of the Yuon until the
11 Kampuchean race would have disappeared."

12 And in the same speech, he speaks again more specifically about
13 the Khmer race, and further in the same speech, we see Pol Pot
14 saying the same arguments that have been heard on the part of
15 Nuon Chea since the beginning of the trial, on page 00-- 00488621
16 in English, 00064595 in Khmer, regarding the Vietnamese:

17 "They were dreaming of absorbing Democratic Kampuchea since 1930,
18 in tune with their Indochinese Federation's strategy, according
19 to their policy, of one single country, one single people under
20 the direction of one single party. As far as the Soviet
21 international expansionists, they had their universal strategy;
22 they wished to conquer all of Southeast Asia."

23 [11.26.40]

24 A good part of the rest of this speech is therefore focused on
25 the conflict with Vietnam that has been lasting for years and on

50

1 the Soviet Union's expansionist ambitions.

2 And finally let me quote -- refer to our last document. These are
3 the Statute of the Communist Party of Kampuchea. We have two
4 versions, two identical versions, on the case file: IS 9.1, and
5 it is indexed as well as E3/028 and the version D366/7.1.187,
6 also indexed as E3/130.

7 [11.27.38]

8 On 6 December 2011, Nuon Chea was questioned by Judge Cartwright
9 regarding these statutes, and in particular on whether these
10 statutes from January 1976 were identical to the statutes that
11 were adopted in the 1960 Congress, and Nuon Chea answered that he
12 did not exactly remember when these statutes were adopted but
13 that the statutes -- statutes did include 30 articles.

14 And it appears, upon reading this document, that these statutes
15 were introduced after 17 April 1975, but we will note that the
16 statutes on the case file do indeed include 30 articles, as Nuon
17 Chea specified to us.

18 And it is -- we can clearly -- we believe that these statutes has
19 not -- have not changed much since 1960 or at least since the
20 beginning of the seventies, when the name of the Party -- when
21 change of the Party's name was accepted. This is why we believe
22 that, despite the date of these statutes, that these statutes are
23 very relevant to the historical context or, in any case,
24 regarding certain parts of these statutes.

25 [11.29.09]

1 In the introduction that founds the principles and the
2 fundamental political line of the Party for the new era,
3 following 1975, we may find -- we can see many foundations that
4 were announced previously in other documents, this morning, and
5 therefore that are included in publications that circulated
6 before April 1975. So we see a continuity in the issues.

7 In point 4 of this introduction, the following is stated: "The
8 Party considers Marxism-Leninism as the foundation of its
9 actions."

10 And my colleague will present to you a document that covers these
11 Marxist-Leninist concepts, a document from 1974 that is indexed
12 as D366/7.1.133.

13 And on - at, again, point 4 of this introduction -- and I will
14 quote - "the Party is absolutely against non-proletarian critique
15 as opposed to the revolution of the petty bourgeois, the
16 capitalists, the feudalists, the imperialists, and all
17 reactionaries". End of quote.

18 And we can see here, again, the favourite topic of the class
19 struggle and the enemies, which we spoke about previously.

20 [11.30.58]

21 In section 6, it says that "the Communist Party of Kampuchea was
22 established according to the principle of democratic centralism".

23 And you will recall that Nuon Chea explained to us what that
24 principle of democratic centralism signified and which, he
25 admitted, had been adopted at the first Party Congress, on the

1 30th of September 1960. The same principle comes up again in
2 Article 6 of the statute.

3 When you read the 30 articles outside of the introduction, they
4 carry significant interest because they serve to confirm the
5 contents of the CPK speeches given by the Party leaders before
6 Phnom Penh fell and speeches that were given after that date,
7 concerning the history of the Party.

8 I don't want to take too much of your time, but among the
9 executive principles of the Party, which you find in Article 6,
10 you can see -- I prefer the word "echelon" used in the English
11 document to the word "classe" that's used in the French document.

12 "The minority has to respect the majority. The lower echelon
13 respects the higher echelon. The individual respects the group.
14 And at each echelon, the central 'Angkar' is respected."

15 This is one of the fundamental principles of this regime.

16 At the start of Article 6, it says that "for each Party decision,
17 the lower levels have to report to the upper levels on the
18 situation and the accomplishment of their tasks".

19 [11.33.25]

20 In one moment, my colleague will talk to you about document
21 D366/7.1.229, which is a Party publication, a special issue of
22 the "Revolutionary Flag", dated September to October 1972, which
23 came out in December 1972, in other words, a good while before
24 the adoption of the final version of the statute. And this
25 article talks precisely about the dissemination of instructions

1 by the higher echelons and the duties of the lower echelons to
2 report to the echelon that is immediately above them.

3 I could quote other examples, but I shall not do so. I shall
4 leave it at that for the CPK Statutes, which in fact provide
5 details on the CPK administrative structures, including the roles
6 and duties of the general assembly or congress of the Central
7 Committee, the zone committees or of the Revolutionary Army of
8 Kampuchea.

9 [11.34.50]

10 The structure was well in place before Phnom Penh was taken,
11 which shows, once again, that there is genuine continuity between
12 the period before Phnom Penh was taken and the period afterwards.
13 I'd now like to turn to my colleague and ask him to take the
14 floor. He has three other documents to present to you this
15 morning.

16 And I do hope that we will be able to catch up with the delay
17 from the beginning of the hearing and that we will be able to
18 finish before the break.

19 Thank you very much.

20 MR. PRESIDENT:

21 Thank you, the International Co-prosecutor.

22 And now the National Co-prosecutor may proceed.

23 MR. CHAN DARARASMEY:

24 Good morning, Mr. President. Good morning, Your Honours. I would
25 like to present three documents which I would like to bring to

1 the attention of the Chamber.

2 Document D366/7.1.133. I would like to repeat -- document
3 D366/7.1.133.

4 When I finish presenting the first document, I will move to
5 document number 2, D -- document D366/7.1.229. D366/7.1.299.

6 And the last document I would like to present to the Chamber is
7 document D214 -- again, D267/3.36 -- again, D267/3.63 (sic).
8 [11.37.28]

9 I would now like to present to the Chamber the first document,
10 based on this, the first document, which was in the publication
11 of the Communist Party of Kampuchea, entitled "Building and
12 Strengthening the Party in accordance with Certain
13 Marxist-Leninist Concepts", before the 17 of April 1975. In this
14 document, it describes the following-- Upon reading this
15 document, this document was produced between February 1974 and
16 April 1975. It is a bit different from what we indicated in the
17 Annex 2 so far. The date of February 1974; it was written clearly
18 in the sub-numbers 3.5 of that particular publication. And in
19 this text, it describes the various issues that arose in the
20 liberated zones. The text also presented the issue that they had
21 never come across before April 1975, and they used certain
22 languages, but after the fall of Phnom Penh regime, of April
23 1975, those words were used. This document dated before the 17 of
24 April 1975, but the point of interest is the title of the
25 article, which indicated the ideology of the Party, and it also

1 presented certain Party principle concerning Marxist-Leninist
2 concepts.

3 The standpoint of the Party describes the enemy and the policy
4 for smashing the enemy, which the Party had set out. And in this
5 document, it also describes the policy for monitoring of the
6 people as well as the role of the cooperative.

7 [11.40.51]

8 Your Honours, I would like to take this opportunity to present
9 some content in this document so that the Chamber may see the
10 substance of this document.

11 As for the sub-point of this document, it describes the rear --
12 how the rear affects the front line. And I would like to seek
13 your leave to read out this article.

14 This article was written originally in Khmer, in D366/7.1.133,
15 ERN in Khmer - I would like to read out the relevant ERN page in
16 French, English and Khmer: the relevant page in French, 00725174;
17 English, 00699318; the relevant ERN page in Khmer, 00442378.

18 With your leave, I would like to read the extract from this
19 article:

20 "How the rear affects the front line?

21 "If the rear is strong, people are highly aware of, resolute,
22 brave, and united to smash all its informers, it was spiritually
23 encourage the army in the front lines to be more courageous and
24 actively fight its enemy. On the contrary, if the rear's
25 throughout the country, the rear is loose, the spies sap from

1 within, the informers freely carry their activities throughout
2 the country, it will seriously affects the front line; the cadres
3 and army combatants are engaged in resolving problems in the
4 bases and the storming attacks are obstructed."

5 [11.44.03]

6 This is excerpt from the subtitle 1.2.

7 And I would like to continue to read out the excerpt from this
8 article, from the same document number, III.4, "The enemy fights
9 us from behind". And I would like to read out the ERN number: in
10 French, 00725176 to 77; ERN in English, 00699321; ERN in Khmer,
11 00442383. As for the detail of this subtitle, is as follow:

12 "It strives to introduce peace alliance and constantly keeps
13 adding one or two informers each time. It does not include its
14 1,000 informers at once. It gradually adds its informers from few
15 until many in accordance with the natural law. If we subjectively
16 think that it is not a serious problem, more informers will be
17 added and it will continue to increase. When there are a lot of
18 informers, they will appoint these spies to create their network,
19 and it will endanger us."

20 MR. PRESIDENT:

21 The National Counsel for Khieu Samphan, you may proceed.

22 MR. KONG SAM ONN:

23 Can the national prosecutor indicate whether or not you read the
24 entire excerpt of this subtitle, or you skip part of it?

25 MR. CHAN DARARASMEY:

1 For your information, I only extracted certain relevant portion
2 of the article, and the ERN has already been indicated.

3 [11.46.50]

4 And due to our time limits, I merely read out the important and
5 relevant portions of the article. And as for the minor detail of
6 that, you may refer to this article based on the ERN number
7 indicated earlier.

8 MR. PRESIDENT:

9 National prosecutor may proceed.

10 MR. CHAN DARARASMEY:

11 Thank you, Mr. President.

12 I would like to move on to the next subtitle of this same
13 article. Number 5, "The enemy includes its commandos".

14 [11.47.42]

15 This is an important portion of the document, and I would like to
16 read out the entire portion:

17 "The enemy includes its commandos:

18 "The enemy assigns its commandos or its militias of 30, 50 or
19 100. There are lead informers to secretly enter our liberated
20 zones to capture the population there since February in 1974.

21 Some measures have been undertaken by the Party. First, violent
22 attacks have been launched in the front lines. Secondly, the
23 militias' networks have been strengthened in the rear. Thirdly,
24 the people, the situation and the state authority have been
25 tightly controlled to protect the enemy from entering; if it

1 comes, it will be smashed."

2 [11.48.50]

3 This is the entire portion of the subtitle, entitled "The enemy
4 includes its commandos".

5 With the permission from the President, I would like to move on
6 to the next subtitle on "The enemy fights us from behind", and I
7 would like to extract portion of this:

8 "On the contrary, when it adds -- when it added informers, we
9 smashed one by one on a timely manner, one day, it will be
10 abolished. Therefore, the Party destroys its roots by eliminating
11 business people and does not allow capitalists to conduct their
12 business activities."

13 This is the portion extracted from the subtitle "The enemy fights
14 us from behind".

15 Now, I would like to move on to point number 4. This excerpt is
16 actually from the same document, with the same ERN -- the same
17 document. But I would like to move to the next ERN in the same
18 document, so relevant page: in French, 00725177; in English,
19 00699321; ERN in Khmer, 00442384; subtitle III.6, entitled "The
20 enemy has conducted its peacization in general to fight us in
21 accordance with their strategy". And I would like to read out the
22 entire portion:

23 "The measures to be taken by the Party to resist against the
24 enemy are as follows: 1. control the trade, 2. eliminate the land
25 ownership, and 3. strengthen the internal forces through the

1 control over the people and the cooperatives to build a strong
2 rampart through which the enemy cannot enter or to protect it
3 from sapping within the party."

4 [11.52.18]

5 This is the entire excerpt from this subtitle.

6 Your Honours, it is quite clear from these excerpts that they
7 define the enemies within the framework of the class struggle.

8 And the document I have just presented to you reveals the
9 intention of the Party relevant to the facts before the Chamber.

10 Now, I move on to the next section of this same document. I would
11 like to present the relevant ERN page: ERN in French, 00725178;
12 in English, 00699322; ERN in Khmer, 00442385. In this relevant
13 ERN page, I would like to extract one small portion, which reads
14 "The class struggle with enemy is the life-and-death struggle".

15 [11.54.08]

16 So I conclude my presentation on the document D366.7.1.33.

17 And I would like to move on to document 2 -- document number 2,
18 D366/7.1.229.

19 In this second document, I refer to the text entitled -- the
20 publication of the Communist Party of Kampuchea on "Strengthening
21 and Improving the Stance, Leadership Behaviour and Work Principle
22 of the Party". This is based on the "Revolutionary Flag" special
23 issue, September and October 1972, and it was printed in December
24 1972. I refer to this particular document.

25 And with the leave from the Chamber, I am going to present this

60

1 document as follows. By analyzing on this document, we see that
2 it reveals the quality of direction in terms of collectivization,
3 and it also describes the ideology of the Party.

4 In this particular article, repeated words were used, for
5 example: "smashing the enemy", "class struggle", "democratic
6 ideology and centralism", and others.

7 This is one of the important documents, because the content of
8 which is abundantly clear in terms of the communication lines, as
9 well as the managerial structure of the Party, as well as the
10 system of issuing direction and directive from the Central
11 Committee. And it also established the lines of communication
12 from the lower level to the upper level.

13 [11.57.00]

14 With permission from the Chamber, I would like to read a certain
15 portion of this article, which was originally in Khmer. And I
16 indicate the relevant ERN number: in French, 00721042; in
17 English, 00720206; in Khmer, 00442287288; subtitle number 2 of
18 this document, entitled "During this revolutionary war". This is
19 the original document, and the content of which I am going to
20 read it out entirely:

21 "Even within the strategic framework of the national democratic
22 revolution, the current class struggle has intensified and will
23 continue to progress step by step going forward."

24 [11.58.46]

25 This is excerpt from this portion of the article. This document

61

1 is of important relevance to the facts set out in this portion of
2 the hearing.

3 And I now move on to the next portion:

4 "The destructive impact of the reactionary capitalists has great
5 impacts on us -- even those we have dismantled -- their
6 authority. This has affected ideology, politics, and particularly
7 the economy and livelihoods. We must not be subjective. We have
8 to confront and combat against the enemies, and we have to be
9 responsible for our Party and the people, and we have to fight
10 with great revolutionary vigilance."

11 So I would like to conclude the portion of this particular ERN.

12 [12.00.49]

13 Your Honours, I would like to move on to the subsequent points,
14 but it is now time-- I don't know if the President would like to
15 call for a break now, or I may continue.

16 MR. PRESIDENT:

17 Well, since there are many more documents to be presented to the
18 Chamber, and looking at the clock now, it is time to adjourn for
19 lunch, so the Chamber will take a break until 1.30 this
20 afternoon.

21 The defence counsel is on his feet. You may now proceed.

22 MR. PESTMAN:

23 Thank you, Mr. President. My client would like to ask permission
24 to follow the remainder of the procedure downstairs, from the
25 holding cell. I don't think there's any problem.

62

1 As indicated, my client will respond to all the documents
2 presented today and tomorrow on Wednesday, and he will follow the
3 proceedings downstairs.

4 [12.01.52]

5 I have the appropriate waiver here, if required.

6 MR. PRESIDENT:

7 The Chamber has noted the request made by counsel for Nuon Chea,
8 asking that Nuon Chea be excused from this courtroom and that he
9 follows the proceeding remotely, through the audio-visual
10 equipment linked to the holding cell.

11 The Chamber therefore grants such request that Nuon Chea is
12 permitted to follow the proceeding from his holding cell, where
13 the audio equipment will be linked accordingly.

14 The Chamber requires that Nuon Chea's counsel present the waiver,
15 signed or given thumbprint by the accused person Nuon Chea, and
16 that the AV officers are instructed to ensure that the AV
17 equipment is connected -- linked to the holding cell so that Nuon
18 Chea can observed the proceeding remotely.

19 Security personnels are now instructed to bring Nuon Chea to the
20 holding cell.

21 And in the afternoon session, security personnels are instructed
22 to only return Mr. Khieu Samphan back into the courtroom.

23 The Court is adjourned.

24 (Court recesses from 1204 H to 1330H)

25 MR. PRESIDENT:

63

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

2 We would like now to hand over to the – to the National

3 Co-Prosecutor to proceed with the documents he would wish to put

4 before the Chamber.

5 [13.31.22]

6 MR. DE WILDE D'ESTMAEL:

7 Thank you very much, President. Just to finalize our discussion

8 on the documents we are submitting, that we started this morning,

9 and to make another point, the Defence said that the documents on

10 the 89-document list are either pertinent or not for the -- for

11 this part of the trial. And during this morning's hearing, we

12 answered the Ieng Sary team's email which we received at 8.43, we

13 answered that all of the documents that we are submitting this

14 week are not only on our document table sent in April 2011, which

15 is E9/31, but also the more limited one of the 22nd of July,

16 which refers to the first trial phase -- this is E109/4. So

17 there's no addition of any document that isn't already in E109/4,

18 nor will there any -- be new documents presented this week.

19 In the prior memorandum, the Chamber has already explained that,

20 by "new document", it meant documents that had not already been

21 communicated before the effective start of the trial, at the end

22 of July 2011.

23 And all of the documents presented this week figure in the

24 annexes or tables sent in April 2011 -- E9/31. Some of these

25 documents are still waiting to be given a D or an E reference

64

1 number, but that doesn't make them new documents.

2 [13.33.37]

3 And if I may now make a request to the Chamber, that the time
4 that is spent in each hearing on procedural matters such as this
5 morning's, which in fact detracts from the time that is given to
6 the Co-Prosecutors or the civil parties for the presentation of
7 documents, could be added to the effective time available for
8 such presentations.

9 For example, this morning, we were unable to begin with the
10 presentation of documents at 9.45, so we would like an additional
11 40 minutes to be added on, if necessary, to the close of our
12 presentation, for practical planning aspects of the hearings,
13 today and in the next two days.

14 If possible, we would like your Chamber to be able to take a
15 decision on this question now, and that way we will be able to
16 organize ourselves better in the future. Thank you very much.

17 [13.34.49]

18 MR. PRESIDENT:

19 Counsel for Ieng Sary, you may now proceed.

20 MR. KARNAVAS:

21 Thank you, Mr. President. Just very briefly, I would like to
22 comment on that last remark made.

23 This morning, I noted that the International Co-Prosecutor was
24 engaging in what I would characterize as closing argument. Not
25 only was he commenting about the document and, in a sense,

65

1 testifying about it, but also he was putting a spin to it -- an
2 argument to it.

3 We believe, for the purposes of these hearings, such comments and
4 commentary arguments are inappropriate, and they do take up a lot
5 of time.

6 So, perhaps, in factoring whether you should indeed give the
7 prosecutors additional time, perhaps you should put some limit as
8 to the extent and scope of the comments on each document.

9 Otherwise, the public is being treated to a closing argument on
10 documents for which witnesses have testified or may not have
11 testified yet. Thank you.

12 (Judges deliberate)

13 [13.37.40]

14 MR. PRESIDENT:

15 With response to the request made by International Co-Prosecutor,
16 asking for additional time, the Chamber notes this request and
17 will address it after the first adjournment during this
18 afternoon's session.

19 [13.38.03]

20 The Chamber also notes that the observation by counsel for Ieng
21 Sary -- such observation is appropriate, and that the Chamber
22 will not allow Co-Prosecutor to make any statement during this
23 time when the documents are being put.

24 And the Chamber has already allocated time to the prosecutor, and
25 for that reason, the prosecutor should not really seek leave from

66

1 the President to allow him to present their documents, because
2 such repetitious requests are treated as a waste of time. You
3 just proceed with the presentation of the document.
4 And since the time allotted to you is limited, please make sure
5 that you make the most of it, and proceed straight forward to the
6 presentation of documents before the Chamber.

7 You may now proceed.

8 MR. CHAN DARARASMEY:

9 Thank you, Mr. President.

10 [13.39.38]

11 I would like now to proceed to document D366/7229 (sic). This
12 document has been copied from the original document. It states
13 that:

14 "We do our best to educate people on the Party's principle and we
15 only issued circulars and people were not satisfied. People
16 carried out the circulars or the directives without proper
17 understanding. Sometimes they even were against us in the case
18 when the circular was issued to ban any food delivery. And the
19 circular was issued without consultation with the mass."

20 Document under ERN: in French, 00721047; English, ERN 00722 -
21 rather, 0212; Khmer, 00442296 through 97:

22 "The leadership must be based on the democratic decentralization.
23 The meaning of democratic decentralization is that individuals
24 were led by the collective. Moreover, it is important that -- it
25 is evident that we do not fulfil our role and responsibility."

67

1 Now, we would like to proceed to another document; 00721048

2 French, English 0072-- (No interpretation)

3 [13.43.38]

4 Now, I would like to proceed with the text as follows.

5 (No interpretation)

6 MR. PRESIDENT:

7 There's no English translation.

8 National Co-Prosecutor, you may now repeat the last point you

9 just made.

10 MR. CHAN DARARASMEY:

11 I would like to read the reference number again: French ERN

12 00721048; English ERN 00720213; Khmer ERN 00442298 through 99.

13 I would like to quote the text as follows:

14 "For vital circulars, the zone, sector, and district committees

15 must organize a study meeting to retain the original meaning of

16 the collective.

17 "[...] It is best if each level can go directly to its subordinates

18 to debate and approve together or invite the subordinates to help

19 discuss it for approval."

20 [13.45.45]

21 Before I conclude this -- this document D36/7.1229 (sic), I would

22 like to bring to attention of the Chamber and the public to look

23 at the paragraph concerning another document which states that

24 the work must be done meticulously, document under ERN number:

25 English, 007229 - rather, 00720229 through 30; and French ERN

1 00721063; Khmer, 00442313. It reads:
2 "Working requires clear and regular reports.
3 "We report on: the enemy; people; all working activities;
4 resolutions and directions.
5 "Reports have to two forms: simple and special.
6 "[...] A report must be systematic. Disorderly information must be
7 avoided.
8 "Clear and regular reports to the upper levels help them grasp
9 and master the situations resulting in direct and timely advice."
10 I think that is all for me.
11 And the documents that I just put before the Chamber are relevant
12 to the structure of work and how work were done before even 1975.
13 These regulars have been implemented; and back then; several
14 other circulars were also put into force. The terms concerning
15 "the enemies" had always been described in the document.
16 [13.48.41]
17 I would like now to proceed to the third document, which is also
18 important document. This document is D267/3.36. It is the
19 "Revolutionary and Non-Revolutionary Youth -- An accurate
20 re-print of 'Youth' issue dated the 2nd of February 1974 -- By
21 the East Zone Political-Military Ministry -- On the 2nd of June
22 1975", 1,000 copies of which were published -- publicized. It is
23 about the "Revolutionary and Non-Revolutionary World Views
24 Regarding the Matter of Family Building". I would like to read
25 ERN: in French, 00593928 through 29; English ERN 00417940 through

1 41; Khmer, 00407098 through 99. Here is the text:

2 [13.50.27]

3 "Today, in imperialist-feudalist society and in zones temporarily
4 controlled by the enemy, they usually attach the matter of family
5 building to economic interests. They understand that only when
6 they have a wealthy economic foundation or high rank and prestige
7 can their families then exist in plenty and comfort and have high
8 rank and social prestige. They do not hesitate, no matter what
9 means or dark manoeuvres they must use. [...]

10 "Not only that, the imperialists-feudalists and capitalists
11 strive to make propaganda and systematically broadcast this
12 incorrect world view to us, the youth, to make us chase after
13 personal interests -- money, gold and gems, rank and prestige --
14 and make us that--"

15 Rather: "[...] Therefore, this is why back in the old society
16 before liberation and inside zones temporarily controlled by the
17 enemy today, many youths have absorbed the world views of the
18 oppressor class. They search out spouses or build families only
19 out of personal material greed. That is to say, they seek out
20 family interests or happiness by completely breaking from the
21 interests and the fate of the entire nation and people."

22 [13.52.48]

23 The next document I would like to refer to is the same document
24 on the world views regarding the matter of family building, and I
25 would like to read ER number: in French, 00593929; English ERN

1 0417942 through 43; Khmer ERN 00407100. Here is the content for
2 this portion:

3 "As for us, the revolutionary youth, we consider matters of
4 family as being inseparable from matters of the entire nation and
5 people. When the nation is invaded by imperialists, when the
6 nation falls into being a 'slave', then our families too became
7 -- or rather, become 'slaves'. In order that our families may
8 know true happiness, peace, and prosperity, our entire nation and
9 people must first be liberated and freed from every type of
10 exploitation by the reactionary,
11 imperialists-feudalists-capitalists. [...]Importantly, it is so
12 that the revolution may achieve its highest mission, to liberate
13 the nation, the people, and the poor class and then advance
14 toward socialism and communism, which are societies in which
15 people no longer exploit other people."

16 [13.55.07]

17 I would like to proceed to another portion, document ERN in
18 French, 00593930; English, 00417943; Khmer ERN 00407100 through
19 01. This document is about how spouses are chosen:

20 "How should we, the revolutionary youth, choose a spouse?

21 "It is imperative to be vigilant in regard to sexual morals.

22 Don't choose recklessly all over the place. When marrying, it is
23 imperative to honestly make proposals to the Organization -- or
24 'Angkar' -- to the collective, to have them help sort things out.

25 "Organizational discipline must be absolutely respected. In the

71

1 matter of building a family, no matter the outcome of the
2 Organization's and the collective's assessments and decisions,
3 they must be absolutely respected. [...] This is because only the
4 Organization and the collective are able to make a thorough
5 assessment from every aspect. Therefore,
6 do subjectively and follow your personal emotions.

7 "[...] it is imperative to look at their background very clearly
8 first; this is to say, they must be clean in living morals and
9 clean politically without involvements with any enemy strings or
10 bad elements."

11 [13.57.34]

12 The next portion of the document is document ERN in French
13 00593932, English ERN 00417945, Khmer ERN 00407104:

14 "We must have the clear view that our spouse is one inseparable
15 part of the great revolutionary family. Therefore, our husband or
16 wife is one of the Party's masses and is a member of the
17 revolutionary movement. To have our spouse become a good
18 revolutionary spouse able to fulfill revolutionary missions.
19 Never treat family members as a mass -- a member of the mass that
20 he, himself, can educate or build his or herself."

21 [13.59.18]

22 Mr. President, I have already put all the relevant documents I
23 wish to put before the Chamber. And I thank you very much, Mr.
24 President and Your Honours, for allowing me the opportunity to do
25 so.

1 MR. PRESIDENT:

2 Thank you, National Co-Prosecutor.

3 Next prosecutor, you may proceed.

4 MR. VENG HUOT:

5 Thank you, Mr. President, Your Honours. Good afternoon, ladies
6 and gentlemen.

7 During this session, my colleague, Tarik, and I will present some
8 documents relating to Khieu Samphan's background and activities
9 in the pre-April 1975 period.

10 The documents are also relevant to the historical background of
11 the Communist Party of Kampuchea, the creation and development of
12 its policies in the 1960s and early 1970s as well as significant
13 events which preceded the forced evacuation of Phnom Penh in
14 April 1975.

15 [14.01.14]

16 We submit that these documents evidence Khieu Samphan's
17 membership of the group which led the CPK and its precursors;
18 that close association lasted for more than two decades prior to
19 1975 in April.

20 These documents also illustrate Khieu Samphan's rise to the
21 highest echelons of the Party in that period as well as his rise
22 to other senior roles which he held on behalf of the Khmer Rouge
23 movements.

24 These positions include: 1) Deputy Prime Minister of the Royal
25 Government of National Union of Kampuchea; for short, GRUNK; 2)

1 Minister of National Defence of GRUNK; 3) Commander-in-Chief of
2 the Cambodian People's National Liberation Armed Forces; 4)
3 member of the Political Bureau of the Central Committee, the
4 National United Front of Kampuchea; FUNK; and 5) candidate member
5 of the CPK Central Committee from July 1971.

6 [14.02.57]

7 Most significantly, these documents evidence that, through his
8 roles, Khieu Samphan had extensive knowledge of crucial
9 developments in Cambodia prior to the CPK seizing power,
10 including: 1) activities on the battlefield; 2) CPK's treatment
11 of populations in the liberated areas; and 3) the dire
12 humanitarian situation in Phnom Penh caused by inter alia Khmer
13 Rouge blocking of food and aid supplies to the city.

14 The document also show that Khieu Samphan exercised extensive
15 authority and influence over Khmer Rouge armed forces and the
16 civilian population generally and that he promoted policies that
17 would eventually become the foundation of the criminal acts
18 charged in the Closing Order, including the uncompromising
19 smashing of enemies of the Party, the use of enslavement through
20 large-scale forced labour projects, and the forced evacuations of
21 urban areas under the control of the Communist Party of
22 Kampuchea.

23 [14.05.00]

24 I will present a selection of excerpts from the Foreign Broadcast
25 Information Service, FBIS, reporting on Khieu Samphan's

74

1 activities and statements between January 1975 and early April
2 1975.

3 Your Honours -- Your Honours will recall that the Co-Prosecutors
4 made detailed submissions about the origin, the relevance, and
5 reliability of these documents during the documents hearings, on
6 our annexes 1 through 5.

7 My colleague will present a selection of documents from other
8 sources, including brief video segments which relate to the
9 period 1953 to -- through 1975. For each document, I will read
10 out the case file numbers and relevant ERNs. I will show the
11 original documents, which are in English, but I will read from
12 the Khmer translation.

13 [14.06.29]

14 For the presentation purposes, I would seek your permission, Mr.
15 President, to show the documents on the screen as I am referring
16 to them.

17 I also propose that, as I discuss each document, the Accused
18 indicate if they wish to comments on that document.

19 The first document I will present is an extract from the January
20 1975 FBIS report. This document has already been put before the
21 Chamber and assigned the code E3/30; the original case file
22 number is D262.2. The extract I will show is dated 2nd of January
23 1975 and is at English ERN number 00166659-0016661 (sic).

24 [14.07.47]

25 At the top of the document, we see that this was a forecast from

1 the Voice of the National United Front of Cambodia on the 31st of
2 December 1974. This is a text of the New Year's greetings to the
3 people from Khieu Samphan in his position as GRUNK Deputy
4 Premier, Defence Minister, and Commander-in-Chief of the CPNLAF.
5 The speech is addressed to all people in Cambodia -- combatants,
6 civilians, and foreign nationals -- and provides a summary of
7 events in Cambodia and abroad seen from the Communist Party of
8 Kampuchea's perspective. The primary focus is on the civil war.
9 The speech provides a very detailed description of the progress
10 of the Khmer Rouge forces in the battlefield.

11 For example, on the second page of the document, Khieu Samphan is
12 recorded as stating -- and I would like to quote:

13 "Our CPNLAF is launching heavy attacks on the enemy around Phnom
14 Penh. The cities remaining under temporary enemy control have
15 also been reduced to small 3 or 4 square kilometre enclaves and
16 are being attacked and surrounded by our CPNLAF from all sides.
17 All strategic ground routes of the enemy have been cut. The
18 traitors' vital Routes 3 and 4 (sic) have already fallen into the
19 hands of our armed forces and people. The enemy cannot use the
20 Tonle Sap River."

21 [14.10.19]

22 Further down the page, he states:

23 "Rice and other foodstuffs have become more scarce. Without
24 territory, population, economy and rice, the traitorous clique is
25 relying entirely on U.S. imperialist aid. [...]Their only hope is

1 placed on the Mekong River. Our CPNLAF is now launching heavy
2 attacks on various enemy positions along this waterway, causing
3 worse difficulties to the transportation of U.S. imperialist aid
4 to Phnom Penh."

5 [14.11.13]

6 He then goes on to launch an appeal to his listeners. Addressing
7 the troops, Khieu Samphan issue a directive as follows -- and I
8 would like to quote:

9 "The brother and sister combatants and cadres of the three
10 categories of the CPNLAF, as well as all brother compatriots at
11 the front, are asked to launch the most vigorous and most
12 powerful offensive against the enemy on all three strategic
13 battlefields, that is, around Phnom Penh and in Phnom Penh, on
14 various important strategic arteries, and at various provincial
15 capitals still under temporary enemy control--"

16 And I continue. Then, to monks, civilians, and cadres in the
17 areas under the CPK control, Khieu Samphan appeals for
18 intensified efforts in labour and production and aggression
19 against the enemy. And I would like to quote:

20 "The monks, people, combatants and cadres in the rear area are
21 asked to unite around the great offensive movement of production,
22 harvest and defense of the current rainy season's crops and the
23 offensive movement to plant rice in the dry season and continue
24 to solve the water problem and remain the master in irrigation.
25 Along with this, you are asked to unite and push forward the

77

1 movement to oppose and sweep the enemy's pacification activities
2 from the entire liberated zone." End of quote.

3 [14.13.48]

4 Of course, this speech reflects the formal position held by Khieu
5 Samphan, but in our submission, it is -- rather, it also
6 demonstrate Khieu Samphan's authority over the Khmer Rouge troops
7 and others living under the Khmer Rouge control. It also contains
8 his endorsements of CPK policies such as the policy to destroy
9 the enemies.

10 MR. PRESIDENT:

11 Defence Counsel, you may proceed.

12 MR. KONG SAM ONN:

13 Thank you, Mr. President.

14 I note that the national prosecutor is making a submission during
15 his speech.

16 If the prosecutor is making a speech referring to any document, I
17 suggest he provide information to the document.

18 [14.15.01]

19 MR. PRESIDENT:

20 The Chamber has already informed the Prosecution that the
21 Prosecution are not allowed to make any submissions before the
22 Chamber as today's hearing is not for the final submission. Even
23 if the prosecutor is drawing attention to the parties or the
24 Chamber to a particular issue, this can also be considered as
25 making a submission. Prosecutors are not supposed to extract the

78

1 entire document, as their stage to evaluate the document will be
2 done at the end of the Case 002/01.

3 The prosecutor, indeed, provided identity of the document, or
4 perhaps the prosecutor is advised to provide the identification
5 of the document again, especially when he refers to the portion
6 of the document as he is reading as we -- as there are millions
7 of pages of documents. It is the best practice that parties
8 refers to the ERN so that the parties as well as the Chamber may
9 refer to that particular portion of the document.

10 [14.17.17]

11 MR. VENG HUOT:

12 Thank you, Mr. President. I would like to continue, but before I
13 do this, if I may respond to the defence counsel for Khieu
14 Samphan, I am not drawing any conclusion on the document. And I
15 am not opposing the advice given by you, Mr. President.

16 And I would like to continue, if it pleases the Court.

17 The next document is also an extract from the January 1975 FBIS
18 report, document number E3/30. This extract is dated 10th January
19 1975 and is at English ERN 00166688 through 90, Khmer ERN
20 00701463, the French ERN 00725105 through 07.

21 This is an excerpt of a speech delivered on the 28 -- rather,
22 27th of December 1974, at a banquet hosted by the Central
23 Committee of FUNK and GRUNK in honour of a delegation of the
24 National Front for Liberation and the Provisional Revolutionary
25 Government of the Republic of South Vietnam.

1 [14.19.11]

2 The welcoming speech was delivered by Vice-Premier Khieu Samphan.
3 In the speech, Khieu Samphan provided an update on the situation
4 in Cambodia, referring again to ambitious labour projects and a
5 tax on internal and external enemies. He states:

6 "The Cambodian people with guns and hoes in hands are now
7 building dams, digging ditches, and enthusiastically promoting
8 production in both rainy and dry seasons and attacking the enemy
9 with the highest spirit of independence, sovereignty, and
10 self-reliance. Everywhere, the people's war is rising with stormy
11 and massive attacks on enemy temporarily-controlled areas and
12 repeated assaults on the enemy inside and outside. Obviously,
13 this is only a question of time."

14 [14.20.33]

15 Khieu Samphan then alludes to the destiny that awaited the CPK's
16 enemies, the leadership of the Khmer Republic, and those
17 associated with them. He states:

18 "The Cambodian people will chase out of their country the U.S.
19 imperialist aggressors and their henchmen, overthrow the Lon Nol,
20 Sirik Matak, Son Ngoc Thanh, Chen Heng, In Tam, Long Boret, and
21 Sosthène Fernandez reactionary regime and their gang." End of
22 quote.

23 The next document is the text of a speech given by Khieu Samphan
24 to CPNLAF troops. Again, it is from the January 1975 FBIS report,
25 document E3/30. The extract is in -- is at English ERN 00166707

1 through 10, Khmer ERN 00701478 through 82, French ERN 00725114
2 through 15.

3 The speech was delivered on the 14 of January 1975 to Khmer Rouge
4 forces on the Mekong and Route Number 1 and broadcast by the
5 Cambodian Information Agency. It congratulates the troops on
6 their victories, while noting, in particular, their successes in
7 causing a dire humanitarian situation in Phnom Penh by cutting
8 off supply routes to the city.

9 [14.22.51]

10 Mr. Khieu Samphan states that:

11 "Thus, the Mekong -- the sole route for the transportation of
12 rice and other food, fuel oil and munitions from South Vietnam to
13 feed the clique of traitor Lon Nol and associates -- is
14 completely blocked.

15 "The traitorous Phnom Penh clique is very frightened and
16 panic-stricken. The clique is at present in serious need of food,
17 munitions and all types of materials."

18 Khieu Samphan closes by urging the troops to continue to fight
19 aggressively and, in customary CPK language, to sweep the enemy
20 away. He states:

21 "I wholeheartedly wish all you, dear cadres and combatants of the
22 Mekong and Route Number 1 front flourishing health, full strength
23 and a fervent spirit to attack the enemy with greater vigour and
24 to sweep him completely out of the entire lower part of the
25 Mekong and definitely control this waterway in order to

81

1 contribute to the liberation of Phnom Penh and all of Cambodia."

2 [14.24.33]

3 The final extract I will show from the January 1975 FBIS report

4 is a public appeal by Khieu Samphan. It is at English ERN

5 00166721 through 22. The appeal was issued by Khieu Samphan on

6 the 22nd of January 1975 and addressed to monks, compatriots, and

7 foreign residents in Phnom Penh and other provincial capitals

8 held by the Khmer Rouge regime. For the most part, the speech is

9 similar to other we have looked at: it praises the Khmer Rouge

10 forces for their victories and urges combatants and civilians

11 alike to continue the struggle against the enemy.

12 The section I would like to take you to, it's - take you to is

13 directed at foreign residents of Phnom Penh, as it gives us an

14 ominous insight into the CPK's plans for the future of the city

15 and any foreign residents left behind. And I would like to quote

16 Mr. Khieu Samphan's speech:

17 [14.26.08]

18 "As for foreign diplomatic personnel and representatives of

19 foreign organizations accredited to the traitorous clique, they

20 should make plans to evacuate themselves and their families from

21 Phnom Penh and a number of provincial capitals under temporary

22 enemy control in order to avoid any untoward incidents.

23 Otherwise, the FUNK and GRUNK will not bear responsibility for

24 any injuries they may suffer."

25 I would like now to show you an excerpt from the February 1975

82

1 FBIS reports. This document's number is D262.3 on the case file,
2 and the English ERN of the extract is 00166755 to 6, and Khmer
3 and French translation of this extract have been requested. This
4 broadcast from the Cambodian Information Agency, dated the 14th
5 of February 1975, reports that 35 foreign residents had left the
6 city during the first ten days of the month.

7 The reason I show this document is that it provides an indication
8 that Khieu Samphan's appeal of the 27th January was not only
9 heard, but very much taken seriously by those living in Phnom
10 Penh. The report states -- and I'm quoting the speech:

11 "The wives of the foreign residents and embassy personnel also
12 said they knew about the 27th January appeal by Deputy Prime
13 Minister Khieu Samphan broadcast by the Voice of NUFC, urging for
14 embassy personnel and their families to evacuate."

15 MR. PRESIDENT:

16 Defence Counsel for Khieu Samphan, you may proceed.

17 [14.28.44]

18 MR. KONG SAM ONN:

19 Thank you, Mr. President. I have observed that the National
20 Co-Prosecutor is still mentioning or making submissions once in a
21 while, even though the submissions are intended to exert
22 inculpatory evidence on my client.

23 I urge that the prosecutor is straight to the point instead of
24 making further submissions.

25 For example, you're trying to quote Mr. Khieu Samphan's speech by

1 saying that he alludes to some people, for example-- I'm just
2 wondering whether you have any evidence to support that claim, or
3 you're making your own conclusions that -- to show a
4 predetermined conclusion of the prosecutors.

5 [14.30.15]

6 Secondly, I am of the view that what has been quoted are the
7 speeches to praise the troops. However, from what we have heard
8 from the excerpts, the -- no portion of the speech tell us about
9 praising the troops.

10 So I'm submitting that the prosecutor is making submission here.

11 I think, when Khieu Samphan made any public speeches, we don't
12 know how much the people could accept such speeches. But now,
13 before us, the prosecutor is now testifying, saying that people
14 accepted such speeches.

15 So I would like the Chamber to consider this.

16 MR. PRESIDENT:

17 International Co-Prosecutor, you may proceed.

18 But would you wish to address to the relevant issue, or would you
19 wish to add new things? If you wish to respond to this, then you
20 will be given the floor.

21 [14.31.48]

22 And we need to clarify this to avoid such same things happen
23 again and again throughout the whole proceedings. We are afraid
24 that, if such issues are being raised time and again without any
25 proper solution, it will impact the allocated time for the

1 Prosecution to put documents before the Chamber, as well.

2 MR. ABDULHAK:

3 I'm grateful, Mr. President, and I'm on my feet following
4 consultation with my colleague. And if I can respond on our -- on
5 both his and my behalf, because I think this form of objection
6 will affect what we do both for the rest of today and then
7 tomorrow, I think my friend's objections are completely and
8 entirely misplaced.

9 [14.32.41]

10 The purpose of this hearing, as Your Honours indicated in the
11 memo number E170, is to give the parties an opportunity to
12 highlight for the Chamber key documents considered to be
13 particularly important to the historical segment of Case 002/1.
14 And that's at paragraph 2 of your memo.

15 Now, what my friend seems to be suggesting is that we should
16 simply stand before Your Honours and read the evidence verbatim,
17 without suggesting how, in the Prosecution's view, those
18 documents are particularly important.

19 And I'm quoting here from Your Honours instruction to us: "It is
20 -- the purpose of the hearing is for us to highlight why these
21 documents are important."

22 Now, how do we do that, other than by introducing information as
23 to the context?

24 Now, this trial is conducted before a panel of professional
25 judges. There is no risk, here, of tainting a lay jury by us

1 making comments that perhaps provide that context.

2 [14.33.44]

3 In our submission, is it -- it is entirely appropriate,
4 particularly given that we're dealing with literally a --
5 thousands of documents and we're quoting here from a very small
6 selected number of them, it is important for us to be able to
7 explain to Your Honours how we see -- why we see those documents
8 as important and how we see them connecting with other evidence
9 on the case file. We're not suggesting that Your Honours should
10 accept our version of events.

11 And of course Your Honours have been very clear in giving the
12 Defence an opportunity to respond. So the appropriate time, of
13 course, is, when we finish, for the Defence to stand and make
14 their submissions, such as the submissions that my friend just
15 made.

16 [14.34.28]

17 And, coming back to the issue of testifying, I think my friend
18 just showed, in his own submissions, how fine the line is between
19 providing a context and in fact testifying, which I think he was
20 doing.

21 So we invite Your Honours to overrule the objection and allow us
22 to present this very limited context before we quote from the
23 documents.

24 If we don't do that, Your Honours, all we will be doing is
25 reading out passages which, with all due respect to my friend,

1 all of us can do without this hearing.

2 (Judges deliberate)

3 [14.37.14]

4 MR. PRESIDENT:

5 Having noted the objection by Counsel for Khieu Samphan and
6 noting the response by the Co-Prosecutor, the Chamber notes that
7 National Counsel for Khieu Samphan's objection is not sustained.
8 To clarify things, I would like to hand over to Judge Fenz to
9 address this issue and why the Chamber has decided to find that
10 the observation -- or the objection by Khieu Samphan's defence
11 team is not sustained. Judge Fenz, you may now proceed.

12 JUDGE FENZ:

13 Thank you, President. Unfortunately, the fineries of the original
14 decision by the President have somehow got lost in translation.
15 So, perhaps, to clarify, it is indeed the objective of this
16 hearing -- or one of the objectives -- to allow the public to
17 understand the documents that will be -- play a major role in
18 these proceedings.
19 Now, in order to achieve this purpose, it must be possible for
20 each party, who wishes itself to avail of the opportunity to
21 present documents in more detail, to explain why they think a
22 certain document is specifically relevant, and, to a degree, to
23 put it in context.
24 Now, counsel are correct: this should not amount to pleading. We
25 all know this is a fine line.

1 [14.39.18]

2 As been -- has been pointed out, there are professionals on all
3 sides of the Bench, so the Chamber invites everybody to be very
4 conscious of this fine line and, if possible, not to cross it.

5 MR. PRESIDENT:

6 Since it is now appropriate time for adjournment, the Chamber
7 will adjourn for 20 minutes. The next session will be resumed by
8 3 o'clock.

9 (Court recesses from 1439H to 1500H)

10 MR. PRESIDENT:

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

12 Before we proceed to the Co-Prosecutor, the Chamber would like to
13 note the request for additional time to put documents during the
14 first trial segment -- the Chamber notes that the request is
15 appropriate but that the Chamber does not rule on this request
16 yet, but we wait until the time allocated to the Lead Co-Lawyers
17 for the civil party already proceeded with their putting of
18 documents before the Chamber.

19 [15.01.47]

20 International Co-Prosecutor -- National Co-Prosecutor, you may
21 proceed.

22 MR. VENG HUOT:

23 Thank you, Mr. President. I will proceed with the remainder of
24 the documents to be put before the Chamber.

25 Khieu Samphan's statements I have presented thus far contain

1 numerous references to the "traitorous clique of officials of the
2 Khmer Republic". The CPK policy against these individuals was
3 crystallized, of course, at the Second National Congress of
4 Cambodia, which was held on the 24th to the 25th of February
5 1975.

6 Khieu Samphan presided over the congress. A communiqué issued by
7 the congress and signed by Khieu Samphan declared it "absolutely
8 necessary to kill the seven traitors". I do not propose to read
9 the statement, as it has already been discussed in the Court,
10 including by the Office of Co-Prosecutors, on 19 January 2012,
11 and by Judge Lavergne last week.

12 I would like to note for the record the different documents on
13 the case file which report the issuance of this statement by the
14 FUNK Congress.

15 [15.03.53]

16 These documents are: FBIS extract dated 27 February 1975,
17 D108/43/1, E3/117, at English ERN 0016672 through 75, Khmer ERN
18 00242308 through 14, and French ERN 00281432 through 35; a "New
19 York Times" article dated 3 March 1975, D56-Doc.017, Khmer ERN
20 00656551, English ERN 00122102, French ERN 00662223; a communiqué
21 to the U.N. General Assembly by the GRUNK Ministry for Foreign
22 Affairs dated 21 March 1975, D108/43/3 -- this is one of the
23 documents discussed by Judge Lavergne last week; an article by
24 the "Takung Pao" newspaper dated 6 March 1975, D108/43/2; a media
25 article from "Agence France Presse" republished in FBIS D262.4,

1 E3/120, at ERN in English 00166811; and finally, in the same FBIS
2 report, D262.4, E3/120, at ERN in English 00166874, Khmer ERN
3 00700253, French ERN 00700229, a broadcast of a press communiqué
4 read by Khieu Samphan on 25 March 1975, which states that the
5 existence of the seven traitors "must be ended at all costs".

6 [15.07.50]

7 Returning now to Khieu Samphan's public statements, I would like
8 to take you to an extract from the March 1975 FBIS report,
9 document D262.4, E3/120. This document contains the text of yet
10 another appeal by Khieu Samphan issued on 15 March 1975 and
11 addressed to monks, countrymen, and foreign residents in Phnom
12 Penh and other cities. It is found at English ERN 0166826 through
13 28, Khmer ERN 00700231 through 255, and French ERN 00700224
14 through 230.

15 Again, this document demonstrates, among other things, Khieu
16 Samphan's detailed knowledge of the situation on the battlefields
17 in various parts of the country. This document shows that Khieu
18 Samphan used this appeal to call on the residents of the capital
19 to rise up and join the Khmer Rouge forces in overthrowing the
20 Khmer Republic regime.

21 [15.09.45]

22 Like some of the previous statements I have read, this appeal
23 also gives an insight into the intentions of the CPK once the
24 city falls. Khieu Samphan states:

25 "Without the Mekong, money, troops, rice and outside assistance,

1 and with only a trickle of aid, the traitors are being drained of
2 all blood. The traitors are well aware that their fate has come
3 to its end. The U.S. imperialists -- their masters -- see it. The
4 world also sees it. Foreign embassy personnel, various foreign
5 organizations, foreign journalists, and foreign residents have
6 been evacuating Phnom Penh. Tens of thousands of well-to-do
7 residents have also fled Phnom Penh. The enemy's situation is
8 thus entirely desperate."

9 In the final days of the civil war, Khieu Samphan issued
10 additional messages to the residents of the city as well as the
11 forces of the Khmer Republic. These messages are contained in
12 April 1975 FBIS report, document D262.5, E3/118. Khieu Samphan's
13 statement of 2 April 1975 can be found at English ERN 00166897,
14 Khmer ERN 00700267, and French ERN 00700256.

15 A final appeal issued prior to the fall of Phnom Penh is dated 13
16 April 1975 and can be found in the same document, at English ERN
17 00166948, Khmer ERN 00700276, and French ERN 00700260.

18 Mr. President, before I hand over to my colleague, I would like
19 to make some observations with regard to the documents the
20 Chamber -- put before the Chamber that they are of importance as
21 they described the activities, public activities, performed by
22 Khieu Samphan in his capacity as the senior leader of the
23 Communist Party of Kampuchea and also the GRUNK and FUNK
24 governments.

25 May we request that the documents be put before this Chamber?

1 And thank you for your -- giving me the opportunity to put the
2 documents.

3 [15.13.24]

4 MR. PRESIDENT:

5 Thank you.

6 Now, we would like to proceed to the International Co-Prosecutor.

7 [15.13.35]

8 MR. ABDULHAK:

9 Thank you, Mr. President. And I note that your decision on time
10 allocations is pending, but I will try and be as brief as I can
11 on each document.

12 I propose to deal with 10 different records, one of which is a
13 video file, and I think, just given the time, that my
14 presentation will not be concluded today, and I will continue
15 tomorrow morning, with your - with your leave.

16 The first document that I would like to briefly discuss is a book
17 published by Khieu Samphan. It is called "Cambodia's Recent
18 History and Reasons for the Decisions that I Made". It is E3/18;
19 it has been put before the Chamber by Your Honours. The original
20 document number was Introductory Submission 4.23.

21 This book is relevant, obviously, because it deals with numerous
22 matters. It has been referred to in Court, so we will only take
23 you to particular passages that we think are relevant both for
24 the purposes of the Chamber and the public more broadly.

25 It deals with Khieu Samphan's life in the pre-'75 period; it also

1 deals with the '75 to '79 period, as well as, to a lesser extent,
2 events following the 1979 period, or the DK period.

3 [15.15.11]

4 First, I would like to take you-- And I should note that the
5 pre-'75 period is dealt with in chapters I to VI. I would first
6 like to take you to a passage which appears at Khmer ERN
7 00103820, English ERN 00103733, and French ERN 00395395. This
8 passage deals with the flight by Khieu Samphan from Phnom Penh.
9 I'm showing the Khmer versions, where available, for the benefit
10 of counsel and the Accused, and I will -- rather than read the
11 entire passages, I'll leave that to all the parties, and I might
12 just read segments that we consider particularly relevant.

13 So, in relation to the departure, Khieu Samphan indicates that he
14 had received a proposal by way of a letter, which included, in
15 his words, a "detailed analysis of the situation, leaving no room
16 for doubt as to who sent it". He doesn't describe who the author
17 is, but describes the letter.

18 [15.16.18]

19 He says: "The messenger who delivered the letter was well known
20 to both of us." This is to Khieu Samphan and his friend, Hou
21 Youn.

22 And I continue to quote:

23 "He was a man respected for his age and his comportment. He often
24 attended meetings organized by the Association of Former Students
25 of Sisowath High School, a group to which we also belonged."

1 So this was the person who had made contact with Khieu Samphan
2 and delivered the letter in response to which, according to the
3 book, he and Hou Youn fled Phnom Penh and then found themselves
4 under the protection of the Khmer Rouge.

5 I should-- For the sake of completeness, I should indicate in
6 this passage he also indicates that he left Phnom Penh in early
7 1967 because he "was forced to do so", and it was not his
8 decision to leave his parliamentary duties and join the
9 revolution.

10 Moving on to another passage, which is an insight into Khieu
11 Samphan's observations in this period of the movement he had
12 joined, or whose protection he had sought and attained, this is a
13 Khmer ERN 00103824, French ERN 00395402, and English ERN
14 00103737. And I should note I'm giving only the starting ERNs. In
15 some cases, these passages are longer than a page.

16 [15.17.41]

17 At this passage, Khieu Samphan reflects on what he saw in 1967,
18 when he was in the Southwest Zone, under the protection of Ta
19 Mok, and he says: "So, this is the gist of what I saw, what I
20 heard and how I felt when I was first introduced to the Khmer
21 Rouge movement. It is sad, but also exhilarating."

22 And then, a little bit further down:

23 "[...] I was excited because I was seeing a new force -- a real
24 national force -- taking root in the hearts of the farmers living
25 in the countryside at a time when there were signs that our

1 country was headed for disaster."

2 Moving on to yet another passage -- and this is a caption that is
3 found below a photograph -- this is at ERN -- in Khmer ERN

4 00103825, French ERN 00395404, and English ERN 00103738. The

5 reason we show this is because it is a -- sort of a reflection by

6 Mr. Khieu Samphan as to, perhaps, the conundrum he seems to be

7 facing or dealing with, of what one might do when there's a clash

8 between human rights and the sovereignty of his or her nation.

9 And I'll read again the passages is on the screen, I will read a
10 part of it. And he says:

11 "Can one be true to the principles of respect for human rights in
12 defense of one's homeland at the same time, when it happens that
13 the two principles contradict each other...?"

14 At the end of that passage, he says:

15 "I still profoundly agree with my orientation of life that the
16 defense of one's country's independence and sovereignty is always
17 and ever legitimate and necessary."

18 The reason we read this passage, Your Honours, because in our
19 submission it relates to Khieu Samphan's attitude, perhaps, to
20 resolving what he sees as a conflict between his country's
21 sovereignty and respect for human rights.

22 [15.19.49]

23 I will note in passing that, at Khmer ERN 00103826, French ERN
24 00395406, and English ERN 0003739, Khieu Samphan describes an
25 attack which took place in Trapeang Kraloeng district, which he

1 was invited to attend and witness. This was an attack, by his
2 account, by Khmer Rouge forces on a Khmer Republic garrison. And
3 he describes at those ERNs his ability to view that attack and
4 his happiness at what he was witnessing.

5 I will also just briefly note, for this period, 1968-1969 -- of
6 course, Your Honours have heard evidence already of the uprising
7 which the evidence indicates the Khmer Rouge had commenced at
8 that stage -- Khieu Samphan describes the situation in which that
9 uprising took place in more detail at Khmer ERN 00103828, French
10 ERN 00395408, and English ERN 00103741. And those sections, as I
11 say -- as I indicated, continue to describe the uprising, the
12 conditions in which the uprising took place.

13 [15.21.23]

14 And lastly they also describe Khieu Samphan's move to Mount Aoral
15 in 1969 with Hou Youn and Hou Nim, where he essentially, I
16 believe, was stationed at Ta Mok's headquarters for the Southwest
17 Zone.

18 The next significant event which Khieu Samphan describes is his
19 meeting with Pol Pot and Nuon Chea in 1970. And this is found at
20 the Khmer ERN 00103830, French ERN 00395412, and English ERN
21 00103742. If we could show that on the screen?

22 I don't propose to read the entire passage, in the interests of
23 time, other than to indicate that he describes being taken to a
24 meeting point by Ta Mok and also being accompanied by Hou Youn,
25 Hou Nim, and another individual to a point where they met Nuon

1 Chea and Pol Pot.

2 [15.22.30]

3 What I wish to highlight here is that -- the words, at least in
4 English: "This is where we met Saloth Sar and Nuon Chea for the
5 first time."

6 And I'll just make a brief pause here. This meeting, according to
7 Khieu Samphan's OCIJ interview, took place in September 1970.
8 That is several months after the March 1970 appeal that was
9 issued by the then-Prince Norodom Sihanouk and which, again
10 according to Khieu Samphan's own statements, was issued following
11 consultations between Pol Pot and the then-Prince. And those
12 consultations, of course, took place via an intermediary, the
13 Premier of China, Mr. Zhou Enlai, at the time.

14 The reason I make this point is because Khieu Samphan suggests he
15 met Saloth Sar, or Pol Pot, for the first time in late 1970, and
16 yet several months earlier, of course, the appeal had been issued
17 and it had been issued in part with his name attached to it, on
18 behalf of the resistance in the country.

19 [15.23.43]

20 The next passage is at Khmer ERN 00103832, French ERN 00395417,
21 and English ERN 00103745. And in this passage, Khieu Samphan
22 elaborates on an open letter which he had published, addressing
23 -- and which he had addressed to the people of Cambodia. This is
24 found in chapter VI of the book, which is entitled "Why Did I
25 Agree to Represent the Resistance Inside the Country?" And he

1 says -- and I quote:

2 "I wrote that the CPK appeared as the only valid source -- force
3 to lead the struggle in the field. By 'valid force', I mean
4 independent force, one that fights for the sovereignty of our
5 country, without depending on some foreign force for assistance."

6 And a little bit further down, he says: "From that point of view,
7 I was dictated by my conscience."

8 And we submit that's relevant for the purposes of considering the
9 reasons Khieu Samphan joined the Khmer Rouge movement and agreed
10 to be one of their leaders.

11 The next event to which I wish to take Your Honours and which is
12 dealt within the books is the 1971 Congress of the CPK, which
13 Khieu Samphan indicates he attended.

14 I shall slow down.

15 [15.25.10]

16 This is found at Khmer ERN 00103869, French ERN 00395478, and
17 English ERN 00103775. This is in chapter XI, which is entitled
18 "Reflection on the Khmer Rouge Movement Based on My Experience".

19 It's the Accused's reflections on the regime that he had joined.

20 And he indicates that this congress in the middle of 1971 was
21 held -- this was the first congress since 1960, and it was held
22 in the North zone, which was then controlled by the Khmer Rouge.

23 And what is of interest here, if we can just have that on the
24 screen very briefly, is a quote of a speech by Pol Pot given at
25 that meeting, where Pol Pot is quoted by Khieu Samphan to have

1 said: "The weakness of the working class in Cambodia does not
2 mean that there are no class distinctions or class struggles in
3 our country." Pol Pot then goes on to elaborate on that class
4 struggle.

5 But we will move on to another passage which illustrates, in our
6 view, what this struggle was all about. That next passage is at
7 Khmer ERN 00103870, French ERN 00395479, and English ERN
8 00103776. And in this part, which is of particular interest,
9 Khieu Samphan develops a theme of a contradiction or struggle
10 between the cities and the countryside. And he also makes
11 reference to the use of the so-called defense units by the Khmer
12 Rouge.

13 [15.27.06]

14 In our submission, this evidences Khieu Samphan's contemporaneous
15 knowledge of these events, and that will become apparent from the
16 passage I will read. He says that, following the 1971 Congress --
17 and I quote now:

18 "I learned from various internal party documents and from the
19 stories of various zone or region leaders, that the daily social
20 conflicts, in the cities as well as in the countryside, though
21 seemingly minor, were actually breeding grounds for the CPK to
22 train leaders to work in various types of 'mass organizations'.
23 But the movement soon revealed itself to be far more vulnerable
24 in the cities than in the countryside."

25 [15.27.52]

1 And then he goes on to say, "according to the documents" he read
2 - quote: "The enemy's repression machine is more sophisticated
3 there, where workers are often tarnished by capitalism, whereas
4 the countryside is wider and more protected from it."

5 In the same passage he goes on to describe the shaping of the
6 first "self-defense units" by the Khmer Rouge, and he says:

7 "In some regions, the local authority's secret agents who were
8 caught spying on important party meetings were sometimes tied up
9 and physically eliminated. One remembers the role played by these
10 'self-defense units' in the 1968 capture of weapons from Lon
11 Nol's depots, and in the guerrilla war that followed."

12 And Your Honours will recall that earlier I described an attack
13 on such a depot which Khieu Samphan, by his own account,
14 witnessed in 1968.

15 [15.28.45]

16 Another theme which Khieu Samphan deals with is the relationship,
17 or "conflict", as he describes it, between the cadre, CPK cadre
18 who had spent time in Hanoi and the CPK cadre who had been
19 stationed in Cambodia throughout this period. This is at Khmer
20 ERN 00103870, French ERN 00395481, and English ERN 00103776.

21 Now, I want to be fair to the Accused, here, and I want to
22 indicate that there is a discrepancy between the English and
23 French versions, on the one side -- on the one hand, and the
24 Khmer version, on the other hand, in this passage. So I'm going
25 to read from an English passage, but, as I said, I wish to

100

1 indicate that there is some discrepancy with the Khmer language.

2 And perhaps we will try to clarify that in the days to come.

3 What Mr. Khieu Samphan says here is -- and I quote:

4 "Another point merits mention. Very early, after the 1970 coup, a

5 rivalry developed between military leaders from the 1968-1970

6 armed battle, on the one side, and from [...] Vietnam on the

7 other."

8 [15.30.07]

9 And then he goes on to say:

10 "[...] from my position, I did not notice any systematic

11 elimination. In the rare cases I heard about in informal

12 conversations, I thought the offending parties were simply pulled

13 aside or sent to the villages to 'learn closer to the people,'

14 such as what happened during those years to members of the Khmer

15 National Union Front who had recently returned from Beijing."

16 [15.30.35]

17 The reason I make reference to this passage is because other

18 evidence on the case file indicates that returnees from Hanoi,

19 the Khmer Rouge cadre who had returned from Hanoi were, in many

20 cases, executed by the CPK.

21 And just one such item is Philip Short's book, which is based on

22 interviews with CPK cadres. And this is at ERN 003964250.

23 Now, another theme which Khieu Samphan deals with, in this book,

24 and the final theme that I will deal with just as I'm going

25 through the book, is the use of cooperatives in the zones

1 controlled by the Khmer Rouge in the period prior to 1975.

2 At the same ERNs I quoted earlier, for the last passage, Khieu

3 Samphan continues -- quote:

4 "Finally, the decision to form peasant cooperatives in liberated
5 zones at the end of 1971 and in early 1972, long before the Khmer
6 Rouge's victory, also greatly affected the movement."

7 He goes on to say:

8 "[...] these cooperatives were deemed critical. Indeed, while
9 giving the Khmer Rouge leadership control over the economy, in
10 particular, the production of rice, these cooperatives were also
11 an indispensable source of power, independent from the Vietnamese
12 communists, that could be easily mobilized after the Vietnam War
13 spilled over the Cambodian border. Without such measure, the
14 Khmer Rouge destiny would have forever been linked to the events
15 inside Vietnam."

16 [15.32.24]

17 And this is, again, Khieu Samphan discussing cooperatives some
18 four years prior to the April 1975 events.

19 He then goes on to describe an accelerated use of cooperatives
20 throughout the country. This is at Khmer ERN 00103872, French ERN
21 00395484, and English ERN 00103778.

22 I should-- Again, to be fair to the Accused, he describes himself
23 as a "fellow traveller, not a man of the Party". So, in his own
24 words, he is now giving this -- these accounts as someone who is
25 "a man of the Party". Of course, we disagree strongly on this

102

1 point, but I wish to be fair to him.

2 And I'll quote one passage here:

3 "It is essential to remember that the movement's independence,
4 vis-à-vis the North Vietnamese and the United States who were
5 both fighting on Cambodian soil, was based on agricultural
6 collectivization at the end of 1971 and in early 1972 and on the
7 grain requisitioning measures throughout [the] so-called
8 'high-level cooperatives,' in regions under the regime's control.
9 Pol Pot saw in this a mechanism to mobilize all forces - 'human,
10 economic and ideological' -- to end the war."

11 [15.33.58]

12 Again, we consider this highly probative because it indicates the
13 pervasive use of cooperatives throughout the areas controlled by
14 the Khmer Rouge, of course at a time where Khieu Samphan, in our
15 submission, was one of the leaders of the movement.

16 I will now take you to another document, and I will speed along
17 passages now. This is just a brief passing reference.

18 This is a "New York Times" article. It is dated the 9th of July
19 1982. And the document number here is D56-Doc.252, at Khmer ERN
20 00651187, French ERN 00622450, and English ERN 00122280. Khieu
21 Samphan is reported to have said - to have indicated that he had
22 indeed taken part in the decision to evacuate Phnom Penh. And I -
23 and I will quote:

24 [15.35.14]

25 "And he acknowledged that millions of Cambodians had been sent

103

1 out of Phnom Penh and into the countryside; as a result of 'a
2 collective decision'. Had he joined in the decision? Mr. Khieu
3 Samphan chuckled dryly and replied in French, 'Yes, evidently'.
4 I don't think this document requires any comment in particular,
5 so I'll move on to the next one, which is document number E3/116.
6 It has been put before Your Honours. This is a document dated the
7 9th of September 1972 and it ties in with the submission of my
8 colleague earlier. This is another appeal by Khieu Samphan, but
9 now issued three years earlier to the appeals that my colleague
10 was quoting from. And this appeal, in our submission, is relevant
11 because it demonstrates Khieu Samphan's public responsibilities
12 as a minister of defence at that time, and also his knowledge of
13 the dire humanitarian situation in Phnom Penh as early as 1972.
14 [15.36.27]

15 And I'll quote briefly here. This is Khmer ERN 00003067, French
16 ERN 00485505, and English ERN 00485282. And perhaps we can have
17 that document on the screen. We're just waiting on the AV Unit.
18 I'm going to read a part of that passage. It says:

19 "Our Khmer People's National Liberation Armed Forces are
20 intensifying attacks against all targets especially along the
21 strategic route numbers 1, 2 and 5. Our forces are besieging
22 Phnom Penh and isolating the city from other places causing the
23 enemy's last stronghold in a panic-stricken state. Therefore,
24 they are severely defeated militarily. Worse than this, their
25 stocked rice is not available now. Concerning the rice issue, I

104

1 would like to inform monks, public servants, soldiers, and
2 civilians that it is obvious that there is no single grain of
3 rice now and in the future."

4 [15.37.40]

5 Khieu Samphan, describing the situation in Phnom Penh in 1972.

6 I won't read any more from that document. It is there for Your
7 Honours and for the parties to look at. But for the benefit of
8 the public, I'll just indicate it ends with an appeal to monks
9 and other living under the Khmer Republic regime to attack rice
10 and food warehouses and to use their solidarity with the Khmer
11 Rouge.

12 And it closes -- and I'll just read the last sentence: "Please
13 monks and you my [patriots] rise up to smash the enemy."

14 Another document from the same period, this time, January -- it
15 appears to be a January 1973 document. And perhaps my colleague
16 can just show the first page of this - of this publication. It is
17 not dated, as far as we can ascertain, but the text of the
18 document seems to indicate that it was published in or around
19 mid-January 1973. If we could just show that first page?

20 This was issued at a time of peace negotiations between the
21 United States and Vietnam, and the document makes reference to
22 it. It is a public statement issued by Khieu Samphan together
23 with -- in his capacity, I should say, as the Deputy Prime
24 Minister and Minister of National Defence of GRUNK, and also by
25 Mr. Hou Youn, who was Minister of Interior, and Mr. Hu Nim, who

105

1 was ministry -- Minister of Propaganda and Information.

2 In our submission -- and Your Honours will read the document, of
3 course -- it shows his detailed knowledge of the battlefield
4 situation. It goes into several pages, detailed discussions of
5 military victories by Khmer Rouge forces. It, in fact, boasts as
6 to the "smashing" of enemy heads at various frontlines, including
7 national road 3, national road 5, around Phnom Penh, around the
8 Mekong, South of the Capital, and in the North, at Siem Reap and
9 Kampong Thom.

10 [15.40.05]

11 At paragraph 7, this document boasts that, by mid-January 1973,
12 the Kampuchean People's Liberation Army had "smashed a total of
13 10,245 heads of enemies and liberated dozens of bases, Mekong
14 River and tens of thousands of people".

15 I'll give two specific examples of what we say is contemporaneous
16 knowledge of the brutality of the Khmer Rouge forces by Khieu
17 Samphan.

18 At Khmer ERN 00442329, French ERN 00752171, and English ERN
19 00740933, Khieu Samphan suggests -- and his co-authors:

20 "On the other hand, in the Svay Prey battlefield along national
21 road 2 alone, we have smashed [10 enemy's] strategic villages, 11
22 bridges, and injured/killed 300 enemies including a captain; and
23 300 households have been liberated."

24 [15.41.15]

25 I won't quote from that document anymore; we have - we're limited

106

1 for time. But again, I'll just note that it -- like the other
2 documents, it boasts the cutting off of supplies to Phnom Penh by
3 Khmer Rouge forces.

4 The next document has in fact been discussed in Court, so, again,
5 in the interest of time, I'll be very brief. I believe Judge
6 Lavergne referred to this document towards the end of last week.
7 It is entitled "Nouvelles de Cambodge". It is an April 1974 issue
8 by the Kampuchea Information Agency. This is document number --
9 Introductory Submission 12.7. It basically reports the activities
10 of a delegation led by Khieu Samphan, a delegation which included
11 Ieng Sary, who was then described as a special advisor to the
12 vice-presidency of the Royal Government, and Ieng Thirith, who
13 was described as Minister for the People's Education and Youth.

14 [15.42.23]

15 Because the document has been discussed, and in accordance with
16 Your Honours instructions, I won't read from it; I will simply
17 indicate two particular places that we consider relevant. The
18 document first includes a joint statement issued by the Korean
19 hosts and the Cambodian visitors. And an excerpt that we're
20 particularly interested in is at Khmer ERN 00596125, French ERN
21 S00000112, and English ERN 00280576. This, again, indicates
22 knowledge of violent attacks on Phnom Penh and a few remaining
23 strongholds of the Khmer Rouge Regime.

24 This document also includes a speech by Khieu Samphan, which, I
25 think, Judge Lavergne quoted from last week -- or referred to

107

1 last week. It discusses the -- as the Khmer Rouge describe it --
2 liberation of Oudong in March 1974. This is at Khmer ERN
3 00596141, French ERN S00000122, and English ERN 00280586. Reason
4 we make reference to this in particular is because other evidence
5 in the case file indicates that extensive crimes were committed
6 during the Khmer Rouge's attack on Oudong.

7 [15.44.08]

8 And again, other evidence in the case file describes the events
9 there, including cadres interviewed by Philip Short, one of whom
10 will testify before Your Honours. And in Philip Short's books
11 this is -- those events are described at 00396455 and 00396465.
12 Those passages are only available in English at the moment; it is
13 a long book, and we will try and obtain translations of the
14 relevant portions.

15 MR. PRESIDENT:

16 Could International Co-Prosecutor slow down and repeat the last
17 ERNs? Because the interpreter could not translate them all.

18 MR. ABDULHAK:

19 Yes. Thank you, Mr. President. And I apologize to everyone in the
20 courtroom, and interpreters in particular. Those ERNs from Philip
21 Short's book were 00396455 and 00396465.

22 [15.45.29]

23 I'll move on to another document. This is document number 6 that
24 I'm presenting today. It is a interview of Khieu Samphan by two
25 individuals, Meng-Try Ea and Sopheak Loeung. This is on the case

108

1 file, E3/108. It has been put before Your Honours.
2 And this is -- we submit this document is highly probative. It
3 contains comments by Khieu Samphan about numerous aspects of CPK
4 policy prior to 1975. It deals with the reasons for the
5 evacuations and it deals with the functioning of the Standing and
6 the Central Committee, among other matters. I should say this
7 also contains an interview of Nuon Chea by the same authors.
8 Again -- I wish to be very clear -- there are sometimes issues
9 with translation of passages. We have requested a correction, or
10 a review by the Translation Unit of one page of this document in
11 Khmer. The English is the original. So I will quote from the
12 English version -- and that's the version we will show on the
13 screen -- and the correction in Khmer should, hopefully, come
14 through very soon. It only relates to one brief passage.
15 Otherwise, we didn't identify any major errors.
16 [15.47.02]
17 At Khmer ERN 00347033, French ERN 00613202, and English ERN
18 00000926, Khieu Samphan deals with the return to Cambodia by Pol
19 Pot in 1953. This was at a time when Khieu Samphan had gone to
20 France to undertake further studies, and at the same time Pol Pot
21 had returned to Cambodia to, essentially, according to this
22 account, investigate, or look into the various resistance
23 movements and report back to the student association on who they
24 should join their forces with, as it were. And I mention this
25 simply because, in our submission, it indicates Khieu Samphan's

109

1 early knowledge of who – of who Pol Pot was and what he was
2 doing.

3 [15.48.06]

4 And I would just note that earlier, when I was quoting from Khieu
5 Samphan's book, he had indicated there that he had met Pol Pot
6 for the first time in 1970. And this of course, in our
7 submission, is inconsistent with other evidence on the case file
8 which indicates that he was well aware of Pol Pot's role in the
9 Communist Party, as I said, as early, as 1953.

10 I will read from that passage very briefly:

11 "At that time, Saloth Sar, me and others were students in France.
12 I went to France in 1953. Saloth Sar was assigned to come to make
13 a judgement which group should students involve. Saloth Sar came
14 and decided to involve with Khmer Viet Minh movement, supported
15 by Vietnam. We decided to join Saloth Sar to support the Viet
16 Minh movement fighting against France."

17 [15.49.05]

18 Again, another passage in the same interview deals with the theme
19 of cooperatives, again prior to 1975. And what's interesting here
20 is that Khieu Samphan indicates that one of the reasons that the
21 population of Phnom Penh had swelled to 3 million was because
22 they were escaping Khmer Rouge cooperatives. This is at Khmer ERN
23 00347036, French ERN 00613203, and English ERN 00000928. Khieu
24 Samphan says -- and I quote:

25 "In 1975 there were as many as 3 million people lived in Phnom

110

1 Penh. These people moved first to escape the U.S. bombings and
2 cooperative in the Khmer Rouge-controlled areas."

3 "But why there were cooperatives?" he asks, and goes on to say:

4 "It was because at that time the Vietnamese tried to buy rice
5 from the Lon Nol government and later Cambodian people. Then we
6 started to create cooperative to make sure that everybody had
7 enough rice to eat."

8 [15.50.28]

9 On the same page, if we could show that page on the screen, Khieu
10 Samphan was asked whether there were CIA spies in Cambodia in
11 this period, pre-'75, and he answers:

12 "CIA were everywhere during the war. According to World Health
13 Organization there were 15,000 people died of starvation 5 months
14 before April 17 1975. What would you do if you were there? There
15 were meetings in the standing committee to deal with these
16 problems."

17 The reason this is probative, in our opinion, in our submission,
18 is because it indicates that discussions took place, of course,
19 prior to the evacuation of Phnom Penh, to deal with the problem
20 of the city's population.

21 I should indicate that, in the same interview, Khieu Samphan
22 names the members of the Standing Committee of the CPK to include
23 Pol Pot as secretary, Nuon Chea as deputy secretary, Ieng Sary as
24 a member, Son Sen, Ta Mok, Vorn Vet, and Sao Phim.

25 And at Khmer ERN 00347037, French ERN 00613204, and English ERN

111

1 00000929, after identifying those members of the Standing
2 Committee, he is asked: "Is Vorn Vet still alive?" He responds:
3 "He was arrested because he also was one of the Viet Minh bodies
4 hidden in the Communist Party of Kampuchea. Similarly, Sao Phim
5 was also arrested for the same reason."

6 [15.52.23]

7 One last reference in that document, at Khmer ERN 00347039,
8 French ERN 00613205, and English ERN 00000929, Khieu Samphan
9 canvases, according to the interview, the concept, or need for
10 radical policies. And he says:

11 "I completely agree that at that time we had committed mistakes.
12 At the same time, we also did many good things for our nation. So
13 it is fair to talk both good and bad [...]. Stop talking only about
14 the killings which is only one side of the coin. If you want your
15 country to gain independence and free you have to dedicate
16 something for your nation. People may not have so much freedom.
17 Political leaders have to practice radical policy."

18 And I'll leave this document there.

19 The next set of documents, number 7 on my list, from which I will
20 not quote but to which I will simply refer, are a series of
21 interviews with an individual called Sam Borin. And these
22 documents are found at D297.11 through to D297.15. These are
23 relevant simply because, again, they deal with Khieu Samphan's
24 life prior to 1975.

25 [15.54.08]

112

1 I do wish to note that we also have a more complete version of
2 these interviews, and we submitted them with our document list
3 both in April and in July. This document hasn't been allocated a
4 number just as yet by the Chamber, but it is document number 207
5 in Annex 1 of our April and July lists; the July list is
6 E109/4.1, and there are a number of annexes to that list.
7 The next document which I wish to deal with -- and I will provide
8 perhaps two quotes or three in the time that is remaining, and
9 then perhaps I can resume in the morning, Your Honours -- is
10 Khieu Samphan's -- again, another book by Khieu Samphan, entitled
11 "Considerations on the History of Cambodia from the Early Stage
12 to the Period of Democratic Kampuchea". This is -- has been
13 placed before Your Honours; it is E3/16. It is a very long
14 document. We consider chapter V, in particular, to be extremely
15 relevant because it deals with the development of the CPK, and
16 their policies with the various individuals, and their roles in
17 the pre-'75 period.

18 [15.55.38]

19 Perhaps, by way of introducing this document, I should read from
20 the very opening lines of chapter V, where Khieu Samphan says:
21 "However, we should also ponder whether a revolution like the
22 Khmer Rouge revolution that had once broken the greedy ambitions
23 of major and intermediate great powers could have been an act
24 committed by a single person or a small group of people. That
25 certainly could not be true. Many tens of thousands and hundreds

113

1 of thousands of people followed this revolution, and they did not
2 hesitate to sacrifice their lives for the revolutionary cause."
3 Reason we say this is important is because it reflects Khieu
4 Samphan's views on the Khmer Rouge movement and also on the
5 concept that, of course, it was a collective movement, it was not
6 ruled by one person or, in Khieu Samphan's words, "a small group
7 of people".

8 [15.56.50]

9 At another passage which I wish to refer to briefly, Khieu
10 Samphan discusses the use of criticism and self-criticism, which
11 is of course a hallmark of CPK policies, as early as late 1950s.
12 This is at Khmer ERN 00380262, French ERN 00643831, and English
13 ERN 00498229. And Khieu Samphan states the following:

14 "On the organizational side, the fundamental units were the
15 Branches, each of which had just three to six persons 'with iron
16 discipline, which all voluntarily accepted' and which 'had to do
17 constant criticism and self-criticism to strengthen and expand
18 the proletarian stances'."

19 He then says in brackets: "Later, these words were used to
20 educate me too. I wish to use them at this time so that you can
21 see the atmosphere inside the movement at that time."

22 [15.58.06]

23 I will move on to another passage. This is at Khmer ERN 00380267,
24 French ERN 00643834, and Khmer ERN -- sorry, I apologize, English
25 ERN 00498231. This is important, in our submission, because it

114

1 deals with the Party lines adopted at the very first congress of
2 the Communist Party held in Phnom Penh, as Khieu Samphan
3 indicates, between the 30th of September and the 2nd of October
4 1960. He points -- he highlights, in particular, a new line of
5 the Party adopted at that congress under item D on that page, and
6 he says:

7 "This line specified that the 'exploiting classes' were the
8 primary enemy of the Cambodian revolution and 'the tools of the
9 American imperialists'. Thus, the Cambodian people had to smash
10 the 'feudalist regime' whether by peaceful methods or by other
11 [means]."

12 Your Honours, I'm mindful of the time; it's 4 p.m. now. I would
13 need about another 10 minutes to finish this document, and then I
14 could-- The next segment is a number of brief video clips. I can
15 either finish this document now or in the morning, whichever Your
16 Honours prefer.

17 (Judges deliberate)

18 [16.00.08]

19 MR. PRESIDENT:

20 Having noted that you would need 10 more minutes to proceed with
21 the -- with your document, then you may proceed.

22 MR. ABDULHAK:

23 I'm very grateful, Your Honours. And I'm mindful that it's been a
24 long day, so I will complete this document in the 10 minutes that
25 I have.

115

1 The next section is of interest because it deals with the stands
2 of independence, mastery, and self-reliance -- this is in the
3 very early period -- and the use of covert guard units, to which
4 I've already made reference in another document, earlier. This is
5 at Khmer ERN 00380371, French ERN 00643836, and English ERN
6 00498233.

7 [16.01.06]

8 Discussing those units, Khieu Samphan says the following --
9 quote:

10 "Any sub-district chief, any deputy clerk, any forestry chief,
11 any fishery ministry officer that was the most vicious, they
12 would arrest and kill..."

13 And further down:

14 "And they struggled to defend one another against campaigns of
15 arrests and helped hide one another so that the power holders
16 could not arrest them [...]. They even organized 'Covert Guards'
17 that used only kerchiefs, cattle ties, knives, hatchets, and
18 clubs as weapons to capture anyone who dared sneak into the
19 villages to listen to the meetings of the peasants or the
20 meetings of the cadre."

21 [16.01.57]

22 Of course, numerous other documents discuss these -- these covert
23 guards, including, I believe, the "Revolutionary Flag" of
24 December 1976 to January 1977.

25 But I shall move on to another segment. This is found at English

116

1 ERN -- rather, I'll start with Khmer; the Khmer ERN 00380390,
2 French 00643847, and English 00498243. This passage is of
3 interest because it discusses a meeting conducted by Pol Pot at
4 Office 100, which, I believe, was on the Vietnamese territory, in
5 -- it said 1966. This was a meeting at which a decision was made
6 to prepare for armed struggle, and Khieu Samphan summarizes the
7 -- these resolutions, but importantly, at number 3, he says: "[...]
8 the most important decision of all was that each Zone was to make
9 ready to join in armed struggle."

10 [16.03.17]

11 In our submission, the relevance of this, of course, is the
12 centralized decision-making by the CPK highest echelons which
13 then, of course, are implemented by each zone, in the words of
14 Khieu Samphan.

15 And last -- the last passage from this book to which I want to
16 refer relates, again, to those events of March 1970 following the
17 coup d'état, and it revolves around the issuance of a public
18 appeal by the then-Prince Norodom Sihanouk. This is at Khmer ERN
19 00380421, French ERN 00643864, and English ERN 00498259.

20 Here, Khieu Samphan describes the, essentially, communication
21 between Norodom Sihanouk and Pol Pot, with Zhou Enlai, as I
22 mentioned earlier, acting as an intermediary. And Khieu Samphan
23 confirms that, in that communication, Pol Pot sent a letter of
24 support to the Prince, which was signed in the name of Khieu
25 Samphan, Hou Youn, and Hou Nim, all of whom most Cambodians

117

1 assumed had died at the orders of Sihanouk three years earlier.

2 Again, this is relevant, in our submission, because it forms part
3 of the factual matrix as to just what was happening in early
4 1970, and how those communications took place, and how Khieu
5 Samphan was put forward as the leader of the resistance in the
6 country.

7 Lastly-- I note that I have about three minutes left, and I will
8 just use that time to refer to document number 9, from which I
9 will not -- not quote because it is before Your Honours, you're
10 well familiar with it, but perhaps for the benefit of the
11 audience, the interview of Khieu Samphan by the Co-Investigating
12 Judges on 13 December 2007. This is contained in document E3/27.
13 Again, it is before Your Honours. I will just note the relevant
14 ERNs without actually reading any of this text: Khmer ERN
15 00156614, French ERN 00156666, and 00156743 for English.

16 [16.06.10]

17 It indicates -- this passage essentially indicates that Pol Pot
18 was at the headquarters, west of Oudong, together with Pol Pot,
19 immediately prior to the fall of Phnom Penh, and he indicates
20 that Nuon Chea may have also been there, as well as a number of
21 regional commanders.

22 [16.06.35]

23 Another passage in the same document is at Khmer ERN 00156615,
24 French ERN 00156667 to 8, and English ERN 00156745. The reason I
25 make reference to this passage is because, in response to a

118

1 question by Judge You Bunleng whether, between 1970 and 1975, he
2 stayed permanently with the Khmer Rouge, he says: "Yes, because
3 my role was to establish the liaison with the King."
4 And, Your Honours, I'm grateful for the extra time.
5 With your leave, I will resume tomorrow. As I said, I have a
6 brief set of media extracts which should not take me more than 20
7 minutes. Thank you.

8 MR. PRESIDENT:

9 Thank you, International Co-Prosecutor.
10 The Court proceedings today comes to an appropriate end.
11 Tomorrow's session will be resumed by 9 o'clock.
12 Security personnels are now instructed to bring all the accused
13 persons to the detention facility and have them return to the
14 courtroom before 9 a.m.
15 The Court is adjourned.
16 (Court adjourns at 1608H)

17

18

19

20

21

22

23

24

25