



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): 05-Apr-2012, 10:52
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC
Case File N° 002/19-09-2007-ECCC/TC

28 March 2012
Trial Day 43

Before the Judges: NIL Nonn, Presiding
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YA Sokhan
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MR. KAING GUEK EAV, alias DUCH

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List of Speakers:

Language used unless specified otherwise in the transcript

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MR. ANG UDOM	Khmer
MR. KAING GUEK EAV alias DUCH	Khmer
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
MS. NGUYEN	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
MR. PICH ANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SMITH	English
MR. VERCKEN	French

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

2 (Court opens at 0900H)

3 MR. PRESIDENT:

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

5 During today session, the Chamber is going to continue hearing
6 the testimonies of witness Kaing Guek Eav alias Duch, questions
7 to be posed by the Prosecution.

8 [09.01.13]

9 The Chamber would like to hand over the floor now to the
10 Co-Prosecution to proceed with their questions.

11 QUESTIONING BY MR. SMITH RESUMES:

12 Good morning, Mr. President. Good morning, Your Honours. Good
13 morning, Counsel, civil parties. Good morning, general public,
14 and good morning to the witness.

15 Mr. Kaing Guek Eav, when we last spoke, yesterday, we were
16 talking about whether or not, after the 30th of March 1976,
17 whether or not killing -- arrests and killings increased at S-21
18 compared to beforehand, prior to the 30th of March 1976.

19 [09.02.17]

20 It's -- it's been a long week, and we appreciate you staying
21 focused and answering the questions before the Court, and so we
22 understand it's taxing to do it.

23 So there was a little bit of lack of clarity that came through
24 yesterday, and that was in relation to your answer. So, perhaps,
25 if I can ask you a couple of questions to clear that up, and then

1 if we can move on to the next topic.

2 Q. And my first question is: When -- when was S-21 first opened?
3 What date did S-21 start receiving prisoners?

4 MR. KAING GUEK EAV:

5 A. S-21, as I believed, started immediately after the 17th of
6 April. It was -- or it belonged to Division 703 and, later on,
7 expanded to S-21. When under the supervision of Division 703, it
8 was under the Police supervision and it was coded 42, 43 or 44 or
9 something before it turned into S-21.

10 [09.04.02]

11 And yesterday we seem to -- had some problem understanding one
12 another.

13 Q. Thank you. Hopefully, we'll clear that up today.

14 What was the date that S-21 closed?

15 A. It is difficult to say when S-21 closed, but if it is--
16 According to Nuon Chea order to close the vicinity, it was on the
17 3rd of January 1976 - rather, 1979, at 11 a.m.

18 Q. Thank you. And you've agreed earlier, in your testimony, that
19 a list that was produced to you -- a prisoner list that was
20 produced to you by the Prosecution in your previous case, that
21 contained over 12,000 people, as recorded, as being detained and
22 killed at S-21, was an accurate list; do you agree with that?

23 A. Yes, I do.

24 Q. Thank you, Your Honour.

25 [09.06.01]

1 If I can pass a document to the witness; and it's D288/6.68.1 and
2 it's in fact the prisoner list that is in question. Now, if I
3 can--

4 MR. PRESIDENT:

5 The Chamber allows the document to be handed over to the witness.

6 BY MR. SMITH:

7 Q. Mr. Kaing Guek Eav, if you -- can you look at that document
8 and can you tell the Court what that document is if you're
9 familiar with it?

10 A. This document concerns the list of S-21 prisoners, and the
11 Prosecution has already revised the document, and I have not kept
12 the document at the detention facility, but we discussed about
13 this before.

14 Q. And have you reviewed this document before?

15 A. In Case File 001, I studied the list time and again, but
16 because my cell was small to accommodate lots of documents, I had
17 them removed to the office of my counsel.

18 Q. Thank you. And do you agree with me that this combined list
19 contains the age, the sex, the name, the alias, the position,
20 where the person was arrested from, the date of entry into S-21,
21 the date of execution at S-21, and a column with remarks? Do you
22 agree with me?

23 A. Yes, I do.

24 [09.09.21]

25 Q. The list contains the names of 12,273 people that were killed

1 at S-21. Can you tell the Court whether most of these people were
2 killed before the 30th of March 1976, or after the 30th of March
3 1976?

4 A. These prisoners were sent in since the 17th of April 1975,
5 when the S-21 was still under the control of Division 703.

6 Q. Just approximately, about how many prisoners were brought into
7 S-21 up until the 30th of March 1976, if you can give a very
8 rough estimate, before the 30th of March 1976, a rough guide for
9 the Court?

10 A. There were about 300 to 600 Thai fishermen, so it was between
11 600 to 1,000 prisoners during that time.

12 Q. And the rest of the prisoners came after the 30th of March
13 1976; is that correct?

14 A. Yes, it is.

15 [09.11.40]

16 Q. Thank you.

17 Perhaps, if we can put the list aside now, and I'd like to turn
18 back to a document that we were looking at yesterday; and this is
19 the document number E3/12, and it's a decision of the Central
20 Committee regarding a number of matters, and it's dated the 30th
21 of March 1976.

22 The first point on the document-- Before I go on, do you have a
23 Khmer version of this document in front of you?

24 A. Yes, I do have the document before me.

25 Q. And, Your Honour, if I can ask our case manager to place the

1 document on the screen for the -- for the public?

2 That first point that states the right to smash inside and
3 outside the ranks, can you please read that first paragraph?

4 And then I'd like to ask you some questions about the definitions
5 used.

6 [09.13.20]

7 A. "[Point] 1. The right to smash inside and outside the ranks

8 "Objective:

9 "1. That there is a framework in absolute implementation of our
10 revolution,

11 "2. To strengthen our [democratic socialism],

12 "All this [is] to strengthen our state authority.

13 "If in the base framework, to be decided by the Zone Standing
14 Committee;

15 "Surrounding the Centre Office, to be decided by the Central
16 Office Committee; "Independent Sectors to be considered - rather,
17 to be decided by the Standing Committee;

18 "[And] the Center Military, to be decided by the general staff."

19 MR. PRESIDENT:

20 Counsel for Khieu Samphan, you may proceed.

21 MR. VERCKEN:

22 Thank you very much, Mr. President. What is happening here is too
23 serious for Mr. Khieu Samphan's defence to remain silent. We have
24 to state that we are entirely opposed to the process that is
25 occurring before us.

1 [09.14.50]

2 Your Court is leaving the prosecutor to give a witness a document
3 which he acknowledges as not having awareness of at the time of
4 the fact, a document which, so far, has never been presented in
5 its original form either to the Investigating Judges, to the
6 investigators, to this Court or to anybody here, and the
7 authenticity of this document is only validated by a service that
8 is external to this Court. And you are now going to authorize the
9 prosecutor to question a witness on the basis of this document as
10 if it were an original document.

11 Now, as I see this, this is just too serious for it to be allowed
12 without, at least in the transcript, there to be a recorded
13 reaction from the Defence to state that it opposes this
14 procedure.

15 To be quite precise, I am not against the prosecutor trying to
16 find elements, through his questioning of the witness, that might
17 serve to confirm the information that's contained in the document
18 itself, which, as we are told, is contemporaneous from the
19 period. The information the prosecutor obtains in this way could
20 be used at a later stage in order to confirm the authenticity of
21 the document; that seems to me entirely acceptable.

22 [09.16.52]

23 But here and now, before this Chamber, to speak as if the
24 authenticity of the document is confirmed when, in fact, we know
25 pertinently that nobody here can possibly claim to have consulted

1 the original of the document is, it seems to me, a genuine
2 judicial difficulty, and this notwithstanding the decision that
3 the Chamber handed down yesterday. Thank you.

4 MR. PRESIDENT:

5 National counsel for Khieu Samphan first. You may proceed.

6 MR. KONG SAM ONN:

7 Thank you, Mr. President, Your Honours. I would like to add on
8 top of what my colleague just indicated.

9 We object to the line of questions concerning the question that
10 requires witness to explain the contents of the document
11 presented to him as highlighted by the Prosecution.

12 [09.17.58]

13 Any commentary by a witness -- this witness suggests that the
14 witness is expressing his observation, his view -- personal view
15 toward the document rather than his knowledge or experience, so
16 we strongly object to this document or lines of question.

17 MR. PRESIDENT:

18 The Counsel for Nuon Chea, you may now proceed.

19 MR. PESTMAN:

20 Thank you very much. I just want to take this opportunity to
21 support my colleagues for the Khieu Samphan team.

22 [09.18.36]

23 I just want to stress that, as far as we're concerned, this -- or
24 the authenticity of this document has not been established yet,
25 in spite of the fact that it might have been admitted or put

1 before this Chamber. But of course it does not mean that it's
2 authentic.

3 MR. PRESIDENT:

4 International Co-Prosecutor, you may proceed.

5 MR. SMITH:

6 Your Honour -- Your Honours, I think probably one of the last
7 decisions you made, if not the last decision you made, Your
8 Honour, was to allow this witness to refer to the document.
9 Your Honours, I wasn't going to make an application right away
10 this morning, but we would ask that we be given an extra hour and
11 a half for the examination of this witness because, yesterday,
12 there were quite a number of objections that were not upheld, and
13 it's -- it's not allowing the Prosecution to be able to continue
14 with the examination of the witness.

15 [09.19.44]

16 The Defence are well aware of your decision yesterday and the
17 first thing they do this morning is object again.

18 I would ask that their objection be dismissed and for the reason
19 -- for the ruling you made yesterday, because, if Your Honours
20 make a ruling, and the Prosecution, the civil parties jump up the
21 next question and object again, this trial will never move
22 forward.

23 So I would ask, Your Honours, that you dismiss these objections
24 outright because they've just been discussed yesterday.

25 Otherwise, this witness will never be able to speak fully.

1 We will be asking for extra time because of the time taken in the
2 debate.

3 Also, but perhaps just to put it as an aside, the defence counsel
4 for Khieu Samphan, maybe they've forgotten, maybe they haven't
5 read some of the case file, but this document has been put before
6 the witness during the judicial investigation phase. It has been
7 discussed; it's been heavily discussed in all of his statements.

8 [09.21.00]

9 What the counsel for Khieu Samphan have just said is it's the
10 first time this document appears, never in the investigation --
11 it's never been put forward before. Your Honours, that's clearly
12 not the case.

13 Secondly, in relation to the questioning on the document, the
14 Prosecution are fully aware of their responsibility for the
15 witness to give evidence of his own accord, not the Prosecution
16 or any other party. Just because a document is referred to and a
17 witness is asked to explain to provide further information about
18 what the terms mean in the document because he, obviously, was
19 working during the period, understood the nature of the
20 terminology and language, which many of us wouldn't -- that's all
21 we're asking to do, to explain different aspects of it.

22 [09.21.52]

23 And, I mean, we agree with the defence for Khieu Samphan, that
24 this -- this process of corroborating different aspects of the
25 document is quite an important process which would lead to the

1 further weight of the document.

2 But my primary objection is, you ruled on this yesterday, and the
3 first thing the Defence do this morning is ask you to overturn
4 your ruling from last night, and it really doesn't move the
5 proceedings along well at all, Your Honour.

6 MS. NGUYEN:

7 Yes. Good morning, learned friends.

8 Just in support of what the prosecutor has said, it was
9 abundantly clear to us yesterday, through Judge Cartwright's
10 clarification of the TC ruling on the use of this document, that
11 the use of -- the ruling is not confined to knowledge of the
12 document that -- during the period of the Democratic Kampuchea.
13 [09.22.57]

14 Judge Cartwright made it very clear that the witness could be
15 asked whether he's seen it before and that the authentication
16 of the document doesn't need to come through this witness because
17 the document has been before the Chambers previously.

18 So, from our perspective, we don't see why this question is being
19 raised again.

20 MR. PRESIDENT:

21 Lead Co-Lawyer for the civil party -- the National Lead
22 Co-Lawyer, you may proceed.

23 MR. PICH ANG:

24 Mr. President, Your Honours, the same issues are raised time and
25 again by the defence counsel in spite of the fact that the

1 decision has already been made by the Chamber on this.

2 [09.23.56]

3 The -- in the Closing Order by the Co-Investigating Judges, these
4 documents are admitted and considered put before the Chamber, and
5 defence counsel may object to any of the documents, but they
6 shall come up with concrete grounds for their objections.

7 And we cannot just consider that the proceedings shall be stalled
8 because there will be objections concerning the documents put
9 before the Chamber. So the documents, to our submission, put
10 before the Chamber are subject for debate.

11 And when it comes to this document on the -- of the 13th of March
12 1976, this document has not been ruled by the Chamber or
13 dismissed so it still can be the document to be considered before
14 this Chamber.

15 MR. PRESIDENT:

16 The Chamber has observed -- or noted the observations by parties
17 and objections.

18 The Chamber, therefore, rules that the objections by defence
19 counsel are not sustained.

20 [09.25.41]

21 The Co-Prosecutor may proceed concerning the document put before
22 -- the document at hand.

23 The ruling was already made, and Prosecution is advised somehow
24 to refrain from getting -- or asking the witness to give his own
25 view or express his personal opinion on the document.

1 And parties are advised to be very careful when putting
2 questions, and witness is also advised to be focused on the
3 question being put to him and is instructed to respond directly
4 to the point. We are trying to ensure that there will be no
5 unnecessary delay of the proceedings.

6 BY MR. SMITH:

7 Thank you, Mr. President.

8 Q. To be clear, Witness, this document, you did not see during
9 the Democratic Kampuchea period; is that correct?

10 A. Yes, it is.

11 Q. And you've read it and reviewed it during the judicial
12 investigation for your trial; is that correct?

13 A. Yes, it is.

14 [09.27.37]

15 Q. If you look at the objective, which you just read out, it
16 refers that to "strengthen our state [security], if in the base
17 framework, to be decided by the Zone Standing Committee". Can you
18 explain, from your knowledge of what "base framework" meant at
19 the time, what that term means so we understand which people are
20 being referred to?

21 A. When it comes to "framework", it is more about the competent
22 individual, or persons, the person who were authorized or
23 invested with the right to smash.

24 Q. And you mentioned earlier, in relation to the different
25 structure in the CPK, the Zone Standing Committee-- Where --

1 where are those Standing Committees based, to your knowledge?

2 A. The Standing Committee was located in Phnom Penh from the 17th
3 of April 1975 through the 6th of January 1979.

4 Q. Thank you. And in relation to the structure of the CPK, the
5 committee structure, is it the case that the country was divided
6 into a number of zones?

7 A. Yes, it is.

8 Q. About how many zones was the country divided in?

9 [09.30.22]

10 A. I may give you the detail.

11 The zone in the Northeast, Northwest -- rather, the East, the
12 North, the West, Central Zone, Northwest Zone; and in the midst
13 of 1977, there was a new North Zone, or Zone 801.

14 Q. What was the purpose of dividing the country into zones? What
15 was the reason for that?

16 A. These zone, according to the presentation by the Party, was a
17 temporary arrangement. Once the administration at the state level
18 was organized, then these temporary zones would be removed or
19 eliminated.

20 Q. And to your knowledge, throughout the period of Democratic
21 Kampuchea, were those zones ever eliminated or not?

22 A. This was theoretical in the training course. They say it's a
23 -- they were a temporary arrangement, but unfortunately -- but it
24 was never eliminated. But in addition, in mid-1977, a new zone
25 was established; that was Zone 801, new North Zone.

1 Q. Thank you. Just so we understand the structure of the CPK, who
2 would govern the zone? Who would administer the zone, what group?

3 A. Zones were administered by two of the Standing Committees,
4 namely So Phim and Ung Choeun alias Mok. Others were the full
5 rights member of the Central Committee.

6 [09.33.31]

7 However, for the East -- Northeast Zone, after the arrest of Ya,
8 I did not know what -- who administered this particular zone.

9 Q. And so, in each particular zone, each particular geographic
10 zone, did a standing -- the zone's standing committee administer
11 that zone?

12 A. For each particular zone, there were their respective standing
13 committee.

14 For example, in the East Zone, So Phim was the permanent
15 secretary of this particular zone, and other members in the
16 committee, including Pung (phonetic) and others.

17 Q. Can you say how many people would be in a zone committee, a
18 zone standing committee?

19 A. I did not know them well, but in the West Zone: the secretary,
20 Chou Chet alias Si; deputy secretary, Pal; and other members, but
21 I only knew two of them, as I described earlier.

22 Q. Thank you. But the question was: About how many people in a
23 zone standing committee? The approximate number of people not
24 their names.

25 A. There would be no more than five members.

1 Q. And you testified yesterday or the day before, stating that
2 members of the zones would also be members of the Central
3 Committee; is that correct?

4 [09.36.18]

5 A. I would like to clarify this issue to make it as precise as
6 possible.

7 The secretary of the East Zone -- namely So Phim -- secretary of
8 the Southwest, Ung Choeun alias Mok, were the members of the
9 Central Committee -- of the Standing Committee. And other zone
10 secretaries -- Ke Pauk, Ros Nhim, Chou Chet alias Si, Kang Chap
11 -- were all members of the Central Committee.

12 Q. And do you know why each of the zones had members on the
13 Central Committee? Do you know why that structure was put in
14 place?

15 A. This is beyond my knowledge.

16 Q. Thank you. And was the zone -- were the zones divided into
17 smaller administrative structures?

18 A. Thank you. Yes, each zone was divided into various sectors.

19 Q. And did each sector have a committee that was in charge of
20 that sector?

21 A. In each sector, there was a committee responsible for the area
22 of the administration.

23 [09.38.30]

24 Q. And we're referring to a Communist Party of Kampuchea
25 committee; is that correct?

1 A. I am sorry; I don't quite catch the question. Could you please
2 clarify your question?

3 Q. You said each sector had a committee. But to be clear, that
4 was a committee of the Communist Party of Kampuchea; is that
5 correct?

6 A. That's correct.

7 Q. Now, so the Chamber understands the structure more, were
8 sectors -- were they divided into smaller administrative units
9 during that time? And if so, what - what were they?

10 A. Thank you. Sectors were divided into districts.

11 Q. And did each district have a CPK committee which administered
12 that district or governed that district?

13 [09.40.14]

14 A. That's correct. In each district there was a committee
15 appointed by the CPK to govern the task and administration in
16 that district.

17 Q. And was each district -- was that divided up into further
18 smaller units, smaller administrative units or not?

19 A. Thank you. Yes, that was correct. Each district was further
20 subdivided into communes and then, later on, it was known as
21 cooperatives.

22 Q. And the positions on the committees, did they have certain
23 titles? People that belonged to the committees in each of these
24 levels of geographic units, did they have particular titles?

25 [09.41.44]

1 A. In the Party, in each cooperative, the cooperative was
2 governed by the branch Party members at the cooperative level.

3 Q. And did those members have particular titles on the
4 committees? Were there particular positions that were given to
5 those people at the levels -- at the committees at all of the
6 different levels?

7 A. The division, to my knowledge, was that the core force was the
8 mobile units in order to be on the offensive in terms of
9 constructing dams or dikes and farming. And other than those
10 mobile units, there were other units as well in charge of
11 kitchen, cooking, and stuff like that.

12 Q. Thank you. Sorry, there was a misunderstanding on my part. For
13 each committee, would there be a head of that committee? Would
14 there be someone in charge of each committee?

15 A. The secretary of the cooperative committee was the Party
16 member. So individuals in this committee must be members of the
17 Party.

18 Q. And would the secretary on each committee -- would they have a
19 deputy secretary?

20 [09.44.10]

21 A. I do not attempt to answer this question because it may lead
22 to my speculation, so I would rather avoid answering this
23 question.

24 Q. Thank you. And that's -- we want to be clear here, we don't
25 want to speculate at all in your evidence.

1 Witness, the other day, you explained the reporting principles in
2 the Communist Party and you referred to Article 6.5, where it
3 states: "At the designated times, the lower echelon must report
4 to the upper echelon on the situation and the work done."

5 Do you remember discussing that general principle in the statute?

6 A. Yes, I recollect it well.

7 Q. And from studying the statute during that period and from your
8 experiences and observations being in that S-21, that independent
9 regiment, can you - can you explain how that principle of the
10 lower echelon reporting to the upper echelon -- how that would
11 apply to the zone, sector, district and commune divisions of
12 administrative units?

13 [09.46.05]

14 A. The Statute of the CPK is the only document that everyone had
15 to abide by. So the reporting procedure applies across the board.
16 The committee for general staff was a classic example of this.
17 There was a Standing Committee and the full rights member of this
18 committee. As for the opened general staff committee, involved
19 the representative from our divisions as well. So there was a
20 narrow committee and an open committee, but the reporting
21 structure was the same; they had to report it accordingly.
22 And in the cooperatives, the same procedure was applied. The
23 mobile unit had to report to the cooperatives, and the committee
24 of the cooperatives had to report up to the district committee.
25 So that was the reporting procedures. That could summarize the

1 structure, reporting structure of this.

2 [09.47.29]

3 So the report from the lower echelon to the upper echelon was
4 determined by the Statute of the Party and it was applied across
5 the board.

6 Q. So, if we can just follow through, the district committee
7 would then report to the sector committee; is that correct?

8 A. That's correct.

9 Q. And would the sector committee report to the zone committee?

10 MR. PRESIDENT:

11 Witness, please hold on; the defence counsel is on his feet.

12 You may proceed.

13 MR. PESTMAN:

14 Thank you, Mr. President. I object to this question.

15 Not only is it completely unclear what period the prosecutor is
16 referring to, it's also unclear whether he is talking about a
17 theoretical framework or whether he's talking about the actual
18 situation.

19 [09.48.44]

20 If he's talking about the latter, about what was actually taking
21 place, we submit that this witness is unable to answer that
22 question. He was Chairman of S-21, secretary of a divisional
23 regiment; he's unable to say anything, as far as we know, as far
24 as we've understood so far in the last week, about what happened
25 at the zone, district or sector level.

1 MR. SMITH:

2 Your Honour, I'm not asking him what happened at the zone, sector
3 or district level; I'm asking him what was required to happen via
4 the statute. And that's what the witness has said; he said the
5 statute mandated that this reporting structure be put in place.
6 Now, this witness has studied the statute. He was able to
7 understand what the intent of the statute was, through those
8 study sessions. So this witness is very well placed to be able to
9 explain what the meaning -- the intended meaning of that statute
10 was. He wasn't some person that had no education in the purpose
11 of the statute.

12 [09.49.56]

13 So that's all we're asking the witness. We're not saying to the
14 witness: Did that in fact happen in a particular zone? We're not
15 saying that at all. But what we are saying is: What was intended
16 by the statute? And this witness is in a very good position to be
17 able to say what was intended, because he was taught it and he
18 studied it.

19 MR. PRESIDENT:

20 Counsel, you may proceed.

21 MR. PESTMAN:

22 Well, if the prosecutor intended to ask that question, I suggest
23 the prosecutor rephrases the last question because the last
24 question was an obvious attempt to -- or an invitation to this
25 witness to speculate.

1 [09.50.49]

2 MR. PRESIDENT:

3 Objection by the defence counsel is not sustained, so the
4 prosecutor may continue his line of questioning.

5 And once again, the Chamber wishes to remind the party that
6 questions should be framed in a way that it stays within the
7 boundary of this segment of trial.

8 BY MR. SMITH:

9 Thank you, Your Honours. I'm just trying to particularly finalize
10 and explore the administrative structure of the - of the zone and
11 the national -- the national structures. Just a few more
12 questions on that, and then we can move on to other topics.

13 [09.51.37]

14 Q. Witness, as required -- as you believe to be required by the
15 statute, who would the sector committee report to?

16 And we don't want you to speculate, but just as required, by your
17 learnings of the statute, who was the sector committee meant to
18 report to?

19 MR. KAING GUEK EAV:

20 A. Thank you. The sector committee were to report to the zone
21 committee.

22 Q. Would the zone committee be expected to report to another
23 level or not, on the general situation?

24 A. Direct above -- directly above the committee was the Central
25 Standing Committee, namely the secretary and deputy secretary of

1 the Central Standing Committee.

2 Q. And you mentioned earlier that the - yesterday, that the
3 Central Standing Committee was within the Central Committee of
4 the CPK; is that correct?

5 A. Yes, that is correct.

6 [09.53.54]

7 Q. You also testified -- so that we can round this off -- the
8 Central Committee was divided into four - four parts, perhaps:
9 one, the full the rights members, the candidate members,
10 assistant members, and the Standing Committee; is that correct?

11 A. That is correct.

12 Q. And just so that we're clear, within the Central Committee
13 which of those four parts -- or which of those other committees
14 had the most power, as far as you know, as far as you've
15 experienced or studied from the policies at the time?

16 A. The Standing Committee was the most powerful organ.

17 Q. Also, we referred to the organizational principles of the
18 Party in relation to not only reporting up, but reporting down,
19 and we discussed this part of Article 6.5, where it states:
20 "Also, at each designated time, upper echelon must report to
21 lower echelons regarding the general situation and regarding
22 instructions which they must carry out."

23 Do you remember discussing that particular provision?

24 [09.56.16]

25 A. The upper echelon had to report general situation to the lower

1 echelon so that it could encourage the lower echelon to be more
2 proactive and active in their activities. But there was no
3 document -- written document dictating that the upper echelon
4 would report downward to the lower echelon, but in actual
5 practice, that was the customary practice.

6 Q. And when you say it was "customary practice", we understand
7 that you work at S-21; we also understand that you went to study
8 sessions; and we also understand that you observed how the CPK
9 generally operated at the time.

10 Are you able to say whether these principles that you studied and
11 are in the statute, of reporting up and reporting down between
12 the echelons, are you able to say whether they were in fact
13 applied by incidents and conversations that you may have had
14 during that period?

15 A. This was the principle embodied in the statute, so the upper
16 echelons were supposed to report to the lower echelons regarding
17 general situation.

18 For example, the upper echelon would report on what the activity
19 carried out by the Lon Nol administration, so on and so forth, so
20 that it was more like a general briefing to the upper echelons.

21 And that had been practiced well before 1975.

22 [09.58.48]

23 Q. Thank you.

24 So, if we can go back to the decision of the Central Committee in
25 relation to the right to smash, inside and outside of the ranks,

1 it's states that: "If in the base framework, to be decided by the
2 zone standing committee."

3 So what does that mean, in relation to the right to smash inside
4 and outside the ranks? What does that mean, "if in the base
5 framework, to be decided by the zone standing committee"?

6 A. Well, I would like to clarify "the basic framework".

7 When we talk about "the basic framework", it does not refer to
8 the Phnom Penh base or the military base. As for the framework
9 for smashing, I -- had implemented since 1991. If it was within
10 the framework of the zone, the secretary of the zone committee
11 had the authority to decide. So that was the practice since the
12 inception of the Communist Party of Kampuchea.

13 [10.00.26]

14 Q. So, if I understand you correctly, if an enemy was in a -- the
15 geographic area of a zone, then the zone standing committee could
16 kill that person; is that correct?

17 A. It was subject to the decision made by the Standing Committee
18 member, before a person was -- a zone standing committee, before
19 the person was arrested and smashed.

20 Q. So that authority to kill was delegated to the zone standing
21 committee; is that correct?

22 A. Yes, it is.

23 Q. Thank you.

24 And, again, the purpose of these questions is to try and
25 understand how the administrative structure of the CPK worked.

1 Now, you've just explained the national structure across the
2 country. Now I'd like to look at the next structure, seemingly,
3 that this directive was issued to. And it states: "The right to
4 smash inside and outside the ranks. [...] Surrounding the Center
5 [of the] Office, to be decided by the Central Office Committee."
6 [10.02.15]

7 My first question is: Did you know at the time, even though you
8 didn't see the document, what the area was, surrounding the
9 Centre of the Office? What does "the Center" - "the Centre
10 Office" mean?

11 A. "Centre Office" was explained when I was interrogated during
12 the Investigation Phase.

13 This Centre Office, as noted, was also called -- the other tasks
14 surrounding the office -- Centre Office, including the radio
15 operation and the messengers. And at that time I noted that the
16 Centre Office referred to people who assisted the secretary and
17 deputy secretaries directly; that was my observation.

18 So "the Centre Office", here, means any unit appointed or
19 assigned by the office centre to assist it with duties or tasks.
20 [10.04.22]

21 Q. If you -- the term "to be decided by the Central Office
22 Committee", do you know what that term means -- did you know what
23 that term meant at the time, "the Central Office Committee", back
24 during the period?

25 A. "Central Office", at that time, could not be explained clearly

1 in my terms because it was not close to my place. And according
2 to its wordings, it is obvious that the decision must be made by
3 the Central Office Committee. So only the secretary of that
4 Central Office could make decision on matters surrounding the
5 Centre Office.

6 Q. If we look at the third group -- or the third group that had
7 been given the right to smash inside and outside the ranks, it
8 states: "In the independent sectors, to be decided by the
9 Standing Committee."

10 [10.06.03]

11 Now, you've talked about sectors already, sectors coming under
12 zones, but what is the term "independent sector"? What does that
13 mean? And, particularly, what did that mean to you back during
14 the period of Democratic Kampuchea? Did you know what an
15 "independent sector" meant?

16 A. The term "independent", here, means that the - the report
17 shall not be made directly to the immediate upper level; it had
18 to be -- go all the way to the top, skipping a few levels, to the
19 deputy and the Secretary of the Party.

20 So, when it comes to independent, including the independent
21 sector and -- or other location, it means that the secretary of
22 the -- each respective sector could skip reporting to immediate
23 upper level, but all the way to the top. That's what it meant by
24 "independent".

25 [10.07.42]

1 Q. Do you know of any independent sectors during that period? Do
2 you know the names of any independent sectors that existed during
3 that period?

4 A. I think I recall one or two sectors: one in Siem Reap, who
5 reported directly to the secretary and deputy secretary of the
6 Party; and another zone -- or rather, another sector, Sector 505
7 in Kratie Province, which the committee of that sector had to
8 report directly to the secretary and deputy secretary of the
9 Party.

10 Q. And from your knowledge at the time, do you know why
11 independent sectors were established that didn't have to report
12 through the zone but had to report directly to the centre? Do you
13 know why they were established, independent sectors?

14 A. I think it was because of the importance of that location.
15 For example, in Siem Reap there is Angkor Wat. And I would be
16 brief on this; like that.

17 [10.09.48]

18 Q. And just so we know how you gained your information, you said
19 S-21 was an independent regiment; is that correct?

20 A. Yes, it is. S-21 was an independent regiment.

21 Q. So, when you say that, you're saying that S-21 was in the
22 military structure of the CPK; is that correct?

23 A. Yes, it is. S-21 was in the central military committee, or
24 structure.

25 Q. And by being in the centre, or the military structure, did you

1 receive documentation from your superiors in relation to military
2 matters relating to structure and communicating on different
3 topics, during that time at S-21?

4 A. As I already testified, I had received documents from the
5 Central Committee, including "The Revolutionary Flag" magazines.
6 And when it comes to military uniforms and weapons, it was under
7 the general staff supervision. And S-21 controlled the
8 confessions.

9 [10.11.55]

10 And to be simply put, the independent regiment had S-21 under its
11 supervision. The tank unit, and the arsenal or artillery unit,
12 and the navy at Chroy Changvar, and number 5, sewing unit, and
13 number 6, medical unit -- and this unit was independent and was
14 not subject to any supervision of a particular division.

15 Q. Thank you.

16 Whilst we're on the topic of the military, the army, I'd like to
17 ask you a few questions about how the army was structured during
18 that period.

19 Now, you said that there was a general staff. Where was that
20 general staff? Where were they situated? Where was their office?

21 A. General staff was located in the area where Son Sen worked. It
22 was in the location code named B, where Son Sen always called me
23 to work with him there. But there was no sign or plaque in front
24 of the location.

25 [10.13.54]

1 Q. And in terms of the geography of Phnom Penh, where is that --
2 where was that location B? What was it near in relation to the
3 river, the Independence Monument, Norodom Boulevard, any-- Are
4 there any landmarks that you can describe so that we understand
5 where that location B was?

6 A. I believe that the Prosecution and general public know Borei
7 Keila very precisely, and the location was just a few blocks to
8 north of Borei Keila.

9 Q. Thank you. You said Son Sen was on the general staff. Were
10 there any other individuals on the general staff?

11 A. Members of the general staff-- At the beginning, there was
12 three full right members of the general staff: first, Son Sen;
13 second, Men San alias Ya; and third, Seat Chhae alias Tum.

14 Q. And those last two people, Ya and Seat Chhae, were they alive
15 at the end of Democratic Kampuchea?

16 [10.15.54]

17 A. Ya worked at the general staff office for a short while before
18 he was transferred to be the secretary of the Northeast Zone.

19 Later on, he was arrested and sent to S-21. Interrogation
20 inflicted on Ya was already asked, and I already explained to the
21 Prosecution already.

22 With regard to Seat Chhae alias Tum, later on he also was
23 arrested. He had remained in the general staff until the date of
24 his arrest.

25 Q. And so those - those other two general staff members were

1 killed at S-21; is that correct?

2 A. Yes, that is.

3 Q. The -- what was the responsibility of the general staff? What
4 - what was the responsibility? What did the general staff have to
5 manage?

6 A. I cannot respond to this because, during the time of peace,
7 the general staff was tasked of making people do farming.
8 However, concerning the navy or the marine at the Chrouy Changva
9 Bridge, people were seen building some speedboats, the wooden
10 speedboats. And also the radio operation unit was also seen
11 dealing with their respective tasks.

12 [10.18.23]

13 But other than that, they had to be made to do farming.

14 Q. Thank you.

15 Under the Statute, it states, at Article 27:

16 "All three categories of the Revolutionary Army of Kampuchea, the
17 regular [army], [the] sector [army], and the militias must be in
18 very part under the absolute leadership monopoly of the Communist
19 Party of Kampuchea."

20 My question to you is: From your knowledge of being in the
21 military at the time, was the army divided into the regular army,
22 a sector army, and the militias, as is described in the Statute?

23 [10.19.23]

24 A. Yes, it is correct. The Revolution Army of Kampuchea was
25 classified, or divided into that three sub-categories.

1 Q. Thank you. And in your testimony, you have referred to a
2 number of divisions within the army. Can you explain about how
3 many divisions there were in the regular army at that time?

4 A. (No interpretation)

5 MR. PRESIDENT:

6 Witness, please hold on; counsel is on his feet.

7 You may proceed.

8 MR. PESTMAN:

9 Thank you very much, Mr. President. I would just invite the
10 prosecutor to be a bit more specific when asking about the
11 organization of the army because, as far as I am aware, the army
12 was reorganized in the midst of 1976.

13 So maybe the prosecutor can be a bit more specific when he says
14 "at the time", whether he is referring to the time relevant for
15 this trial or whether he's referring to the period after 1976.

16 [10.20.59]

17 MR. SMITH:

18 I'm happy to rephrase the question rather than have a debate.

19 Your Honour, the facts are, the army was reorganized earlier than
20 that, but I'll ask the witness in relation to that.

21 BY MR. SMITH:

22 Q. During - during the period of Democratic Kampuchea, say
23 particularly-- Well, perhaps we'll come at it this way: Prior to
24 17 April 1975, how was the army organized? Do you know how it was
25 organized around the country?

1 MR. KAING GUEK EAV:

2 A. Prior to 17th of April, the army was concentrated under the
3 direct control of the secretary of zone. However, the army was
4 under absolute control by the Standing Committee of the Party, by
5 the secretary and deputy secretary. When the army attacked Phnom
6 Penh, they were lead -- or directed by the deputy and secretary
7 of Party.

8 [10.22.45]

9 After that, requests were - requests were made to collect two or
10 three divisions from each zone to compel -- or to form what we
11 call the central army and -- in July 1975, when the general staff
12 was eventually created.

13 Q. Thank you. And when you're referring to the deputy and the
14 Secretary of the Party, is that referring to Pol Pot and Nuon
15 Chea?

16 A. Yes, it is correct.

17 Q. So, just so that we're clear, prior to 1975 the army was under
18 the control of the individual zones around the country, and then,
19 at some time after July '75, the army was reorganized into
20 divisions and controlled by the centre, by the general staff; is
21 that a good summary of your testimony?

22 A. I may need to emphasize a little bit to be more precise.

23 Each zone had the authority, or a duty to build army. And until
24 1974, the armies were gathered and formed as division, and the
25 divisions were established, but under the absolute control of the

1 respective zone, but under the immediate supervision from the
2 Secretary of the Party. And only later on some of the divisions
3 from eight of each respective zone were requested to be guarded
4 and formed into the central army.

5 [10.25.14]

6 Q. So are you saying that, after that reorganization in July
7 1975, that some divisions or some troops -- army troops -- stayed
8 under the direct control of the zone and others came under the
9 direct control of the general staff?

10 A. Yes, it is correct.

11 Q. Thank you. When the army was reorganized and placed into
12 divisions under the control of the general staff, about how many
13 divisions were created, approximately?

14 A. I cannot really give the exact numbers, but I can name the
15 name of the divisions: Divisions 170 from the East; 290 from the
16 East; Division 310 from the North; 450 from the North; 920 from
17 the North; 801 from the Southwest; 502 combined from the old
18 Southwest; 64 from purely the Southwest. So I can recall about
19 eight divisions; and a few other independent regiments I cannot
20 recollect.

21 [10.27.20]

22 MR. SMITH:

23 Thank you.

24 I have a few more questions I'd like to ask you about -- about
25 that army structure and how it worked.

1 But before I do, Your Honours, it's nearly 10.30, and I have one
2 short application, and that is to be allowed to have some
3 extended time.

4 At the moment, Your Honours have allowed questioning until
5 Thursday, lunchtime.

6 I would ask that the Prosecution be allowed to finish completely
7 on Thursday.

8 And the reason why I ask this is, firstly, there have been a
9 number of objections in this case; which are quite -- it's quite
10 appropriate, of course, for the parties to make objections, but
11 some of the objections have been quite lengthy and many of the
12 objections, yesterday, were not upheld.

13 So I would ask that -- there was a significant amount of time
14 spent on those objections -- that the Prosecution be able to have
15 that time and be able to use that within that five-day period
16 that you've given us.

17 [10.28.28]

18 I agree, if the objections were overruled -- or sustained on
19 many, many occasions, then that would be an issue for the
20 Prosecution, but bearing in mind they weren't, I would ask that
21 that time that was taken away be allowed to continue after lunch,
22 and I can guarantee to Your Honour the Prosecution would finish
23 at the end of the day, tomorrow. It's simply asking for two hours
24 of which -- a fair bit of that time was consumed in debate
25 yesterday on procedural issues.

1 Your Honour, it's now 10.30. I can continue asking questions, or
2 if you prefer to take a break--

3 MR. PRESIDENT:

4 Counsel, you may proceed.

5 MR. PESTMAN:

6 Thank you, Mr. President. I just want to state for the record
7 that we do not object to the prosecutor getting more time to
8 examine this particular witness.

9 [10.29.43]

10 I think every party, that includes the prosecutor but also us,
11 should be allotted the time they think is necessary. And if,
12 during the examination, it turns out that more time is needed, I
13 think this time should be given to a party. And I don't think
14 it's necessary to blame the other party for delays.
15 So we do not object to the prosecutor getting more time to finish
16 examining this witness.

17 MR. SMITH:

18 Just briefly, Your Honours, it's not a question of blame, it's
19 just a question of fact. And--

20 MR. PRESIDENT:

21 [10.30.25]

22 Counsel for Ieng Sary, you may proceed.

23 MR. ANG UDOM:

24 Thank you, Mr. President, Your Honours. Due to the same health
25 concern, Mr. Ieng Sary requests that he be excused from the

1 courtroom and asks that he be allowed to observe the proceedings
2 from his holding cell through video-link.

3 MR. PRESIDENT:

4 The Chamber has noted the request by Ieng Sary through his
5 counsel waiving his right to be directly present in this
6 courtroom and ask that he be allowed to observe the proceeding
7 from his holding cell for this whole day, due to his health
8 concern.

9 The Chamber, therefore, grants the request made through his
10 counsel to waive his right to be present in this courtroom and
11 that he is allowed to observe the proceedings from his holding
12 cell through video-link for the whole day.

13 The Chamber asks that counsel for Ieng Sary produce the waiver
14 immediately to the Chamber, signed by Ieng Sary.

15 [10.32.10]

16 AV officers are now instructed to ensure that the video-link is
17 connected to the holding cell so that Ieng Sary can observe the
18 proceedings.

19 Since it is now appropriate time for adjournment, the Court will
20 adjourn for 20 minutes. The next session will be resumed at 10 to
21 11.

22 Security personnel is now instructed to bring Mr. Kaing Guek Eav
23 alias Duch to his room and that he shall be returned to the
24 courtroom before the next session resumes. Security personnels
25 are also instructed to take Mr. Ieng Sary to his holding cell.

1 The Court is adjourned.

2 (Court recesses from 1033H to 1054H)

3 MR. PRESIDENT:

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

5 Before I hand over to the parties, the Chamber wishes to respond
6 to the request by the international prosecutor for the extended
7 time to put more questions to the accused (sic) for one half day,
8 tomorrow, due to the facts that there were some objection in the
9 course of his questioning of the accused (sic), and the defence
10 counsel did not object against this request for extended time.

11 [10.55.15]

12 The Chamber, therefore, grants the request by the Prosecution for
13 an extended time to put questions to the witness.

14 Before I hand over to the international prosecutor, the defence
15 counsel for Nuon Chea was on his feet just now, so I would like
16 to ask you to proceed if you have any matters to raise.

17 MR. PESTMAN:

18 Yes. Thank you very much, Mr. President. First of all, I have to
19 correct myself. I just said before the break that I believe that
20 the general staff was created or that the army was re-organized
21 mid-1976; I might have been wrong, it might have been mid-1975.
22 But what I wanted to say now is related to the discussion we had
23 this morning and yesterday afternoon, and that is the discussion
24 with regard to the authenticity of documents. I just want to make
25 a very brief point, if you allow me three minutes.

1 [10.56.14]

2 We have challenged the authenticity of this document -- our
3 client challenges the authenticity of this particular document,
4 the decision of the Central Committee regarding a number of
5 matters.

6 Your Trial Chamber ruled, when we discussed the admissibility of
7 documents, that we were allowed to challenge the authenticity and
8 the probative value of documents at any time during the
9 proceedings, any appropriate time. I think this is an appropriate
10 time to challenge the authenticity of this particular document.

11 And it is obvious, from what we heard this morning and yesterday,
12 that this particular witness is not in the position to
13 authenticate this document; he has only become familiar with this
14 document in his own case, he hadn't seen it before.

15 [10.57.07]

16 And we looked at the case file and we noted that the director of
17 DC-Cam, Youk Chhang, was questioned about this document, the
18 provenance of the document on the 6th of October -- I'm not
19 particularly sure about the date, but he was questioned in
20 document D311/2. He was asked by the Investigating Judges whether
21 he knew where the document came from and he said -- I quote:
22 "DC-Cam does not possess the original of this document. Perhaps..."
23 He's not sure: "Perhaps DC-Cam received [this document] from
24 David Chandler."

25 So the provenance is unclear, and there probably is no original

1 document.

2 It is unfortunate that this document is not shown to the witness,
3 although the witness already knew this document because he had
4 seen it in the other case, before this issue of the--

5 I'm sorry, I'm speaking too fast. I will try to slow down.

6 [10.58.18]

7 It is unfortunate that this particular document was shown to this
8 witness before the issue of authenticity was resolved -- but I
9 don't want to revisit that discussion now -- but this incident
10 illustrates that it is very important that your Trial Chamber --
11 Your Honours, this Trial Chamber takes a decision as soon as
12 possible on the motion we filed on the 9th of February 2012,
13 which was called "Further Submissions Relating to Request for
14 Clarification of Provenance, Chain of Custody of DC-Cam
15 Documents".

16 To refresh everyone's memory, there was a motion in which we
17 asked the Trial Chamber to order either DC-Cam or the prosecutor
18 -- to ask DC-Cam to provide us, all the parties, with information
19 contained in what was - what is called "Books 317 and 316" in the
20 DC-Cam documents, information which could help us to establish
21 the chain of custody of individual DC-Cam documents, and also
22 gives an answer to the question whether this or a particular
23 document is an original or not.

24 [11.00.07]

25 We submit, or we ask the Trial Chamber to solve this problem as

1 soon as possible, to rule on our motion as soon as possible to
2 avoid long discussions about authenticity of documents like we
3 had this morning and yesterday at the end of the day. Thank you
4 very much.

5 MR. PRESIDENT:

6 Thank you, Counsel.

7 Counsel for Khieu Samphan, you may proceed.

8 MR. VERCKEN:

9 Thank you Mr. President. I just wanted to remind your Chamber
10 that the defence team of Mr. Khieu Samphan has also submitted a
11 request which goes along the same lines as the one which has been
12 mentioned just now by the Nuon Chea defence, E168, that was
13 submitted at the beginning of February of this year, and we still
14 await a response from Your Chamber on that.

15 To come back also to a related subject that came up yesterday,
16 during the debate about the document that was discussed by the -
17 by the prosecutor, I would just point out that we have made a
18 request for this Chamber to make it clearer, what is meant by the
19 attribution of an E code to documents, more specifically E3,
20 documents that are put before this Court.

21 [11.01.56]

22 During the debate, yesterday, the prosecutor raised as an
23 argument to support his use of the record of March 1976 the fact
24 that it had an E3 code. This, to me, seems to indicate that there
25 is an issue about the allocation of such codes, so that, I

1 believe, it would be welcome if Your Chamber could adjudicate on
2 that so that we don't have endless and sterile debates on
3 precisely what the meaning is that should be attributed to an E3
4 code. Thank you.

5 MR. PRESIDENT:

6 Thank you.

7 International Lead Co-Lawyer for the civil party, you may proceed
8 first.

9 MS. SIMONNEAU-FORT:

10 Good morning, Mr. President. Good morning, Your Honours. Good
11 morning to everybody. Very briefly, let me say that it would --
12 I'm upset by the fact that the Defence is raising issues and
13 debates on subjects that have already been decided upon. Each
14 hearing we have, we have the same discussion about the same kinds
15 of documents, when, very often, one hour or half a day before,
16 Your Chamber has already handed down a decision.

17 [11.03.32]

18 I think all of us want to make headway in this trial and I think
19 that the way the Defence is systematically calling into question
20 things that have already been decided upon is a stance that the
21 Chamber should react against firmly. Otherwise, here we go for
22 years of discussions on things that have already been decided.
23 Thank you.

24 MR. PRESIDENT:

25 Thank you.

1 The Chamber wishes to inform parties and the owner of the request
2 that this case file is of great complexity. There are a lot of
3 documents, roughly no less than 1 million pages of documents
4 relevant to the case file. And so far, parties have made several
5 requests to DC-Cam for documents. And more than 500,000 pages of
6 documents have been provided. And during the phase for the
7 preparation of the proceedings and during the trial proceedings
8 itself, and due to the fact that the case file is huge, parties
9 have requested -- have submitted other applications and several
10 motions.

11 [11.05.14]

12 The Chamber has been doing its best to address the issues, and
13 there is no -- or the Chamber has not banned parties from filing
14 any applications. And during these proceedings, the Chamber is
15 prepared to address several issues. Some issues are pending, some
16 have already been ruled upon. But some pending issues cannot be
17 resolved immediately.

18 And as the Chamber already indicated to the parties last week,
19 the Chamber had to take the advantage of Thursday, that we could
20 not hold a - a hearing as usual because the Chamber needed to
21 deliberate on some pending issues to make sure that the issues
22 are resolved in due course.

23 And we believe that parties are informed and that parties shall
24 also be reminded that none of their motion and application be
25 taken for granted. The Chamber has paid great attention to

1 addressing all the matters, but we need time, and that, due to
2 this complexity, we would like to request that parties also
3 understand this.

4 And at the same time, there are also several objections and
5 motions put before the Chamber during the course of the current
6 trial proceedings. And for that reason, the Prosecution has
7 requested that their time is extended, and the Chamber has
8 already ruled upon this.

9 [11.07.26]

10 The Chamber hopes that parties will not spend further time -- or
11 wasting further time in the proceedings. And we already made it
12 clear that the Chamber is fully aware of your concerns and
13 applications, and we are doing our best to ensure that the
14 proceedings are smooth and expeditious.

15 In light of that, we also would request that parties understand
16 the situation and that they should also conduct - they exercise
17 this utmost restraint and patience, and that the Chamber is doing
18 its best to research and to refer to other jurisprudence and case
19 laws, in particular, to address the issue in due course.

20 The Prosecution may proceed with the questioning.

21 [11.08.37]

22 MR. SMITH:

23 Thank you, Your Honour. After that explanation, there's
24 certainly, I think, no need for me to respond on that matter.

25 BY MR. SMITH:

1 Q. Mr. Kaing Guek Eav, before we had this discussion and before
2 break, you were explaining to the Court the structure of the
3 army, the structure of the army in Democratic Kampuchea after it
4 was reorganized and the structure of it before the CPK came to
5 power.

6 I just have a few questions about divisions.

7 In the English translation you stated a Division 64; is that
8 correct, or was it Division 164, or is it not, if you can
9 explain?

10 MR. KAING GUEK EAV:

11 A. Perhaps I made a mistake myself in that, but indeed, it was
12 Division 164. And I may also add that there was another division,
13 Division 603, that was later on dissolved and integrated into the
14 division for the inventory unit and for the air force.

15 Q. You referred in your testimony, previously, to a Division 703.
16 How does that fit in with the structure that you've just
17 explained?

18 [11.10.35]

19 A. Division 703 was the same as a division -- other division
20 under the Central Committee command.

21 Q. Thank you. And you referred to three members on the general
22 staff: Son Sen, Men San, also known as Ya, and Seat Chhae, also
23 known as Tum. You've explained that--

24 Well, first -- firstly, which - which zone did Men San - Men San
25 alias Ya come from?

1 A. I'm not sure where Men San alias Ya was from, but after a few
2 -- a short while at the general staff, he was transferred to be
3 the secretary of the Northwest Zone - rather, Northeast Zone.

4 Q. And who - who replaced Ya after he was arrested on the general
5 staff, if anyone?

6 A. After Ya was transferred to the Northeast zone Seat Chhae
7 alias Tum became the deputy secretary of the general staff.

8 [11.13.02]

9 Q. Other than the three people that you mentioned, were you aware
10 of anyone else joining the general staff, or not?

11 A. There were two regular assistants to the general staff: Pich
12 Chhorn alias Saom and Nat, the former secretary of S-21.

13 Q. And you've testified that Nat ended up being arrested and
14 killed at S-21; what happened to Pich Chhorn?

15 A. Alias Saom was also arrested and smashed at S-21.

16 [11.14.17]

17 Q. So, in the end, to your knowledge, was there anyone else on
18 the general staff other than Son Sen in the end?

19 A. In the end, apart from Son Sen, there were the head of
20 divisions and deputy chairman.

21 Q. Are you able to say how often and if the heads of divisions --
22 if they met and how often? Are you able to say that?

23 A. I may be able to confirm that. Each division head could not
24 meet arbitrarily. Their meeting could - could only be convened
25 upon the calls from their superiors, and we had meeting after

1 "Mit" left -- or after Comrade Oeun, of Division 310, left. I
2 never met this person at the division.

3 Q. Thank you. You also referred to other independent regiments in
4 the army. Can you tell the Court what those regiments -- what
5 they were?

6 A. Each independent regiment had their unique or separate duty.
7 For example, the medical unit, the marine at Chrouy Changva, and
8 the military communication unit also had respective duty. So
9 there were about seven units already in that part, including
10 S-21, who -- which had each a separate task.

11 [11.17.20]

12 Q. And did you have military meetings with other division heads
13 or other personnel from the military during the time that you
14 were at S-21?

15 A. Yes. There were still records -- there are still records left.
16 In records, we can see that S-21 was asked to receive people who
17 were arrested, those who associated with Chan Chakrey, and the
18 details of which is listed in the records I mentioned.

19 Q. Thank you. Are you able to say how information was transferred
20 from division heads to their subordinates, how information and
21 instructions were transferred?

22 A. There were pieces of information collected on a daily, weekly,
23 and monthly basis. Before instructions were given to us, we would
24 be briefed on the general situations by our superior so that we
25 could perform our task very well, and this briefing should --

1 would be conducted to every one of us.

2 [11.19.34]

3 Q. On looking at the prisoner list that you've agreed to as being
4 the number of prisoners that were recorded at S-21 -- I'm not
5 talking about prisoners that weren't recorded -- of those over
6 12,000 prisoners, it appears from that list over 5,000 of them
7 were from the Revolutionary Army of Kampuchea.

8 Does that accord to your understanding of about the size of the
9 prison population that came from the army, over 5,000? Is that
10 consistent with your recollection of who was brought in to S-21?

11 A. I don't recollect this but I fully agree with such a summary.

12 Q. Perhaps - perhaps, if we can go of your memory, were there
13 many army personnel brought to S-21?

14 A. Yes.

15 Q. Do you know why there was such a significant number of army
16 personnel brought to S-21 and killed?

17 [11.21.52]

18 A. They were accused of betraying the Party.

19 Q. Thank you. You've - you've mentioned that the division
20 commanders reported to the general staff. The general staff, who
21 did they report to, if anyone?

22 A. The general staff was under the supervision of the Central
23 Committee, so the report had to be filed or made to the Secretary
24 of the Party and deputy secretary of the Party, who were Pol Pot
25 and Nuon Chea.

1 Q. Was there a military committee inside the Central Committee,
2 or not?

3 A. With regard to this, we can refer to the document on the 9th
4 of October '75, that the secretary shall be in charge of - in
5 charge of several affairs. But when it comes to the role of the
6 Central Committee of the Party, I think it is another case.

7 [11.24.10]

8 Q. Thank you. You mentioned earlier that, before the
9 reorganization, the army was under the authority of the
10 individual zones. During that period from the time of the coup in
11 the Lon Nol regime until April '75, what -what was the name that
12 the forces of the Revolutionary Army -- what was the name that
13 was given to them during that period, the 1970 to 1975 period? Do
14 you know?

15 A. I may classify these into two.

16 After the establishment of the National Front on the 3rd of March
17 1970, there was an army created; it is the National Union of --
18 or National Army of Kampuchea.

19 And I heard of the sector army, the sector militia, and also the
20 zone army; I learnt that the army was exclusively under the
21 control of each respective zone or sector back then.

22 [11.26.24]

23 Q. And the army as a - as a group and all the different-- You
24 talked about they're under exclusive control of the zones. Was
25 there any one that was in complete control of all of the armies

1 within the particular zones?

2 A. I think I don't understand the question. Could you rephrase
3 it?

4 Q. Have you heard of the Cambodian People's Liberation Armed
5 Forces? Have you heard of that term before?

6 A. I think that name was not familiar to me, but I was familiar
7 with another name of the army, the National Front Army that
8 broadcast on T.V.

9 Q. And was anyone in overall control of that army, to your
10 knowledge, back from '70 to '75? Was anyone in control of the
11 whole army?

12 A. The Statute of 1971 states very clearly that the army is the
13 closest siblings of the Party. So the army was the - was under
14 the absolute control and with monopoly of the Secretary and
15 deputy secretary of the Party.

16 [11.29.11]

17 Q. And you testified earlier that you heard of Khieu Samphan
18 before 1975; is that correct?

19 A. Yes, it is.

20 Q. And when did you first hear of Khieu Samphan?

21 A. I had heard of Khieu Samphan - I have heard of Khieu Samphan
22 long ago. It was in 1958, when I was young. I was asked to join a
23 demonstration against a person, and later on Khieu Samphan became
24 popular because there were issues involved him.

25 And in 1967, Khieu Samphan disappeared along with Hu Nim. The

1 progressive people I called the people of the petite-bourgeoisie
2 class, Khieu Samphan was instructed by Pol Pot and he was
3 assigned with the task of the head of the Central Office and also
4 the deputy prime minister of the Royal Government of National
5 Union of Kampuchea. However, he had another role which was a more
6 symbolic role because he had never controlled the army or had
7 never been involved to discharge such army duty.

8 [11.31.41]

9 Q. So Khieu Samphan was the deputy prime minister of the Royal
10 Government of the National Union of Kampuchea; is that correct?

11 A. That was correct.

12 Q. And how did you know that?

13 A. To my recollection, there was announcement on the radio.

14 Q. And when was this Royal Government of National Union of
15 Kampuchea -- when was that formed?

16 A. I do not know the exact date, but it may have been before the
17 National Liberation and Salvation of Kampuchea or earlier than
18 that; I don't know.

19 Q. And what date would you put the National Liberation and
20 Salvation of Kampuchea? When did that form, from your knowledge?

21 [11.33.43]

22 A. To my recollection, the political agenda of this front was
23 announced on radio from Peking, in -- on the 3rd of March 1970.

24 Q. Thank you. When you first heard of Khieu Samphan -- I think it
25 was in 1958, you mentioned a demonstration -- what role did he

1 have? What was he doing? What activities was he undertaking?

2 A. Back then, the provincial hall asked the students to join the
3 demonstration against the "L'Observateur" news, and at that time
4 Khieu Samphan was the editor in chief and director of this
5 newspaper.

6 Q. And do you know the name of that paper?

7 A. I heard the name of this newspaper -- "L'Observateur", in
8 French -- in 1958.

9 Q. And did you know anything further of his activities between
10 1958 and 1967? Can you describe the other activities that he may
11 have undertaken, from your knowledge?

12 [11.36.15]

13 A. I do not remember the year exactly, and Khieu Samphan was
14 beaten by Kou Roun, the head of intelligence unit. It may have
15 been in 1961 or 1962, if my memory serves me well.

16 Q. And when you heard the announcement that -- after 1970, that
17 Khieu Samphan was the deputy prime minister of GRUNK, did he have
18 any other role in the revolutionary movement between 1970 and
19 1975 -- any other title or any other role?

20 A. We were from the petite-bourgeoisie origins and we were very
21 interested in Khieu Samphan; we paid attention to him. Actually,
22 the activities that was -- I mean, the order or so were actually
23 directed from the Central Office, and we thought that Khieu
24 Samphan was the student of Saloth Sar, or Pol Pot.

25 Q. When you say that you thought Khieu Samphan was a student of

1 Pol Pot, is that something that you knew at the time, prior to
2 1970?

3 [11.38.15]

4 A. I learned that after 1970. Before 1970, I did not know this.

5 Q. And when you say he was a student of Pol Pot, can you explain
6 what that relationship was, whether it's a teacher-student, in a
7 classroom, or if it's some other relationship, if you can try and
8 describe that, please?

9 A. I learned that he was the student of Pol Pot and he had
10 respect for Pol Pot. And I learnt that from Touch Phoeun. Touch
11 Phoeun said so. He told me that Brother Hem had great respect for
12 Pol Pot.

13 Q. And Brother Hem, is that the revolutionary name of Khieu
14 Samphan?

15 A. That is correct.

16 Q. And when did you hear this information from Touch Phoeun, that
17 Khieu Samphan had great respect for Pol Pot? When did you have
18 that conversation?

19 [11.40.08]

20 A. I had that conversation with him after Touch Phoeun was
21 imprisoned at S-21, and then, one day, I had an information
22 conversation with Touch Phoeun in the compound of S-21.

23 Touch Phoeun knew me from the very -- from childhood; he was
24 actually from my own hometown, as well.

25 Q. Thank you.

1 You mention that Khieu Samphan was the Central Office head as
2 well as being the deputy prime minister of GRUNK. What do you
3 mean by the "Central Office head"? And which period of time are
4 you talking about? Is that before 1975 or is it after 1975?

5 A. His role, I had heard of it even before 1975.

6 Q. And when you say "Central Office head", the Central Office of
7 what, the Central Office of the CPK, or is it some other -- some
8 other office?

9 [11.41.47]

10 A. Thank you. The "Central Office", here, refers to the Central
11 Office of the Communist Party of Kampuchea.

12 Q. Did you hear when Khieu Samphan became a member of the
13 Communist Party of Kampuchea, either a candidate or a full rights
14 member? Or, if you can't say, just say so.

15 A. I learned it from the records of interview of the Office of
16 Co-Investigating Judges with Mr. Khieu Samphan.

17 Q. The testimony that we would like you to give is the testimony
18 from your own observations and your own knowledge. And when you
19 get information from another place, we would appreciate, like you
20 have done, that you explain that you received that information
21 from other documents.

22 [11.43.16]

23 Other than being the deputy prime minister of GRUNK, you
24 mentioned earlier in your testimony some role that he had in
25 defense, but the work got too much. Can you explain what you

1 meant by that?

2 A. The role of Khieu Samphan as the commander in chief, I said
3 that it was a mere symbolic role; it was merely nominal.

4 Actually, the Party was the one who was in command on the army.

5 All armies, all soldiers were under the control of Pol Pot, and
6 it was under his exclusive control.

7 Q. So is your testimony that you heard that Khieu Samphan was the
8 Commander in Chief of the Revolutionary Forces between 1970 and
9 1975? Is that your testimony?

10 A. He was the commander in chief; that was my testimony. But this
11 commander in chief position was merely honorific, symbolic; it
12 was for nothing. It was merely to introduce it to the
13 international friends to recognize such position.

14 [11.45.12]

15 Q. Did you say it was to introduce to international friends to
16 recognize the movement? Is that - is that your testimony?

17 A. Yes, it is.

18 Q. And are you able to say -- if you can't, don't -- why Khieu
19 Samphan was picked for that particular role, to introduce the
20 movement to the international community?

21 A. Both domestically and internationally, Khieu Samphan was one
22 of the most trusted person. Even Sihanouk himself trusted Khieu
23 Samphan. People considered him as the prophet of Buddha because
24 he was one of the most clean person. That's why Sihanouk trusted
25 him. And Sihanouk himself, upon seeing the nomination of Khieu

1 Samphan, he did not reject at all.

2 [11.46.36]

3 Q. And how do you know that Khieu Samphan's position as Commander
4 in Chief of the Revolutionary Army -- how do you know that that
5 was purely an honorary role? How do you know that?

6 A. Khieu Samphan's name was also published in the magazine, and
7 it was all -- this magazine was circulated in the liberated
8 zones. And his name was in the supreme command of armies at that
9 time, and it was called the Armies of the National United Front.
10 And Khieu Samphan was the commander in chief, and Saloth Sar was
11 at that time merely member of this committee. And that's what we
12 came across, and we remember it ever since. And Khieu Samphan was
13 an honorific role as commander in chief, and it was widely known
14 that this position was symbolic and honorific.

15 Q. Thank you. But in relation to his actual role in relation to
16 the army, was it more of a political role to connect with the
17 international community? Is that what you're saying?

18 [11.48.30]

19 MR. KARNAVAS:

20 Mr. President, if I may interject here--

21 MR. PRESIDENT:

22 The Witness, please hold on because there was an objection by the
23 Defence.

24 The Defence Counsel for Ieng Sary, you may proceed.

25 MR. KARNAVAS:

1 I apologize for interrupting. And I know it's the questions
2 concerning another accused, but throughout the morning,
3 throughout the morning -- and I've been patient -- the prosecutor
4 has been leading. And this, here, this question in particular, is
5 clearly leading.

6 He takes a bit of information, he twists it, adds a spin to it,
7 and then is feeding it to the witness. It is clearly
8 objectionable.

9 He can ask the witness simple questions; he's not doing that.
10 The paraphrasing and feeding him information I find unhelpful to
11 the Trial Chamber, at some point.

12 [11.49.18]

13 Now, I realize we're before professional judges. And normally, if
14 we were in front of a jury, this would be much more of a -- of a
15 dangerous situation, because you're able to look through what
16 information the Prosecution is actually feeding the witness and
17 what, actually, information we're receiving from the witness.

18 But I would welcome the Trial Chamber to admonish the prosecutor
19 -- or to caution the prosecutor not to ask questions in the
20 manner in which he just did. He can ask a simple question;
21 there's no need to lead.

22 You've given him additional time. Hopefully, he will use it
23 wisely. This is not a wise use of time.

24 [11.50.10]

25 MR. PRESIDENT:

1 The International Co-Prosecutor, you may proceed.

2 MR. SMITH:

3 Thank you, Your Honour. The witness has provided all of this
4 information. I'm just trying to understand the nature of his
5 role.

6 BY MR. SMITH:

7 Q. Witness, you stated that Khieu Samphan was used in that
8 position to introduce the movement to the international
9 community; is that correct?

10 MR. PRESIDENT:

11 The Witness, please hold on.

12 (Judges deliberate)

13 [11.51.52]

14 Objection by the defence counsel for Ieng Sary is sustained.

15 So the Chamber wishes to remind the parties that leading question
16 is not allowed. And the Chamber has reminded parties that
17 questions should be framed appropriately.

18 So the Chamber directs the witness that this question need not be
19 answered, and we also remind the Prosecution to refrain from
20 asking any leading question.

21 BY MR. SMITH:

22 Thank you, Your Honour.

23 Q. How did you know that Khieu Samphan was introducing the
24 revolutionary movement to the international community? How did
25 you know that?

1 MR. KAING GUEK EAV:

2 A. We knew his task. He headed the Central Office under the
3 supervision of Pol Pot and he was the student of Pol Pot. And we
4 - we were all from the petite-bourgeoisie class and we had
5 affection on him, so we also believed at that time that both
6 nation and international colleagues and friends would like him
7 and -- because he was considered a clean and pure person. That's
8 why he was subsequently promoted to be the deputy prime minister
9 of GRUNK and the Commander in Chief in Army. And it was merely to
10 build confidence among international community that the leader of
11 this position was a trustworthy person. And that was why we'd
12 known everyone would know that.

13 [11.54.24]

14 And everyone, not only myself, believed that this army was led by
15 someone who was trustworthy, someone who was clean and pure.

16 Q. Do you know what Khieu Samphan's role was, in particular in
17 relation to the CPK, if he had any role at all, between '70 and
18 '75?

19 A. Khieu Samphan was the head of the Central Office.

20 Q. And when you say "the head of the Central Office", was that
21 before 1975 or after 1975?

22 A. It was before 1975.

23 Q. And when you say "the Central Office", can you describe what
24 the Central Office was?

25 A. I think this question was asked once. Actually, the Central

1 Office was the office of the Communist Party of Kampuchea.

2 MR. PRESIDENT:

3 The Defence Counsel, you may proceed.

4 [11.56.19]

5 MR. KONG SAM ONN:

6 I would simply like to repeat what the witness has just said; the
7 prosecutor seems to have repeated the question.

8 MR. PRESIDENT:

9 The International Co-Prosecutor, please proceed.

10 And repetitious question is also to be -- is to be avoided
11 because it will constitute a waste of time of the Court
12 proceedings.

13 [11.56.54]

14 BY MR. SMITH:

15 Thank you, Your Honour. I just wanted to clarify that.

16 Q. During the period 1970 to 1975, do you know where Khieu
17 Samphan lived?

18 MR. KAING GUEK EAV:

19 A. I only knew that Khieu Samphan was very close to Pol Pot.

20 Q. And when was the first time that you heard of Ieng Sary?

21 A. I heard Ieng Sary for the first time in 1962.

22 Q. And what did you hear about Ieng Sary, in terms of who he was
23 and what his activities were?

24 A. At that time, I just passed my lower secondary school and I
25 went to meet with the high school director, and I -- he was Nea

1 Kimsuy (phonetic); he used to live in Stoung village.

2 I visited him back then, and then he told me about this and that,
3 and finally he told me that Ieng Sary was one of respectable
4 politician. And at that time he also made mention of Khieu Komar.
5 We heard of Ieng Sary and Khieu Komar since then.

6 [11.59.08]

7 MR. SMITH:

8 Thank you.

9 Your Honours, it's now 12 o'clock. I'm wondering whether you wish
10 to break for lunch, or I can continue.

11 MR. PRESIDENT:

12 Thank you. The time is now appropriate adjourn for lunch. The
13 Chamber will adjourn now and the Chamber will resume at 1.30 this
14 afternoon.

15 [11.59.42]

16 The court -- the security guards are instructed to bring Mr.
17 Kaing Guek Eav alias Duch to the waiting room of the witness and
18 bring him back to this room before 9 -- before 1.30.

19 I note the counsel is on his feet. You may proceed.

20 MR. PESTMAN:

21 Thank you, Mr. President. I would like to ask the Trial Chamber
22 permission for my client to remain downstairs after the break,
23 like yesterday. He will continue participating in the trial. If
24 he is unable to do so, I will inform the Trial Chamber.

25 I've got the waivers.

1 MR. PRESIDENT:

2 The Chamber notes the request of Nuon Chea made through his
3 counsel. He asked that he be excused from this Court proceeding
4 and that he be allowed to observe the proceeding from his holding
5 cell, downstairs. He indicates that he waives his right to
6 participate directly in this courtroom.

7 Taking into account his age and health concern, the Chamber,
8 therefore, grants such request. Nuon Chea is now allowed to
9 observe the proceedings through video-link for the whole day,
10 starting from the afternoon session, when we resume.

11 [12.01.37]

12 Counsel for Nuon Chea is advised to produce the waiver
13 immediately to the Chamber and ensure that the waiver has
14 thumbprint or is signed by Nuon Chea.

15 AV officers are now instructed to ensure that the AV - video-link
16 is connected to his holding cell so that Nuon Chea can observe
17 the proceeding from there.

18 Security personnels are now instructed to bring the accused
19 persons to the holding cells and, in the afternoon, have only
20 Khieu Samphan returned to the courtroom before 9.30 (sic).

21 The Court is adjourned.

22 (Court recesses from 1202H to 1331H)

23 MR. PRESIDENT:

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

25 Before we hand over to the Prosecution to proceed with questions,

1 or just without further ado, Co-Prosecutor, you may now proceed.

2 BY MR. SMITH:

3 Good afternoon, Mr. President. Good afternoon, Your Honours,
4 Counsel, the Witness and the general public.

5 Q. Mr. Kaing Guek Eav, before we took the break, we started to
6 talk about your knowledge of Ieng Sary prior to 1975.

7 During 1970 and 1975, did you know what Ieng Sary did during that
8 period?

9 [13.33.36]

10 A. Perhaps in 1971 or 1972, I heard a radio broadcast that Ieng
11 Sary was a special envoy based in Beijing. He was there to report
12 on behalf of the State -- the Head of State.

13 Q. And in relation to Nuon Chea, did you know what he was doing
14 between 1970 and 1975?

15 A. In 1971, I reached Peam commune, the office of the Special
16 Zone. At that time, I learned about Comrade Nuon, the deputy
17 secretary of the CPK. At Peam commune, there were a few people
18 who were relatives of Nuon Chea.

19 Q. Thank you. After the 17th of April 1975, did you become aware
20 where Ieng Sary, Khieu Samphan, and Nuon Chea -- where they
21 lived?

22 A. I learned that they were in the Central Office.

23 Q. And where is the Central Office located -- where was it
24 located?

25 A. I do not know exactly where it was located, but by the end of

1 Sothearos Boulevard, there was a blockade. The zinc, or metal
2 plate was used to block access to the location, and there were
3 group of houses near the now Chaktomok Theatre, and I took note
4 of that.

5 [13.36.52]

6 But later on, I learned that there were other offices named A --
7 rather K-1, K-2, and K-3, but that -- that makes me confused.

8 Q. Thank you. You said they lived in a group of houses. Are you
9 aware -- aware whether they lived in houses by themselves, or
10 with other people?

11 A. I heard that they lived together; they would even eat
12 together. That's what I heard about.

13 Q. And who did you hear this information from? And when did you
14 hear this information?

15 A. Son Sen was the one who told me. On one occasion, as I
16 recollect, when we were working, Son Sen and Tum were there, and
17 Tum was in a hurry; he said he would be excused because it was
18 already mealtime. After Tum left, Son Sen was angry. He said, How
19 could he say he would be excused to join mealtime, because Son
20 Sen, himself, said he would have meal together in a communal
21 eating hall, so how could this happen? And Son Sen went on to say
22 that, on one occasion, he requested that a person needs to be
23 arrested, Vorn Vet said they should -- he should not be arrested,
24 while Nuon Chea said: Well, that guy should be arrested. So, from
25 that incident, I can say that these people lived together, ate

1 together.

2 [13.39.26]

3 And Nuon Chea asked me, through Son Sen, to investigate a
4 floating corpse. We took the small motorboats, and when we
5 reached the location at the Bassac houses, we were afraid. And we
6 also, later on, learned that, in that location, it was blocked,
7 access was denied, so we could say that these important people
8 could have lived there.

9 And later on we learned that there were names -- K1, K2 or K3 --
10 so that, perhaps, did not -- not consistent of what I understood
11 back then.

12 Q. Was it required for different groups of people to live
13 together and work together as part of this socialist ideology?
14 Was that a policy?

15 A. It was not a policy as such. People were required, anyway, to
16 eat together because they tried to avoid jealousy. They would
17 like to make sure that everyone could be treated equally and that
18 it could be seen that they were treated equally by eating
19 together like that.

20 Q. Thank you.

21 [13.41.52]

22 I'd like to now just go back a little bit and finish our
23 discussion in relation to the army.

24 You explained how, prior to 1975, the army -- the army units were
25 under the zone command and how, after 1975, the army became

1 reorganized and centralized in large part. You've also stated
2 that you attended a number of meetings.

3 I would like to show you a document. Your Honour, it's D108/31.4.

4 I have a Khmer hard copy and it could be placed on the screen.

5 Witness, if you can have a look at this document, see whether you
6 have read it before and are familiar with it, and if you can
7 explain briefly to the Court what the document is?

8 A. I would like to read the title of this document: "The Record
9 or the Minutes of the Meeting of the Office 703 -- The Work of
10 the Office of 703 and S-21".

11 Q. Thank you. And the document is dated 9th of September '96 -
12 1976, and part way down, we see the name Comrade Duch. Is that
13 referring to you?

14 [13.44.28]

15 A. Yes, it is correct.

16 Q. And have you seen this document before?

17 A. I'm not sure whether I saw it during Case File 001
18 proceedings, but when it comes to the real situation, I did
19 attend this event.

20 Q. At the top of the document, it has a "C.C." and then it has
21 the numbers "89, 81" and "Saom"; do you know what those terms
22 stand for?

23 A. I think, perhaps the code name could have been registered by
24 other, concerning "bor bor kor" [BBK], but when it comes to "89,
25 81, Saom, and archives", these codes could have been registered

1 by people involved including Son Sen, Seat Chhae, Saom. I think
2 Saom -- alias Saom has already been discussed a little bit
3 earlier; you could have referred to this name. And then point
4 number 4 is the archives.

5 Q. And if you can briefly tell the Court what this meeting was
6 about, what the purpose of the meeting was, and what the decision
7 was at the end of the meeting?

8 A. I remember that Comrade Kham Li (phonetic) was in attendance,
9 and people from 703 and I also representing S-21, and the meeting
10 chaired by Son Sen.

11 [13.47.07]

12 The meeting was about the situation concerning the leaflets that
13 were distributed. And at the end, there was a conclusion by
14 Brother Son Sen, Brother 81, and also measures to be taken.

15 Q. And the subject matter that was on the leaflets was viewed to
16 be against the policies of the Party; is that correct?

17 A. I just would like to emphasize that I have never seen that
18 leaflets. I reported to the meeting on the network of those who
19 distributed these leaflets; the associate of Sambath, the guy who
20 thrown hand grenade behind the Royal Palace. And leaflets were
21 obtained from Comrade Phuon and that in the meeting we raised
22 this issue, and I, indeed, also reported to the meeting on how I
23 obtained the confessions from people who were arrested concerning
24 the leaflets event and Comrade Phuon, who was the main initiator
25 of the leaflets.

1 Q. And if we look at the second page of the Minutes, it states:

2 "It's necessary to examine units [...] 170, units [...] 703 and other
3 units that are camped in the vicinity."

4 [13.49.20]

5 Was the purpose of this meeting to find out who distributed the
6 leaflets and, potentially, have them arrested?

7 A. Could you please be more specific to any particular portion
8 you are referring to, so that I can feel that I am on the same
9 page?

10 Q. If we look at the last -- or the second-to-last paragraph --
11 and I'll read it:

12 "In terms of organizational problems, Comrades Pang and Khammey
13 (sic) must recognize their heavy duties and go all out in doing
14 constant political and ideological education. They must firmly
15 grasp biographies and ideologies... Externally, Comrade Pin is to
16 re-examine his unit of organization..."

17 [13.50.23]

18 Was the purpose of this meeting to find out who distributed these
19 leaflets?

20 A. I think the measures were taken into twofold.

21 First, in the second paragraph you just cited from, Brother 89,
22 Son Sen, already indicated that Pang and Kham My noted the
23 duties, and we had to grasp -- we had to grasp the history or
24 historical -- or personal history and that -- so on and so forth.
25 And I think I am citing from this paragraph.

1 Kham My, and Pang -- Pang was the secretary of S-71; Kham My was
2 the member of that S-71. He was in charge of a division
3 protecting the Central Office. So both of them were embedded with
4 heavy duties to track -- to find out who distributed the
5 leaflets. And the second step of the measure was to locate who
6 distributed the leaflets and have them removed or transferred to
7 other locations, as needed.

8 Q. Thank you. How often would you have these type of meetings --
9 or this type of meetings -- meeting with other military units?

10 A. In each meeting, the minutes of the meeting would be kept, for
11 example concerning the event when S-21 was asked to receive
12 people who were arrested, those who were associated with the Chan
13 Chakrey network.

14 [13.53.09]

15 I don't recall other meetings, but if such meeting was convened,
16 the minutes of the meeting must have been always kept.

17 Q. Thank you. You just mentioned a person, at the meeting, called
18 Pang and you said that he was in charge of protecting the Central
19 Office, S-71. Can you briefly describe to the Court what S-71
20 comprised of? What was Pang in charge of?

21 A. Pang was overall in charge; he was the member of the assistant
22 to the Central Committee. So the second person to -- in this
23 command was Comrade Lin; he was from a minority group. And the
24 third person was Kham My; he was in charge of the 180 squad, the
25 unit deployed to protect the Central Office.

1 Q. And do you -- do you know what Pang had control over? He was
2 in charge of S-21; what -- what types of things or types of
3 activities did he have control over in that position?

4 [13.55.12]

5 A. He had overall control over -- over all matters. At S-21, Pang
6 could be granted access all the way to the workshop. At my house,
7 he could go and come anytime he wished. So Pang was instructed by
8 Pol Pot, and he had to obey these instructions at all time, and
9 he had to implement them.

10 Q. Did -- was S-71 -- did that relate to a number of premises
11 that he had control over or was it just in relation to a group of
12 people? What -- what types of places or people did S-71 have
13 control over? You just mentioned he could come to S-21; what
14 types of places or people did Pang or S-71 encompass?

15 A. I don't know about this. However, I have cited from the lists
16 of S-21 prisoners, then we could find out the number of people
17 who were under the supervision of S-71. There were about 13
18 individuals.

19 And I already talked about this to the Co-Investigating Judges,
20 but through my observation on the document I cited.

21 Q. Thank you.

22 [13.57.30]

23 Perhaps, if we now put this document aside and if I can ask you
24 to look at another document -- and the number is D108/31.4; I
25 have a hard copy for you. And if it can be displayed on the

1 screen?

2 MR. PRESIDENT:

3 Court officer is instructed to hand over the document to the
4 witness.

5 BY MR. SMITH:

6 Q. It's IS 13.33.

7 Now, Witness, do you see that document? And can you advise us
8 whether you have seen that document before? The document is
9 entitled "Minutes of the Meetings on Production Work on the Night
10 of the 30th of September 1976". And as we can see from the
11 document, it relates to an agenda on the situation of the
12 enemies, statistics on early -- of early rice, and it has a
13 number of divisions that appear to have been present at the
14 meeting, including S-21. Have you seen this document before?

15 A. This document is the same document, not the one being
16 projected on the screen.

17 Q. Perhaps, if I can pass this -- my copy over?

18 MR. PRESIDENT:

19 (No interpretation)

20 (Short pause)

21 [14.01.54]

22 A. This particular document, to my recollection, was presented to
23 me once in the course of the proceedings. It was minutes of the
24 meeting on production work on the night of the 30th of September
25 1976. This is to my recollection.

1 But as for the outcome of the meeting, I did not know because Huy
2 was actually designated to attend this meeting, but this
3 particular meeting was convened, and members of S-21 was invited
4 to attend this meeting.

5 Q. Would you agree with me that many of the other divisions of
6 the Revolutionary Army of Kampuchea were present at that meeting?

7 A. That was -- that is correct.

8 Q. And the two main agenda items were the situation of the
9 enemies, and secondly, statistics -- statistics on early rice and
10 the growth of rice, and -- and other aspects in relation to rice
11 growing.

12 (Short pause)

13 [14.03.55]

14 If you see on the first page, that seems to be the agenda for the
15 meeting; do you agree with that?

16 A. Yes, I do.

17 Q. The situation on the enemies, the first agenda topic, was
18 proposed by Bong Tum; who is Bong Tum?

19 A. Bong Tum was the deputy secretary of the Chief of Staff
20 Committee, and his official name was Seat Chhae.

21 Q. How often would S-21 -- a representative from S-21 attend
22 these meetings with other representatives from other divisions?
23 How often would that occur?

24 A. A representative from S-21 -- Huy was the representative from
25 S-21. That was on the -- in September 1976 or it was in the midst

1 of rice-production period.

2 [14.05.40]

3 Q. Thank you. And do you know how often these types of meetings
4 -- or this type of meeting occurred? Just the once, or is it on a
5 number of occasions?

6 A. Every -- every time during the growing seasons; it's once a
7 year.

8 Q. And if we can look at the document, if we move down after the
9 agenda, it's entitled "Discussions", and at point 1, "Situation
10 of the Enemies", and then there's Division of - Division 502 have
11 said something and Division 310 have said something. And if I
12 read what's been recorded, it states:

13 "On [the 25th of] September, a woman named Nget Ouch, with her
14 two daughters who were new people, were on their way from
15 District 55 of Sector 33 when they were arrested for [attempting]
16 to flee [...] Battambang -- which is her birthplace."

17 [14.07.02]

18 My question is: Do you know whether or not it was a policy to
19 arrest people that were fleeing from the place that they were
20 taken to or from the place they were evacuated?

21 A. That is correct, it was a policy -- there was a policy.

22 Q. If we go over the page, follow down shortly after that, it
23 states that this representative from Division 310 said that: "We
24 would like to seek advice from Angkar."

25 Can you tell the Court who "Angkar" is in this context? Are you

1 able to say who they're referring to?

2 A. Where is it on this page? Which line is it? You're referring
3 to Division 310?

4 Q. That's right; I'm referring to Division 310 about four or five
5 lines up - of course, in the English version -- above Division
6 488, and it states: "We would like to seek advice from Angkar."
7 Are you able to assist us in understanding what the term "Angkar"
8 meant in this situation?

9 A. "During their re-education in school, they continue to steal
10 things. After they are out of school, they continue to steal
11 things. There are more than 30 of this kind of people.

12 "We would like to seek advice from Angkar."

13 [14.09.48]

14 So secretary 703 did not meet, so the request was sent through
15 Brother 81, or Seat Chhae, alias Tum. And "Angkar" refers to Pol
16 Pot.

17 Q. Now, Brother 81, who was that?

18 A. I mentioned it earlier; his name is Seat Chhae, alias Tum.

19 Q. From looking at the document, is it clear whether or not the
20 division or commander's seeking advice or seeking instructions
21 from their superiors?

22 A. It is read in Khmer: "We would like to seek advice from
23 Angkar."

24 Q. And if you can briefly explain what the purpose of this
25 meeting -- these meetings are, is it to receive instructions or

1 to provide information to the division's representative's
2 superior?

3 [14.12.05]

4 A. The purpose of the meeting was to tally the (unintelligible)
5 of rice production and, secondly, it was to gather information
6 concerning the enemy. And as for others, the rest, it involves
7 with the rice production.

8 As for the situation of enemies, it was brought up during that
9 meeting in order to seek advice and decision from the Angkar. So
10 that was the structure report from the lower echelon to the upper
11 echelon through the meeting of this kind.

12 Q. And at the end of the report -- it's dated the 3rd of October
13 1976 - "Office 62". Can you tell us what Office 62 was?

14 A. Office 62, if my memory serve me well, it must have been the
15 logistic office.

16 Q. Thank you.

17 [14.13.35]

18 I've now finished with that document, but now I'd like to take
19 you back to the decision of the Central Committee regarding a
20 number of matters, and that's "the right to smash, inside and
21 outside the [Party] ranks". I think you may have that document in
22 front of you; it's IS 63 (sic).

23 We've just discussed the different committees, and general staff,
24 and different units to which this "right to smash" was directed.
25 So to be clear, when we look at Article 1, "the right to smash,

1 inside and outside the ranks", to how many groups is that right
2 given to?

3 A. The right to smash inside the rank and outside the rank -
4 "outside the rank" refers to the smashing of people. So those who
5 were vested with the right to smash, it was divided among the
6 unit. In the base, the secretary of the zone could decide to
7 smash.

8 MR. PRESIDENT:

9 The Witness, please hold on.

10 The defence counsel may proceed.

11 [14.15.37]

12 MR. VERCKEN:

13 Thank you, Mr. President. I have an objection.

14 I don't see the interest of the prosecutor asking a witness,
15 here, to read a document and then request his testimony. Yes, but
16 if it's just to read the document, we can all read it ourselves.

17 I don't see why this is information that is particular to this
18 particular witness' knowledge if he's just being asked to read
19 out a document, and I cannot see the point of the prosecutor's
20 question here. Thank you.

21 MR. SMITH:

22 Thank you, Your Honour. I just wanted the witness to summarize,
23 but perhaps, just to move things along, I'll do it for him.

24 BY MR. SMITH:

25 Q. "The right to smash" was issued to the zones Standing

1 Committees, the Central Office Committee, the Standing Committee,
2 and the general staff; do you agree?

3 MR. PESTMAN:

4 Sorry, if I may object? Again, the prosecutor is asking this
5 particular witness to interpret the document.

6 I think the question should be whether he remembers, from the
7 time, that such an order existed or that such an instruction
8 existed. There's no point asking this witness to interpret a
9 document which he has -- or had never seen before until recently.

10 [14.17.35]

11 MR. SMITH:

12 Your Honour, perhaps, if I just -- if I answer that, we're not
13 asking the witness to interpret the document; we're asking the
14 witness to provide some more understanding from the information
15 he knew at the time of these particular committees.

16 BY MR. SMITH:

17 Q. Witness, the Central Office Committee -- can you advise the
18 Court what that Central Office Committee was?

19 MR. KAING GUEK EAV:

20 A. The Central Office Committee refers to only one person, that
21 is the chairman of the Central Party Committee.

22 [14.18.40]

23 Q. And who's the chairman -- who was the chairman of the Central
24 Party Committee?

25 A. I summarized it for the Office of Co-Investigating Judges

1 already. The chairman of this committee was Khieu Samphan.

2 Q. Now, a moment earlier, you referred to a person called Pang.
3 Do you know what Pang's relationship was to Khieu Samphan, if
4 any?

5 A. I did not know because there was no document or any event
6 which indicates that Pang and Khieu Samphan was related by blood
7 or whatever.

8 Q. Sorry, I wasn't referring to a biological relationship, but a
9 work relationship.

10 Are you aware -- were you aware, back then, of the relationship
11 between -- the work relationship between Pang and Khieu Samphan?
12 If you weren't, just say so.

13 A. Thank you. Pang, who went down to meet with me, he never
14 brought with him message from Khieu Samphan; he only brought
15 along with him message from Pol Pot. It was not even from Nuon
16 Chea; it was only from Pol Pot.

17 [14.20.48]

18 Q. And can you describe what the functions of the Central Office
19 Committee were, the functions of which Khieu Samphan was the
20 Chairman? What did it do? What particular roles?

21 A. I could tell only to the extent of what I described for the
22 Office of Co-Investigating Judges, because I was actually not --
23 I did not stay close to Khieu Samphan and I was not very much
24 aware of that.

25 Q. (Microphone not activated)

1 MR. PRESIDENT:

2 The International Co-Prosecutor, your microphone appears not be
3 active.

4 BY MR. SMITH:

5 Thank you.

6 [14.22.04]

7 Q. Perhaps, in general, if you could give the functions of the
8 Central Office Committee in general terms rather than specific
9 terms? Are you able to do that?

10 MR. KAING GUEK EAV:

11 (No interpretation)

12 MR. VERCKEN:

13 Mr. President--

14 MR. PRESIDENT:

15 Witness, please hold on; the counsel is on his feet.

16 You may proceed.

17 MR. VERCKEN:

18 Thank you, Mr. President. I'd like to object, here, because I
19 think that the prosecutor is asking precisely the question that
20 the witness has just answered in a rather disguised sort of way.

21 [14.2315]

22 I don't see any difference between the two questions, the first
23 being what were the functions that the witness alleges Mr. Khieu
24 Samphan to have had, and he says he hasn't got very much
25 information about that. And then the prosecutor comes back in

1 order to sidestep a negative response by asking what were the
2 general duties and functions.

3 Well, to me, this seems to be quite clearly a matter of harassing
4 the witness, and I think that the answer has already been given
5 by the witness to this question. Thank you, Mr. President.

6 MR. PRESIDENT:

7 Counsel for Ieng Sary, you may proceed.

8 MR. KARNAVAS:

9 Thank you, Mr. President. I need a point of clarification from
10 the earlier response because the gentleman indicated: based on
11 what he told the OCIJ; that's the best that he can do in
12 answering the Prosecution's question, and of course it -- which
13 begs the follow-up.

14 [14.24.26]

15 One, if he has the answer, obviously he can give it, but is the
16 gentleman suggesting that what he gave the OCIJ was based on
17 having material provided to him, reading the material, analysing
18 it, and then coming with an answer, which would mean that it's
19 his analysis of material as opposed to information that he had at
20 the time?

21 The OCIJ did in fact provide the gentleman with numerous
22 questions which he took months to prepare, and it was
23 acknowledged yesterday -- and I was corrected in fact -- by the
24 Prosecution.

25 So, when he said "other than what I told the OCIJ", is that what

1 he meant? And if that is the case, then, obviously, this entire
2 line of questioning is rather objectionable because what he's
3 providing is an analysis of the documents as opposed to knowledge
4 that he had at the time, which I think is much more useful for
5 you because that's exactly what you will need to decide at some
6 point. Thank you.

7 [14.25.35]

8 MR. PRESIDENT:

9 International Co-Prosecutor, do you wish to reply to the defence
10 counsel? If so, you may proceed so that the Chamber has the basis
11 for its decision before we proceed to a further line of
12 questioning.

13 MR. SMITH:

14 Thank you, Your Honour. I think the reply is that, obviously,
15 there needs to be some follow-up questions with the witness as to
16 -- as my learned counsel for Ieng Sary has said, you know,
17 whether or not the information that he obtained and has testified
18 to today was something which is gained from the statements in the
19 file or whether or not that's something that he had independent
20 knowledge of. And I think that's a reasonable line of
21 questioning, and so I would suggest that that line of questioning
22 continue.

23 [14.26.36]

24 The witness has - obviously, said he was the chairman. As far
25 as-- And he said he didn't know a lot about the role, and my

1 follow-up question was: Well, generally -- generally -- what was
2 the role of that office? And I think it's reasonable that a
3 witness be asked to not necessarily feel that they have to know
4 every detail in order to be able to answer the question. And
5 that's why the question was elevated to a different level from
6 which he could actually think to see whether or not he could
7 answer the question at that level.

8 MR. VERCKEN:

9 Mr. President, if I may, just to pick up on what has just been
10 said, rather than asking follow-up questions, it might be better
11 if the witness were asked to distinguish between what he knew at
12 the time and, as my colleague, Michael Karnavas, said, what he
13 learned subsequently by reading documents while preparing for his
14 own trial.

15 I think that that distinction has got to remain extremely clear.

16 Thank you.

17 [14.28.02]

18 MR. PRESIDENT:

19 Objection by the defence counsels is not sustained; the
20 international prosecutor may proceed.

21 But the Chamber wishes to remind that the prosecutor should avoid
22 repetitious questions or question that is of very general nature,
23 and he should refrain from any questions that may lead the
24 witness, as well.

25 And the witness is also advised by -- advised that he try to

1 answer the questions that is put to you. And when you refer to --
2 please do not refer to the answer you gave to the Office of
3 Co-Investigating Judges, because the Chamber would not have any
4 idea as to what you said exactly before the Co-Investigating
5 Judges.

6 You are here to testify before the Chamber. You should answer the
7 question put to you so that we get the information first-hand
8 from you.

9 [14.29.18]

10 We understand that, in the process of investigations, it was
11 actually conducted in various offices of the Court, the Office of
12 Co-Prosecutor and Office of Co-Investigating Judges, but those
13 investigations was confidential, so-- This Chamber is now hearing
14 in public; it is very useful that you answer the question put to
15 you. It will be in the interest of justice and the public as well
16 in--

17 And it is important for the Chamber to establish whether or not
18 anyone will be found guilty or innocent on any facts. So, once
19 again, the Chamber advises that you do not point to any document
20 that you said or you responded to the Office of Co-Investigating
21 Judges. The Chamber would not have any idea at all as to what you
22 said before the Co-Investigating Judges. It is important that the
23 public is aware of what you said or testified. Thank you.

24 The Prosecutor, you may proceed.

25 BY MR. SMITH:

1 Thank you, Your Honour.

2 [14.30.27]

3 Q. Witness, from your knowledge at the time, during the period of
4 Democratic Kampuchea -- what was your knowledge of the duties and
5 functions of the Central Office Committee? At the time, not from
6 what you may have learned later?

7 MR. KAING GUEK EAV:

8 A. I'd like to link my statements before the Co-Investigating
9 Judges to the instruction by the President of the Trial Chamber,
10 and I would like to proceed by responding as follows. And this is
11 what I explained to the Co-Investigating Judges. I'm not now
12 talking about the roles of the Central Office; I'm now talking
13 about the roles Khieu Samphan.

14 After Chou Chet alias Si was arrested, I wanted to know what Chou
15 -- Vorn Vet had to say to protect this guy because I knew that
16 Chou Chet alias Si had conflict with Ta Mok, and Vorn Vet was in
17 the - in between. And later on I learned that Mr. Vorn Vet was
18 not an easy person to work with, because, when the decision to
19 arrest Chou Chet alias Si, Vorn Vet was there, but Brother Pol
20 did not invite him to take part, but Brother Hem was instead
21 invited to take part in the decision to arrest Chou Chet alias
22 Si.

23 [14.32.36]

24 Later on, whether Khieu Samphan had any office he worked in-- And
25 I would like to refer to the statement by a person named Youk

1 Chuong alias Chorn, the head of the electricity factory in Chak
2 Angrea. He said that Khieu Samphan advised him to betray the
3 Party, so we had -- the guy said he had to do good deeds to
4 disguise this bad activity, to make sure the Party trusted him.
5 Then I talked to Brother Nuon and I - then, Brother Nuon
6 reprimanded me, saying that: Look, you know, in the whole
7 country, there was only Pol Pot and I, myself, and you would like
8 Comrade Hem to also be in trouble; and for that, would you wish
9 to go to be assigned to work at the embassy? And as Mr. David
10 Chandler said, Mr. Stasi (phonetic) had a higher position than
11 even Brother Hem. So, according to that observation, I learned
12 that Brother Hem had an office.

13 [14.34.21]

14 And later on the Co-Investigating Judges brought me the document
15 concerning the commerce section, regarding the request to Brother
16 Hem to purchase some goods. And I can say that the document is
17 true and factual because Brother Hem was asked for ideas.

18 And in another incident, I proved that Brother Hem had an office,
19 because at the beginning I had my travel paper signed by Brother
20 Khieu, and later on it was signed by the person named Khang, and
21 Co-Investigating Judges asked me what Khang refer to. I asked
22 Pang about this. Pang said Khang was another alias for Brother
23 Hem.

24 So this is the reason that I reported to the Co-Investigating
25 Judges that Brother Hem was the head of the Central Office and he

1 signed on the travel paper allowing people to travel using his --
2 another alias name, Khang. And I learned this from Comrade Pang,
3 and I believe that it is true.

4 [14.36.13]

5 So the first of -- the first unit, he was in charge the commerce
6 unit, and another unit under his also -- supervision was the one
7 at Chak Angrea, the electricity factory.

8 MR. PRESIDENT:

9 Counsel, you may proceed.

10 MR. PESTMAN:

11 Thank you very much. I had a question, a point of clarification.
12 And this long answer, was this based on Chandler or was it based
13 on a confession he read at S-21? I'm confused.

14 [14.37.00]

15 MR. SMITH:

16 Your Honour, I mean, that's the process of questioning. And
17 certainly we'll be questioning him on this matter, and my
18 colleague will be able to do so as well.

19 Your Honour, it's 20 -- nearly 22 minutes to 3. Obviously,
20 there's a number of questions that need to be followed up. Rather
21 than start now, would you like to break now, Your Honour, and
22 come back, or shall we continue?

23 MR. PRESIDENT:

24 Thank you very much. It is indeed appropriate time for
25 adjournment. The Court will adjourn for 20 minutes.

1 Security personnels are now instructed to bring the witness to
2 his waiting room and have him return before we resume the next
3 session.

4 The Court is adjourned.

5 (Court recesses from 1437H to 1459H)

6 MR. PRESIDENT:

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

8 And we'd like to hand over now to the Prosecution.

9 BY MR. SMITH:

10 Thank you, Mr. President. Good afternoon.

11 [15.00.42]

12 Q. Witness, before we broke, you gave some information about what
13 you believed to be Khieu Samphan's role in the CPK.

14 I would like to follow up just with some questions just to
15 clarify some of those instances that you referred to, and
16 particularly, I'd like to clarify what you said in relation to
17 who signed your travel papers whilst you were at S-21.

18 And firstly, before I ask you that question, can you tell the
19 Court why you needed travel papers when you were working at S-21?

20 MR. KAING GUEK EAV:

21 A. Every combatant and cadre who had to travel in Phnom Penh must
22 have a travel pass or travel paper. It is a must.

23 Q. And how often -- would the travel papers that you had, would
24 they last just for one trip or would they last for a period of
25 time?

1 [15.02.45]

2 A. Its -- its validity was for six months, as far as I recollect.

3 Q. And whilst you were at S-21, about how many times did you get
4 those travel papers renewed, or did you?

5 A. I don't remember, but it would be renewed when it expired. At
6 the beginning, I used the travel pass signed by the chief of the
7 general staff, Comrade Khim, not Khieu. My superior used to have
8 another alias name, Khim instead of Khieu.

9 Q. And so that was Son Sen; is that correct?

10 A. Yes, it is.

11 Q. Can you explain to the Court why, during that time period, why
12 some people -- some had two aliases rather than just one? Do you
13 know why?

14 A. My superior had several aliases. At -- in the army, he was
15 called Brother 89. At S-21, when we wrote letters to him, we
16 would address Brother 62. In general, his name was known as
17 Khieu, and the name he signed or the signature under his name on
18 the travel pass was Khim instead.

19 [15.05.18]

20 Q. And you said -- you testified at a later -- at a later time,
21 your travel pass was signed by a Khim; is that correct?

22 A. From 1975, my travel papers were signed by Khim; it was Son
23 Sen.

24 Q. And so I understand it clearly, at a later time, were they
25 ever signed in another name?

1 A. Before the new travel pass, Pang collected the old travel pass
2 and that he asked who would like to travel and need these papers,
3 so I provided the old travel pass and my name to Pang, who later
4 on gave me the new travel pass bearing the name Khang on that
5 piece of document. And I asked who Khang was, and Pang said it
6 was Brother Hem. I looked at the writing, I compared the name --
7 the writing, and I could confirm that Khang could have been the
8 same person as Hem.

9 Q. Brother Hem, who is that?

10 A. Brother Hem -- Hem was the alias of Khieu Samphan.

11 [15.07.37]

12 Q. Did Pang tell you why Khieu Samphan was signing your travel
13 pass?

14 A. I don't know; I didn't ask such question.

15 Q. Do you remember what time period this was, when your travel
16 pass was signed by Brother Hem?

17 A. I don't remember the date, but that travel pass or paper was
18 the only document I used when travelling, and later on I learned
19 that that piece of document had been kept and that's why it was
20 collected.

21 Q. If we can just talk about Pang for a moment, you said that he
22 was head of S-71. Was that a high position in the CPK or was it a
23 mid-level position or a low position?

24 A. Look at the role of Pang; we can see how important the role of
25 S-71 was. Pang was the assistant of the Central Office, the first

1 individual. Even Comrade Cheng An, who was older than Pang,
2 called him Bong or Brother, a kind of respect.

3 Q. And Pang's immediate superior, who was that? Who was his
4 immediate boss?

5 [15.10.10]

6 A. Pang's immediate supervisor, or superior-- As I indicated,
7 when he met me, he did not come to me with the message from Khieu
8 Samphan or other people other than Pol Pot.

9 Q. Did you ever meet Pang in another place outside of S-21? Would
10 you ever meet him in other places?

11 A. Pang used to ask me to accompany him to meet Cheng An, the
12 head of Commerce (sic), and met with Brother Rith, the head of
13 Commerce, on one occasion.

14 Q. During this time period, did you ever go to the messenger's
15 office which you referred to earlier?

16 A. Yes, I did. I went to this messenger office at K-7, on the
17 riverfront. I went there on three occasions, I believe.

18 Q. And did you know that it was called K-7, back at the time,
19 back when you worked at S-21, or did you learn that later?

20 [15.12.16]

21 A. I learned back then, at S-21, because I was called to meet --
22 to receive Suas Nau alias Chhouk there.

23 Q. And when you went there to receive him, what happened?

24 A. I was asked to go to that location to familiar -- to be
25 familiar with the location, and later on Comrade Ki was

1 introduced to me so that we could work together when we received
2 Suas Nau alias Chhouk.

3 Q. And did you receive or take Chhouk from that office or did you
4 receive him somewhere else?

5 A. My superior asked me to go to K-7 where I would receive
6 Chhouk. So K-7 was the only location introduced to me. And then I
7 was asked to go there to wait and receive Chhouk; it is the
8 place.

9 Q. And you said that your superior asked you. Who was that?

10 A. Son Sen.

11 [15.14.34]

12 Q. And just a few more questions on this.

13 When you went to that office, did you in fact receive Suas Nau?

14 Did you receive him at that point?

15 A. Yes, it is correct. The date when Suas Nau alias Chhouk
16 arrived, I was there and I had been there, indeed, to receive
17 him.

18 Q. And then who else was there when you went to that office?

19 A. We went there on a small truck with my special force, a small
20 group. When Suas Nau arrived, he was received by my unit and he
21 was loaded on the truck, and I followed the truck on a
22 motorcycle. Sri, one of my special forces, said Brother Nuon, or
23 Nuon Chea, sneaked -- or was trying to look at the situation,
24 trying to -- but I - but I believe that he was trying to sneak
25 into our activity.

1 [15.16.28]

2 Q. Just to clear that up, you said that Brother Nuon was trying
3 to sneak into your activity. Did you see Brother Nuon there or
4 did you not see him there?

5 A. Indeed, I did not really see this, but Comrade Sri saw this
6 and he reported it to me.

7 Q. And who is Comrade Sri?

8 A. Comrade Sri was a member of the special force in -- at S-21,
9 under my supervision.

10 Q. And what was function of K-7? What happened at K-7?

11 A. At K-7, I went on another location to receive prisoners from
12 the North. It was another separate incidence -- or instance.

13 Q. Do you know what the purpose of K-7 was, what -- the main
14 activity that occurred at K-7, or do you not?

15 A. At K-7, I saw the central telephone and I needed to make a
16 phone call to my superior and I asked for permission to use the
17 telephone, so I was allowed to use it.

18 And all the documents, as I noted, sent from secretary of each
19 zone would go into K-7 before they would be distributed to the
20 Central Office.

21 Q. And do you know -- did you know back then who distributed the
22 papers or the documents from K-7 to the Central Office? Do you
23 know who did that?

24 [15.19.50]

25 A. K-7 received letters from zones to be presented to the upper

1 level, and this office was meant to receive gifts as well.

2 Q. Was there any permanent staff based there, or was it just one
3 or two people or a number of people?

4 A. I don't know very well, but I know the guy named Ki who was
5 the head of K-7. He was introduced to me by my superior, Son Sen,
6 because Son Sen would like me to be introduced so that we could
7 work together.

8 Q. And what would you say Ki's main job was?

9 A. He was the head of the messenger office.

10 Q. Do you know how many messengers worked in that office?

11 A. No, I don't know.

12 Q. You've testified that you knew of K-7, back when you worked at
13 S-21, and that code name K-7. Did you know of any other K
14 numbers, if there were any, back when you worked at S-21, or not?

15 [15.22.11]

16 A. K-7 was the only location I knew bearing code name K, the
17 place where I went and where I worked at on some occasions.

18 Q. Thank you.

19 And perhaps now we can just go back to Pang. How often did you
20 meet with Pang?

21 A. I met Pang very often since I -- since my superior, Son Sen,
22 was away. Later on, when Brother Nuon was in charge, I had an
23 opportunity to work with Pang.

24 Q. And do you know when-- You testified earlier that Pang was
25 arrested and taken to S-21. Do you know when that happened, when

1 he was arrested?

2 A. Are you asking that Pang was also tortured?

3 Q. No. I believe your testimony was that Pang was arrested and
4 brought to S-21 at one point; is that correct?

5 A. Yes, it is.

6 Q. And was he tortured at S-21?

7 [15.24.22]

8 A. Yes, he was. I would like to emphasize again that everyone who
9 entered S-21 was not spared from being tortured, saving Koy
10 Thuon. So only Koy Thuon was not tortured; any other prisoners
11 were tortured equally.

12 Q. Now, you testified that Pang spoke to you about a decision to
13 arrest Chou Chet.

14 My question is: When Pang told you that, was he arrested at S-21
15 or was he still free doing his job?

16 A. I asked Pang when he came to give some instruction to me in
17 his capacity as my superior as well.

18 Q. And can you explain clearly what he said to you about the
19 decision to arrest Chou Chet and who was present?

20 A. Normally, when the two superiors were in discussion, the
21 subordinates would not be supposed to be somewhere near.

22 And what happened to Chou Chet? And why Chou Chet was arrested? I
23 think Chou Chet and Ung Choeun alias Ta Mok, had conflicts. And
24 Vorn Vet was maintaining his position as a person who did not
25 take sides.

1 [15.27.22]

2 And in the decision to arrest Suas Nau alias Chhouk, Brother
3 Khieu asked me to prepare seven files of documents -- rather, he
4 did not ask me to prepare seven files, but I prepared seven files
5 for him. And in -- I asked Pang, when the Standing Committee
6 meeting convened, whether Brother Vorn shared any comment to help
7 stop the arrest of alias Si. Pang told me that it was difficult
8 to work with Vorn Vet because he was silent in the meeting, he
9 didn't say anything.

10 And when Chou Chet was to be arrested, the decision was made in
11 the meeting, and at that time Pol Pot did not ask Vorn Vet to
12 attend the meeting but he invited Brother Hem. I did not ask why
13 he invited -- Pol Pot invited Brother Hem instead of Brother Vorn
14 to attend the meeting to - to decide to arrest Chou Chet alias
15 Si.

16 And this is just what Pang told me.

17 [15.29.05]

18 Q. And so, other than Pol Pot and Brother Hem, which is Khieu
19 Samphan, was there anyone else -- were you told if -- was anyone
20 else at that meeting in the decision to arrest Chou Chet?

21 A. I did not ask him further questions. Having learned this piece
22 of information, I stopped putting question, or asking him any
23 further question. I only learned from Pang that Brother Vorn was
24 not invited into the meeting. Brother Hem was called instead.

25 Q. Thank you.

1 Just, finally, in relation to -- you mentioned Youk Chorn (sic).
2 Did Pang tell you about the decision to arrest Youk Chorn (sic)?
3 Or how did you get information about the decision to arrest him?

4 A. It was not Youk Chorn; Youk Chuong, the head of the
5 electricity factory in Chak Angrae. Youk Chuong and I were in
6 prison together. We met in prison.

7 When Youk Chorn - or Youk Chuong was arrested and sent to S-21,
8 he implicated Brother Hem. He said that the main traitor was
9 Brother Hem.

10 [15.31.20]

11 I do not want to discuss the activities Youk Chuong said; I would
12 like just to emphasize that Brother Hem had offices under his
13 control; at least he had an office at the electricity factory in
14 Chak Angrae. For that reason, I can - I testified that Brother
15 Hem had control over that office. That's why Youk Chuong
16 implicated him in his confession.

17 I remember also that, on the 6th of January, Comrade Lin asked me
18 to work. When we entered the location, we noted that there were
19 people surrounding Brother Hem. I worked with Brother Nuon
20 before. I was reluctant to see the presence of Brother Hem in
21 that room, and I was compelled to enter the room because I was
22 assured that there would be no problem.

23 When I entered the place, the person -- another person pushed a
24 chair and allowed me to sit down, and I was reassured that there
25 would be no problem. And it was about 9 or 10 o'clock, on the 6th

1 of January 1974 (sic), the meeting at the Suramarit Buddhist High
2 School. The meeting was about the state warehouse. And for that
3 reason, I noted that Brother Hem also controlled another unit; he
4 did not work in one place.

5 [15.33.30]

6 Later on, when we fled, when the Vietnamese entered, I asked
7 people who was -- who were with me, and I -- they said that they
8 were on Ta Khang's side -- and Khang, here, referring to Brother
9 Hem.

10 So this is what I recollect.

11 Q. We're going to move on to another topic, but I'd just like to
12 ask you two or three questions about that meeting.

13 In the translation, it was the 6th of January 1974. Is that the
14 date, 6th of January 1974, or is it another year?

15 A. No, it was not in 1974. 6 January 1979. 6 January 1979, at
16 around 9 or 10 a.m. The venue was at the Preah Suramarit Buddhist
17 High School.

18 Q. And was anyone chairing that meeting? Was anyone in charge of
19 that meeting at the time?

20 [15.35.00]

21 A. Participants in that meeting were all new, I did not know
22 them. I only knew Brother Hem, who was the presenter of the
23 overall situation at that time. And I also knew Comrade Roeung
24 (phonetic), who offered me a chair to sit, and he was in charge
25 of the state warehouse at that time. And the person who presented

1 the overall situation at that time was Brother Hem.

2 Q. And how did you know the state warehouse was connected to
3 Brother Hem? How did you know that?

4 A. The head of the state warehouse and I had -- knew each other.
5 But then, on the 6th of January 1979, the head of the state
6 warehouse attended this meeting under the chairmanship of Brother
7 Hem; I thought that Brother Hem must have had some control over
8 this warehouse.

9 [15.36.26]

10 Q. And can you briefly state what Brother Hem was presenting at
11 the meeting? Specifically, what was he presenting?

12 A. Brother Hem was the presenter of the overall situation. He
13 said that Vietnamese soldier were forcing their way in and
14 Comrade Soen (phonetic) and San (phonetic) were trying to
15 counter-attack against them and we should remain calm, we should
16 not be terrified or panic.

17 Q. Perhaps, if we can go back to this other issue of Brother Hem
18 being the chairman of the Central Office Committee, was he the
19 chairman for the whole period, or for part of that period?

20 A. I observed that this was the task that he had to be in charge
21 of, and I believe that it was the task that has left to him since
22 1970.

23 Q. Did you know that -- a person called Sua Vasi alias Doeun? Did
24 you hear of a person, at that time, called Doeun?

25 [15.38.38]

1 A. Sua Vasi alias Doeun, I had met him in 1967, and then we
2 parted. And I was in prison at that time, and then I lost contact
3 with him.

4 And then, later on, I learned that Sua Vasi alias Doeun became
5 the chairman of the Central Office. That was when Sua Vasi was
6 arrested -- or Sua Vasi was transferred to Ministry of Commerce.
7 And David Chandler said that it might have been the trick of
8 Khieu Samphan in order to take his place.

9 Q. We're not interested at the moment in what David Chandler
10 says; we're interested in your observations at the time, during
11 the period.

12 Did you -- did you know, from your own observations, that Doeun
13 was the chairman of the Central Office Committee for some time
14 during the period?

15 [15.40.14]

16 A. I would like to emphasize that Sua Vasi alias Doeun became the
17 chairman of the Central Office, but he was actually -- did not
18 have any actual power because he was only in charge of
19 maintaining documents and he simply record what was discussed in
20 the meeting.

21 And I referred to David Chandler because he mentioned in his book
22 that -- he said that Khieu Samphan was a bad guy. And I argue
23 with him that, well, Khieu Samphan was not a bad guy. Actually,
24 Sua Vasi alias Doeun was actually the bad guy.

25 But when Sua Vasi came to the Central Office, he was simply in

1 charge of maintaining documentation.

2 Q. Okay. Again, I would just ask that you confine your answer to
3 your observations, and not – not other people's opinions. It will
4 be more helpful to the Chamber to understand what you know.

5 [15.41.25]

6 So the question is-- You said that Khieu Samphan was the chairman
7 of the Central Office Committee, and you've also said that Doeun
8 was the chairman of the office Central Committee.

9 Were there two chairmen of that committee at once? Or can you
10 explain how that situation worked?

11 A. Thank you. And that is a good question, and it is appropriate
12 to ask that question.

13 When we talk about political work, we work with papers. So,
14 whatever was decided, Doeun would be the witness. So Doeun was
15 simply in charge of maintaining records.

16 But as for Khieu Samphan, when he was in charge of the Central
17 Office, he had some unit under his supervision, one of which is
18 the power station at Chak Angrae and the other unit as well.

19 [15.42.43]

20 Q. Did you know what happened to Khieu Samphan when Doeun left
21 for the Ministry of Commerce back at the time? Did you know that?

22 A. I did. There was no significant change to Khieu Samphan's
23 role.

24 Q. And how do you know that?

25 A. This -- his role was not changed in the leadership apparatus.

1 Q. Thank you.

2 And if we can look at this document again IS.63 (sic), which is
3 the decision of the Central committee regarding the decision to
4 smash, you'll see, in that first part, it states that the
5 decision to smash can be "decided by the Central Office
6 Committee", which is the one that you referred to, that Khieu
7 Samphan was Chairman of, and Doeun had that role as well.

8 [15.44.05]

9 If you see that term and you go further down and see Office 870,
10 can you tell the Court, whether you knew the term Office 870,
11 when you working at S-21. It's in the point number two, "A Regime
12 of Weekly Reporting to Office 870". Did you know what that term
13 meant, when you were working at S-21?

14 A. I have heard of Office 870; it refers to the Central Office or
15 Office 870.

16 Q. If I can-Well, firstly, did the Central Office issued any
17 circulars to S-21 or any other places, as far as you know?

18 A. The circular or directive of the Central Office, or Office
19 870, it was not issued by Khieu Samphan. In whatever case, it was
20 not from Khieu Samphan; it must have been from Pol Pot and Son
21 Sen. And then, in certain occasions, it was from Pol Pot to Nuon
22 Chea, and then it was sent to m.

23 And it was an oral regime of report. For example, today, I worked
24 with Pang, and what was the outcome of the work, so I had to
25 report that.

1 [15.46.32]

2 So, once again, Office 870, was not -- did not refer to Khieu
3 Samphan; it did refer to Pol Pot.

4 Q. I would like to show you another document; it's entitled --
5 it's D248/3.3. I have a hard copy for the witness and I would ask
6 the case manager if he can place it on the screen.

7 MR. PRESIDENT:

8 You may proceed.

9 BY MR. SMITH:

10 Thank you, Mr. President.

11 If you can look at that document, look at the title of the
12 document and the end of the document as well as some paragraphs
13 throughout, can you see whether or not that document is familiar
14 to you at all or whether you've seen that document before?

15 [15.47.51]

16 And perhaps, if I just read the title of the document out, it's
17 "Guidance of the Central Committee of the Communist Party of
18 Kampuchea on the Party's Policy towards Mised Persons who have
19 joined the CIA, served as Yuon Agents or joined the KGB and
20 opposed the Party, Revolution, People and Democratic Kampuchea".

21 MR. KAING GUEK EAV:

22 A. I have seen this document. This document was circulated to me,
23 but I forgot as to who sent it to me. But to my recollection,
24 this particular document was also published in one of the issues
25 of the "Revolutionary Flag" magazine.

1 Q. This document appears to be from the Central Committee of the
2 CPK. To your knowledge, did the Central Committee issue a number
3 of documents, decisions or guidelines, or do you only know of the
4 particular ones we've been talking about?

5 [15.49.19]

6 A. This document was clear. I did receive this document and I
7 also saw it.

8 Q. If I can take you-- Firstly, perhaps, if you could just
9 briefly state what the purpose of this document was, what appears
10 to be the purpose of it?

11 A. Upon reading this document myself, I was very pleased because
12 the Party had a favourable policy, a policy that favoured those
13 who had admitted mistakes. So those who committed a wrong doing
14 or mistakes, that they could reintegrate themselves and they
15 could live with us. But in the actual implementation, at that
16 time, the Party did purge the people.

17 So these documents were simply to console - console the people,
18 and particularly to convince the people to believe in the Party.

19 Q. And would you agree with me that the content of this document
20 is to provide a policy in the CPK, that people that were
21 perceived to have been enemies of the CPK in four different time
22 periods -- 1946 to 1967, 1968 to 1970, 1970 to 1975, and 1975 to
23 1978 -- would be given that leniency in terms of punishment if
24 they re-educated back into the ideology of the - of the CPK? Is
25 that basically what the policy states?

1 [15.51.49]

2 A. The content of this document was as what you have just
3 described. But if the Prosecution reads this document carefully,
4 the date of this document, this document was dated June, the 20th
5 of June 1978. It was the month when So Phim was arrested; in
6 other words, when his zone was purged. So this document was
7 merely meant to provide some leniencies to people in order that
8 they did not resist or uprising against the Party.

9 Q. And did you apply this policy at S-21?

10 A. The content in this document did not have the implementation
11 effect for the staff of S-21 because there was no allegation of
12 the staff of S-21 being the agent of CIA.

13 Q. Thank you. We're now finished with that document.

14 And perhaps, if we can go back to the first decision -- or the
15 decision of the Central Committee regarding a number of matters,
16 IS.63 (sic), and if I can take you to page 6 of the Khmer, where
17 it states "The Standing Committee of the People's Representative
18 Assembly of Kampuchea" and it lists three people.

19 Where it states the chairman was Comrade Nuon, the first deputy,
20 Comrade Phim, and the second deputy, Comrade Mok, was that
21 consistent with your observations as to who was elected as
22 representatives of this People's Representative Assembly?

23 [15.55.04]

24 A. Before answering this question, I would like to read from the
25 upper part of this particular portion so that we understand its

1 substance:

2 "The actual organisation:

3 "Assembly: The methods and regime of work as follows:

4 "1) All representatives in fact live with their people on into
5 the future.

6 "2) The Standing Committee of the People's Representative

7 Assembly of Kampuchea: "Chairman: Comrade Nuon;

8 "First Deputy: Comrade Phim;

9 "Second Deputy: Comrade Mok.

10 "The other elements of the Standing Committee will be kept for
11 later for the Standing Committee to set up later on. In total,
12 about ten persons."

13 [15.56.04]

14 So the regime of work, the representative was with their own

15 constituents. Nobody came to the meeting, as I described --

16 explained to the Chamber. Comrade Kun (phonetic) was in charge of

17 the factory, Son was the assistant to the chief of staff, Comrade

18 Sai (phonetic) in the Committee of Industry, and Comrade Nuon was

19 -- continued to be the deputy secretary of the Standing

20 Committee, and the first deputy of the People's Representative

21 Assembly of Kampuchea, Comrade Phim, continued to be the first

22 deputy of this assembly. And as for other members, it was left to

23 the Standing Committee to decide later on.

24 So, of course, when the People's Representative Assembly was --

25 had its first session, there were about 10 people at that time,

1 and Sar Sean (phonetic) and Chham (phonetic) – but, actually, I
2 saw only two people, Sar Sean (phonetic) and Chham (phonetic),
3 whom I met at the Buddhist Institute -- School.

4 [15.57.39]

5 Q. Thank you. I just have further two questions on this document,
6 and the second one is: In relation to the Presidium of the State,
7 it lists Comrade Hem, first deputy chairman Pen Nouth, and second
8 deputy chairman Comrade Nuon; do you know who Comrade Nuon was,
9 what his other name was?

10 A. This morning, I mentioned that already: Comrade Nhim, Ros
11 Nhim; he was the secretary of the Northwest Zone.

12 Q. And then, if we can move to the government, where it sets out
13 the positions for the government, states Comrade Pol, Comrade
14 Van, Comrade Vorn and Comrade Khieu; who is Comrade Van? And who
15 is Comrade Vorn?

16 A. Thank you. Comrade Van refers to Ieng Sary. As for Comrade
17 Vorn, refers to Vorn Vet. And Comrade Khieu refers to Son Sen.

18 [15.59.08]

19 Q. Thank you. And my last question is: In relation to the first
20 line, where it states the government "must be totally an
21 organisation of the Party, directly of our state", is that
22 consistent with your observations of how the CPK controlled
23 aspects of Democratic Kampuchea?

24 A. The government belonged to the Party exclusively. The State of
25 Kampuchea, which had two classes, workers and peasants, was under

1 the control of the -- one Party chaired by Pol Pot and three
2 deputy prime ministers: Brother Van -- Ieng Sary -- and Vorn Vet,
3 and Khieu, Son Sen. These three -- four people had to manage the
4 administrative affairs.

5 M. SMITH:

6 Your Honour, I see it is now 4 o'clock.

7 [16.00.32]

8 MR. PRESIDENT:

9 Thank you very much, Co-Prosecutor. And thank you, Witness.

10 Since it is now an appropriate time for today adjournment, the
11 Chamber will adjourn by now, and the next session will be resumed
12 by 9 o'clock, tomorrow.

13 Security personnels are now instructed to take Mr. Kaing Guek Eav
14 alias Duch to the detention facility and have him returned to the
15 courtroom before 9 a.m. And the same security personnels are
16 instructed to bring the three accused persons to the detention
17 facility and have them returned to the courtroom before 9 a.m.
18 The Court is adjourned.

19 (Court adjourns at 1601h)

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