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

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

2 April 2012

Trial Day 45

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

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I N D E X

MR. KAING GUEK EAV, alias DUCH

List of Speakers:

Language used unless specified otherwise in the transcript

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

P R O C E E D I N G S

(Court opens at 0931H)

MR. PRESIDENT:

Please be seated. The Court is now in session.

Today, as planned, the Chamber continues to hear testimony of witness Kaing Guek Eav, alias Duch. The Prosecution will continue putting questions to the witness for another hour, then the Chamber will hand over to civil party lawyers to put questions to this witness.

Now the floor is handed over to the Prosecution to continue their questioning to this witness, if any.

[09.32.44]

QUESTIONING BY MR. SMITH RESUMES:

Thank you, Mr. President. Good morning. Good morning, Your Honours, good morning, counsel, good morning, Witness, and to the general public.

Q. Mr. Kaing Guek Eav, last week we discussed a number of matters, and throughout your testimony you referred to the fact that CPK leaders attended large rallies or meetings.

How many rallies or meetings of the CPK did you attend during that period from 1975 to 1979?

MR. KAING GUEK EAV:

A. Mr. President, there were two types of meetings, the 17 April meeting and the August 30th -- rather, the September 30th rally. I began joining the rally on the 17 April 1975 -- rather, 1976,

and I also joined another meeting in that year, 1976. In the last -- the last 19 -- the last 17 April rally was conducted at the Olympic stadium. It was not conducted at Borei Keila as it was conducted before. The previous meetings or rallies were conducted at Borei Keila, and the 17 April 1978 meeting was conducted at the Olympic stadium. It was conducted at the basketball court.

[09.35.14]

Q. So you referred to attending two rallies, one in 1976 and one in 1978. Did you attend a rally in 1977 on the 17th of April?

A. I joined that meeting.

Q. And you've also mentioned that you attended rallies on the 30th of September. About how many of those rallies did you attend during those three and a half years?

A. I attended such meetings in '60 -- rather, '76, '77 and '78. During that time, there was a special rally. It was on the 6th of January 1978. Pol Pot convened that rally in order to announce the victory of the Revolutionary Army over the Vietnamese armies. And the formal name of that Vietnamese army was called the People's Armies of Vietnam, but I'm not sure about this name. I joined that meeting at that time.

Q. And at these rallies, did you see either of Khieu Samphan, Ieng Sary and Nuon Chea at any of these rallies?

A. Mr. President, the 17 April 1976 rally and during the 17 April 1977 meeting, there were only two delegates, Brother Pol Pot and

Brother Nuon Chea.

The 13 -- during the 13 -- rather, the 30th September 1976 rally and during the 30th September 1977 rally -- was actually conducted since the 27 September. And during those meetings, I saw only Brother Pol Pot and Brother Nuon Chea on the stage. And as for the 17 April 1978, there were a lot of people joining that rally. There were four of them. They were Brother Nuon Chea, Brother Vorn Vet, Brother Thiounn Thioeunn -- I'm not sure about the other. I'm not sure whether it was Brother Ieng Sary or Brother Khieu Samphan. I was confused.

[09.39.41]

Besides, as for the rally on the 30th of September 1978, on the stage there were three people, Brother Secretary Pol Pot, Brother Deputy Secretary Nuon Chea and Brother Mok. It was conducted at the Olympic stadium.

Q. Thank you. You've mentioned that, as -- part of your job at S-21 was to train, and as a part of that, you read all the "Revolutionary Flags" and "Revolutionary Youth".

So I'd like you to look at a document. It's D243/2.1.12. And I have a few questions to ask you about that.

Your Honour, I have a hard copy if I can provide to the witness, please.

[09.40.53]

MR. PRESIDENT:

The Chamber permits. Court officer is instructed to bring the

document from the Prosecution to the witness.

BY MR. SMITH:

Your Honours, also E3/11.

Q. Witness, if you can look at this document and if you see after the first couple of pages, it states: "The presentation of the Party representative on the occasion of the 17th anniversary of the great victory of the founding of the Communist Party of Kampuchea and on the occasion of the official domestic and international public announcement of the Party."

[09.41.56]

Is this document a record of the speech that you referred to earlier in your testimony about the announcement -- the public announcement of the CPK?

MR. PRESIDENT:

Yes. Defence counsel, you may proceed.

[09.42.26]

MR. PESTMAN:

Thank you, Mr. President. Good morning. I don't want to object, but I'm just wondering whether we can see the document on the screen. I have no document on the screen. Thank you.

MR. SMITH:

Yes, Your Honour. We're trying to place it on the screen now. Your Honour, whilst the case manager is putting the document on the screen, if I'll just continue the questions and it will come up shortly.

[09.43.21]

BY MR. SMITH:

Q. Witness, is this the document -- is this the "Revolutionary Flag" that you referred to that announced -- publicly announced the Communist Party of Kampuchea?

MR. KAING GUEK EAV:

A. Mr. President, the question is not very practical. There were two occasions of the announcements. The first one was secretly done amongst the Party's members at Borei Keila. That document was not published in the "Revolutionary Flag" magazine. I was able to take some notes and I kept them at S-21.

This "Revolutionary Flag" was what Brother Pol read at the Central Committee. I used to see this document, but I was not really aware of the secret document.

[09.45.02]

Q. And the document that you have before you now, is that a copy of an original document that you saw back during the -- your period at S-21?

A. Mr. President, I do not believe that there was a copy of the original "Revolutionary Flag".

Q. Thank you. But I'm referring to a photocopy of an original. Do you agree that that's a photocopy of the original "Revolutionary Flag"?

A. Mr. President, I did not see that the original was photocopied, but I believe this was the copy of the original.

[09.46.28]

Q. Thank you. And, Witness, in the speech -- in this speech in the "Revolutionary Flag", if I can take you to page 0063138-- it's tabbed in yellow. It's got a yellow tab, in the document before. And English 00486228, in French 00492814. Witness, it has a yellow tab and it's 0063138.

And in this document, do you see point 2? It should be marked with a highlighter at page 39 in the Khmer version.

A. Mr. President, yes, I saw this.

Q. If you can read briefly the passage starting from point 2, and then I have two questions to ask you about it.

A. Thank you. Mr. President, if I may read, as requested by the prosecutor:

"Point 2, the Congress analyzed and defines the contradictions directly inside Kampuchean society. At the time that we were working out the Party's line, Kampuchean society was divided into five distinct classes; the working class, the peasants class, the petit bourgeoisie class, the capitalist class and the feudalist class. In all, there were five classes.

[09.49.20]

"With their contradictions between these various classes, there were -- and they were complicated ones. There were contradictions between the workers and the capitalists, between the petit bourgeoisie and the capitalists, between the peasants and the land owners, between the capitalists and the peasants, etc. The

contradictions were complex and much entangled. But which contradictions played the leading role in society at that time?" [09.50.05]

To answer this question, we had to find among the many contradictions in society the one which involved the majority of the population, which class most exploited the others, which class was the most exploited and the most numerous.

An examination of the Kampuchean society of that time reveals that the peasants were 85 per cent of the country's entire population. Therefore, the peasants were the overwhelming majority of the population. They were oppressed by all classes. They were oppressed by the capitalists and the landowners. However, it was from the landowners that the peasants suffered the worst, most varied and most direct oppression.

Thus, 85 per cent of the population, the peasants, were in contradiction with the exploiting class that exploited them directly, the landowners.

[09.51.24]

Q. Thank you. If I can stop you there and now take you to the following page. The ERN number is 0063140, English 00486230 and French 00492816. And if I can read out the passage briefly, and it's highlighted in your document, it states:

"Therefore, this contradiction was a life and death contradiction. This was a profound contradiction in Kampuchean society, one which impacted 85 per cent of the population. It was

for this reason that the First Party Congress defined this contradiction as an antagonistic contradiction."

Mr. Kaing Guek Eav, my question is: Can you explain -- can you explain the meaning within this document of "this contradiction was a life and death contradiction"?

A. Thank you. Mr. President, in the philosophy of the dialectical materialism, there were contradictions. The contradiction between us and our enemy is the life and death contradiction which means that for one to prosper, the other one must die. This is what it means and I end my explanation here.

Q. Thank you. And does the term "antagonistic contradiction" mean something different?

A. Mr. President, the antagonistic contradiction was the contradiction between two parties. The two parties rely on each other in order to promote the movement. For example, the contradiction between the cadre and the combatants; these are the internal conflicts. The resolution of this contradiction was done through education.

Q. Thank you.

[09.54.38]

I'd now like to move to another topic and this is in relation to the role of Khieu Samphan, which you discussed last week, and also the role of Sua Vasi, Doeun, who you also discussed last week.

You testified that Khieu Samphan was the Chairman or head of the

Central Office Committee of the CPK and you also testified that Sua Vasi, Doeun, had that role, as well, until he was transferred to the Ministry of Commerce. You also testified that although Doeun had that role, as well, he was only in charge of maintaining documents, but he did not have actual power. And you also testified that when Doeun left that role, there was no significant change to the role of Khieu Samphan in that committee.

[09.55.49]

My question is: Who had the higher ranking role in the Party? Was it Doeun or Khieu Samphan?

A. Mr. President, the explanation has to rely on my understanding from now. Let me first begin my explanation based on my understanding back then.

For those who loved Khieu Samphan knew clearly that Mr. Khieu Samphan was in charge of the ministries in 1971 and he was one of Pol Pot's students. From our perspective, we understood that his role was nothing. He was only in charge of papers.

[09.57.27]

Later on, Doeun was appointed to work as the head of the Central Office. We, from the lower levels, knew Doeun as a person and we knew that, as Doeun was appointed the Chief of the Central Office, the intention was to separate the force of Koy Thuon apart.

From my understanding -- understanding, back then, the head --

the position as the head of the Central Office was the Secretariat of Pol Pot.

I also heard, informally, that Brother Pol Pot was in charge of distributing machines to the bases. Moreover, there was also evidence that Brother Khieu Samphan was the one who accompanied Samdech Penn Nouth and Sihanouk to visit countryside. That was what I knew back then.

Q. Thank you. And when Doeun left for the Ministry of Commerce, did Khieu Samphan stay in the same position?

A. When Doeun left for the commerce section and later on he was arrested; I still am convinced that Brother Khieu Samphan still maintained his position. A few days ago, last week, I already talked about this. No one could do anything regarding the position Khieu Samphan held.

Q. And if we go back to my original question, do you know who was higher ranking in the CPK? Was it Doeun or Khieu Samphan?

A. Mr. President, so far as I recollect, I read the record of interviews by Khieu Samphan before the Co-Investigating Judges, and this account is consistent with what my understanding is. [10.01.11]

Brother Khieu Samphan was the member of the Central Office when Doeun was also a member, but a candidate member. He could have not been the full-right member; if he were, he could not or he would not have held the full-right position as Brother Khieu Samphan would. Although Khieu --Doeun could have been the head of

the Central Office, he could be inferior than Khieu Samphan because he was junior; he was as young as I was back then.

Q. And do you know who took over Doeun's tasks when he left the Central Office to go to the ministry of commerce?

[10.02.14]

MR. PRESIDENT:

(No interpretation)

MR. VERCKEN:

Mr. President, I am intervening, quite simply, to point out to my learned friend of the accusation that it would be proper for the witness to be always precise in his answers when his testimony is on issues that he was aware of at the time or information he obtained in the course of the investigations. He has done so, so far. I wouldn't like the witness to be caused to give a testimony without clearly making the distinction between what he knew at the time and what he knew, subsequently, as part of the judicial investigations. Thank you.

BY MR. SMITH:

Yes, Your Honour, I think that's appropriate and I'll ask that question.

[10.03.38]

Q. Back when you were at S-21, during that period, when Doeun left for the Ministry of Commerce, did you know, back then, who took over Doeun's tasks in the Central Committee?

MR. KAING GUEK EAV:

A. I'm not sure regarding this. However, the person who knew a lot and who took orders from Pol Pot and went all the way to S-21 was Pang.

Q. Thank you.

[10.05.04]

The next question is: In your testimony earlier, at one stage you stated that the Central Office Committee was the same as Office 870; is there a different -- from what you knew back then, was there a difference between Office 870 and the Central Office Committee or are you saying they -- there -- they were the same thing, from what you knew?

A. The Central Standing Committee, as I already said, comprised of seven individuals: one, Brother Pol, Brother Nuon, Brother So Phim, Brother Ung Choeun alias Mok, Brother Ieng Sary, Vorn Vet, and Son Sen.

[10.06.24]

Among the seven people, two were outside; So Phim, the Secretary of the East who was -- who was in charge of the East Zone and Ung Choeun alias Nok -- alias Mok was also outside supervising the whole Southwest Zone.

Q. Thank you. And in your testimony, you testified that there was a -- a Standing Committee, which you've just discussed, and you've also testified that there was a Central Office Committee. Now, I'm talking about the Central Office Committee of the CPK. And my question is: To your knowledge, back then, was the Central

Office Committee the same as Office 870 or was it different?
A. Thank you for the question. Mr. President, the Central Standing Committee comprised of the seven people, as indicated. However, when it comes to the office of 870, it was the location where people worked regularly; five people worked regularly, Brother Pol, Brother Nuon, Brother Van, Brother Vorn, and Brother Khieu, who had worked on a regular basis at the office.
Q. So are you saying then that when you referred to the Central Office Committee of which Khieu Samphan and Doeun were heads that is different to Office 870, to your knowledge, back then?
A. I think the distinction is, in this, as follows: The five individuals who stationed in Phnom Penh were embedded with their own authority and power as the members of the Standing Committee. However, Khieu Samphan and Comrade Doeun did not enjoy the same power as those mentioned.
[10.09.33]
Khieu Samphan, as the head of the office of 870, he had the authority over the units under his supervision and, as I indicated, at least there were one -- there was one unit at Chak Angrae under his supervision, so this -- this is the real or actual unit that I'm very convinced that he oversaw.
Q. Thank you. The relationship between Khieu Samphan and Pol Pot, I think you testified earlier that it was a good relationship; is that correct?
MR. VERCKEN:

Mr. President, with your leave? Thank you.

I think that with the last question -- we went from a testimony on what he knew at the time, to something he learned from books. Now, the prosecutor is trying to gain an advantage by putting a question to the witness on his -- on the relationship between my client and Pol Pot, whereas the witness has already stated that he never met my client, personally, throughout that period. So I wonder on what basis he will rely to answer the prosecutor's question.

[10.11.32]

This is problematic to me because subsequently we'd have to plead and draft our closing brief. Everyone will try to clarify all issues. The witness has already been interviewed 65 times as part of the judicial investigations in addition to hearings before this Chamber. It is, therefore, absolutely important that the basis of the testimony he gives here should be crystal clear to everyone. That is the main thrust of my submission.

BY MR. SMITH:

I'll continue to try and make that distinction between what he knew now and what he knew before.

Q. So, perhaps, if I just rephrase the question and so it's clear: Witness, during your period at S-21, were you aware of the relationship -- of any relationship between Pol Pot and Khieu Samphan and if you were aware of it, what was the nature of that relationship?

MR. KAING GUEK EAV:

A. The relationship between Brothers Pol Pot and Khieu Samphan was understood very well internally including me, myself, and I understood that relation very well. And I just would like to know because a person who just -- who graduated from just high school, like me, paid great respect to Pol Pot and now Khieu Samphan, who was -- who obtained higher education than us; he could still be very -- could pay great respect to Pol Pot and we just wanted to know why Brother Khieu Samphan respected Pol Pot very much.

[10.14.08]

And Koy Thuon discussed about such respect and he indicated that the respect could vary from worst person to another. However, in general, internally, we understood that this is how people paid respect to Pol Pot.

Q. And did you know, at the time, when you were working at S-21 whether Pol Pot had the same respect for Khieu Samphan?

A. Thank you. I think I have no evidence to prove that Bong Pol paid any respect to Khieu Samphan. However, I could see that the relationship between the superior and the subordinate, it could be inferred that the superior paid great attention to his subordinate like my superior did to me -- Son Sen, indeed, did to me.

Q. Were you aware of the relationship between Doeun and Pol Pot during that period, and what that was like?

A. I already testified before that Doeun came to work at the

Central Office in his capacity as the person in charge of the secretariat and I still stand by this position.

[10.16.23]

And I also told the Court that Doeun, assigned by Pol Pot to the position at the Central Office, was to break Koy Thuon's forces just to ensure that Koy Thuon's forces could not be well connected and this is part of the work of Pol Pot to do so.

Q. Thank you.

I'd like to move to another topic now; it's in relation to the GRUNK and FUNK members after 17th of April 1975. And the question is: Do you know if there was a policy by the CPK with respect to non-CPK members of the GRUNK?

A. I would like to talk about the term "the front." The front was meant to gather forces to fulfil some tactical tasks including -- and in terms of long-term tactical tasks, some were friends, some were not friends or enemies. So this is a big issue.

I may recollect in 1973 that there was a study session. Vorn Vet lectured in that session. He said: "We did. We ate. We did our best so that we could have something to eat and allow Sihanouk to remain our chairman."

[10.18.53]

This short phrase made us understand the role of the front. That slogan was discussed before 1975.

Later on, there was another study session lectured by Son Sen. He said that our Party had applied different strategies. Our Party

appointed the state presidium which was rather different from others parties. At that time, that was the appointment. Later on, through radio broadcast, Sihanouk was heard to have resigned from the Party; he retired. However, regarding the former officials of the GRUNK, they were made to move to some camps including Boeng Trabaek and the camp in Chraing Chamres. When Huot Sambath was sent to S-21, Son Sen said when Huot Sambath was in charge of the office, Son Sen had endured some difficulties because it was Sambath who decided the scholarship had to be offered to Son Sen.

[10.20.58]

Q. Would you also agree that a number of other high-level ministers from the GRUNK were sent to S-21?

A. Thank you. Back then, ministers were only appointed internally; not from the outside.

Q. Would you agree that a number of former members of the GRUNK that held high-level positions were sent to S-21?

A. The diplomats or ambassadors appointed by the GRUNK were sent to S-21 gradually, including Huot Sambath, the name I still recollect very well.

Q. Was there a policy directed against GRUNK members, particularly, in light of your answers that they were taken to be re-educated and some of them sent to S-21?

A. Yes, it was. First, people were appointed -- were sent to join the re-education centres and later on, they were released because

the committee found out that they were bad elements; whether how bad they were, it was beyond my understanding, but we, at S-21, was -- were tasked with just interrogating any people sent in.

Q. Thank you.

[10.24.06]

And one last topic: When you left S-21 in January 1979, did you leave all the documents behind?

A. On the 7 of January, I left Phnom Penh; it was when the tanks were already right in front of my home. I left with only a pen and a handgun. None of my subordinates or people in my unit could manage to bring with them any piece of document, I believe.

Q. You said, at that time, Nuon Chea was your superior. Did he tell you to destroy the documents or bring the documents with you or leave the documents at S-21? Did he give you any instructions about what to do with the documents when you had to leave Phnom Penh?

A. I once already testified that I met Bong Nuon last and it was not clear when I met him, but now I feel that I met on the 1st or the 2nd of January 1979 when he ordered the executions of the remaining prisoners in S-21. However, he did not talk to me about any documents; he did not instruct me on how to handle the documents.

[10.26.14]

Q. And how many prisoners were there when he gave you that order?

A. There were more than 100 prisoners; even over 500, I feel.

Q. And did you obey the order?
A. Immediately upon receiving the orders, I called Comrade Hor who carried the orders immediately. Three days later, he came to me that the mission -- the mission accomplished; he already carried out the task as ordered.
Q. Just going back to the documents, you said that you received no instructions from Nuon Chea in relation to the documents. At some time later, after 1979, did you ever have a discussion with Nuon Chea about what happened to the documents at S-21?
[10.28.14]
A. This happened in 1983 or 1984, but to my best recollection, it was in 1983 rather. Brother Nuon went to Samlout -- Samlout battlefield and he called me to meet him on one occasion. He asked me whether I met him during the last day to work with him or worked with Uncle Hem and I said: Yes, I met with Brother Hem. And he asked me about -- what about the documents and I told him the documents were in a mess. And he said: Look, on my side, we destroyed them all. You were very bad that you could not manage this. I think perhaps I could not recall all the words he talked, back then, but it was something like that.
[10.29.41]
And in 1986, I met Son Sen, my superior, and reported to him on all of this and Son Sen said that none -- documents were never destroyed completely. I said what Nuon Chea said, so he talked about the documents at the Central Office.

Q. And what mood was Nuon Chea in when he had that discussion with you about not destroying the documents at S-21?

A. Mr. President, whose mood are you talking about? Are you talking about the mood of Mr. Nuon Chea or the mood of Mr. Son Sen?

Q. Nuon Chea.

A. It was his usual mood as I used to work with him. He did not normally accept his weaknesses. He did not accept his weaknesses. He liked to dominate other.

MR. PRESIDENT:

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

[10.31.41]

MR. SON ARUN:

The last answer from the witness was the speculation and I object to that.

MR. PRESIDENT:

How many questions do you still have, Mr. Co-Prosecutor?

MR. SMITH:

One or two last -- very short questions, Your Honour.

MR. PRESIDENT:

You are permitted to continue and to finish your questions to this witness.

BY MR. SMITH:

Q. Witness, you've stated, in your interviews with the Co-Investigative Judges and also in the Court over the last week,

that, from reading the case file, you gained knowledge as to the workings of the CPK during that -- the period of 1975 to 1979. My question for you is: When you've testified over the last six days, has that been from your own personal knowledge, from during the period, and not taking into account the knowledge you have gained later?

MR. KARNAVAS:

Mr. President, if I may interject here.

MR. PRESIDENT:

Yes, Counsel.

MR. KARNAVAS:

Thank you, Mr. President. And good morning to everyone in and around the courtroom and especially to the Bench.

[10.33.27]

The gentleman has testified quite a bit, often indicating what he learned thereafter. Now we have this all-encompassing question to sort of wrap up and sort of deliver on a silver platter the gentleman's testimony as if everything that he's told us in the last six days is from his memory.

I think it's farcical to even suggest that, let alone ask him to validate his own testimony. I think it's quite clear that on occasions he's indicated and he's admitted that what he learned later, meaning what he read afterward--

[10.34.02]

Now, if he wishes to rephrase the question, perhaps I won't

object. But this question is self-serving and has no value at all. Thank you.

MR. SMITH:

Your Honour--

MR. PRESIDENT:

National Defence Counsel for Mr. Khieu Samphan, you may proceed.

[10.34.27]

MR. KONG SAM ONN:

Thank you, Mr. President. From -- after hearing answers from witnesses -- witness has indicated, at times, that his answers may be speculations, and we have heard of these speculations. And now the prosecutor tries to elicit answer from the witness prior to 1975, and I'm afraid that the witness will not able to do that.

MR. PRESIDENT:

Yes, International Co-Prosecutor, you may proceed.

BY MR. SMITH:

Thank you, Your Honour. Perhaps I'll just rephrase the question.

Q. Over the last six days, have you told the truth to the Trial Chamber?

MR. KAING GUEK EAV:

A. Mr. President, I said everything the other day that I upheld everything I said before the Co-Investigating Judges, and everything I said during the Case 001 Trial.

Sometimes I talked in principles, as I respond to questions posed

by Judge Lavergne, and sometimes I went into details about what I hear and I understand.

MR. SMITH:

I have no further questions, Your Honour.

MR. PRESIDENT:

Thank you.

It is now appropriate for us to adjourn for 20 minutes, and we will resume at 11 o'clock.

[10.36.45]

Security guards are instructed to accommodate the witness to his waiting room and bring him back before the Court resumes. Yes, defence counsel for Mr. Ieng Sary?

MR. ANG UDOM:

Good morning, Your Honours. Because of his health issues, Mr. Ieng Sary requests that he waive his right to be present in this courtroom, but request that he'll be continuing the proceedings from the holding cell downstairs for the rest of the day.

MR. PRESIDENT:

Having heard the request from Mr. Ieng Sary through his counsels that he would like to waive his rights to be present in this courtroom and to continue the proceedings from the holding cell below this courtroom, because of his health reasons that he could not sit in this courtroom for a long time, the Chamber decides that the request is granted, that is, Mr. Ieng Sary now waives his right to be present in this courtroom and to continue the

proceedings from the holding cell through audio-visual means for the rest of today's proceedings.

The Chamber orders to the defence counsel for Ieng Sary to submit the Chamber the written waiver with a thumbprint or a signature from the accused, Ieng Sary.

[10.38.35]

AV Unit is instructed to live the proceedings to the holding cells downstairs for the accused, Ieng Sary.

Security guards are instructed to bring Mr. Ieng Sary to the holding cell.

The Court is adjourned.

(Court recesses from 1038H to 1100H)

MR. PRESIDENT:

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

[11.00.45]

Next, the Chamber would like to hand over to the Lead Co-Lawyers for the civil parties. They may proceed.

MR. PICH ANG:

Mr. President, Your Honours, last week I indicated to the Chamber that Lead Co-Lawyers will hand over to Mr. Hong Kimsuon to put questions to the witness on behalf of Ms. Sin Siworn. Counsel Hong Kimsuon will proceed with the lines of question, and Ms. Lyma Nguyen will follow.

MR. PRESIDENT:

The Chamber notes this. And, Counsel, you may proceed.

MR. HONG KIMSUON:

Thank you, Mr. President, Your Honours. Good morning, Mr. Kaing Guek Eav, alias Duch. Today, I have a few words of courtesy before we proceed. We are representing civil parties, and today, on behalf of the civil parties, we are going to pose some questions to you concerning the accused person.

[11.02.45]

In Case File 001, you already testified in your capacity as an accused, and you already expressed your remorse towards the victims and the families of the people who perished at S-21 -- the more than 12,000 people. Your apologies are compiled and disseminated. Your apologies, as you indicated in that -- you emotionally responsible for the death -- or the crimes committed between 1975 and 1979. You indeed show great cooperation with the Court back then, and on behalf of the civil parties we are very grateful, indeed, to your openness and cooperation, and it is very important, indeed, that you tell the world -- Cambodian people, in particular, about what had actually happened during the Khmer Rouge regime.

[11.04.18]

And we are optimistic that you still continue to cooperate in this courtroom setting concerning Case File 001 -- rather, 002/01, with regard to the communicative administrative structures and also the brief background of the CPK.

On behalf of the civil parties and the victims, we hope you --

your genuine cooperation will remain in this courtroom.

QUESTIONING BY MR. HONG KIMSUON:

Q. I would like now to proceed with some questions. Several questions have already been posed by the Prosecution to you, but I am interested to put questions concerning the structure established at the foreign ministry -- foreign affairs ministry. My first question would be: During the Khmer Rouge regime, who was actually the most superior person at the Ministry of Foreign Affairs?

MR. KAING GUEK EAV:

A. The minister of the Ministry of Foreign Affairs is -- or was Mr. Ieng Sary, alias Van.

Q. You indicated that, during the Democratic Kampuchea regime, you did not know where the Ministry of Foreign Affairs could have been located, but you are convinced that Mr. Ieng Sary, alias Van, was the minister of that Ministry.

[11.06.28]

My next quest is: Do you know, back then -- or, did you know back then how were people recruited as the ministers for that -- for those key ministries?

A. Mr. President, I don't know how or when this took place, but after the election -- the assembly election, although there was non-election -- but after that so-called election, people were recruited for the post.

Q. Last week, the Prosecution already made request to the Chamber

that the -- some documents be presented to you. With the President's leave, may I ask that the same document be presented again?

[11.08.01]

Because I have a few more questions, different from the questions put by the Prosecution.

I would like to refer to IS 13.2, document ERN 00019108 -- document concerning the minutes of the meeting on the 9th of October 1975.

MR. PRESIDENT:

Counsel, you may proceed.

BY MR. HONG KIMSUON:

Thank you.

Q. Mr. Kaing Guek Eav, do you see the document being projected on the screen now?

MR. KAING GUEK EAV:

A. Thank you. I actually could see this document now on the screen clearly.

Q. I have a question on this. On page number 1, as highlighted in red square brackets -- could you read it please?

A. Could you move your mouse? I'm sorry; I'm not able to use this computer.

MR. PRESIDENT:

Court officer is now instructed to assist counsel and the witness.

BY MR. HONG KIMSUON:
Mr. President, with your leave, may I read this for him -- or to him?
[11.10.27]
Q. Do you see anything on the screen?
MR. KAING GUEK EAV:
Counsel, could you give the original document to me? Or were you not allowed to do that?
MR. PRESIDENT:
Counsel, you are now instructed to hand over to the witness the document in hard copy you wish to refer to when putting questions to the witness.
[11.10.47]
Please do the same as what the Prosecution had already done concerning the documents. And we also note that, on the documents, sometimes part of the documents could not be seen clearly on one screen, and on the other screen it is not clearly visible. So I think you should follow what the Prosecution had already done pretty well with this.
BY MR. HONG KIMSUON:
Q. I would like just to read out, to save our time, the portion of the text in the highlighted part.
Witness, please indicate to me if you now see the document on the screen, and I would proceed with the reading. Do you see this?
MR. KAING GUEK EAV:

A. Yes, I do.
Q. If you look at the square bracket in red, can you read it to us, please?
A. I would like to read it as follows:
"Number 3. Comrade Van. Foreign Affairs work, both Party and the State."
Q. Thank you. I would like to proceed with another question.
[11.12.34]
During the Democratic Kampuchea regime, from the 17th of April 1975 through 1976 of January, you indicated that you attended sessions -- meetings -- with the Standing Committee and the Central Committee meetings. My question here would be the works of the ministries of foreign affairs and the Central Committee's work. Could you tell the Court about -- on this?
A. Personally, I never attended meetings are the central office or the Standing Committee meetings. May I therefore ask that counsel redirect the question to something that is relevant to my work?
Q. Thank you.
[11.13.47]
Are you aware that -- or, aware of the people who lived in foreign countries and whose names, later on, were sent to the S-21 -- and these people were from the Ministry of Foreign Affairs? Could you -- how did you know that?
A. With regard to people from the Ministry of Foreign Affairs;

those who hold -- or, held the highest position were the ambassadors, the ambassadors representing Democratic Kampuchea regime abroad. Those ambassadors were called to return to the country. Huot Sambath is -- or was an ambassador, as an example. He was sent to S-21. I don't remember other names.

To put it simply, other ambassadors to other countries were also sent to Cambodia. Meak Touch and another ambassador were called to return to the country. Other officers from the Ministry of Affairs -- Foreign Affairs, were also sent to S-21. Chau Seng and Van Piny were also part of the people relevant to this part who was sent to S-21.

Q. I would like to proceed to the next question, please. The Co-Prosecutor showed you the records of interviews you gave before the Chamber -- Co-Investigating Judges. And I would like to refer to document E3/107, the 24th interview you gave to the Court.

[11.16.42]

Do you still recall the statement you made before the Co-Investigating Judges, the 24th interview regarding letters sent by Mr. Ieng Sary to S-21 Security Office or Centre? This document is E3/107. It is under ERN 00197970. With the President's leave, I may ask that this document be presented to the witness.

MR. PRESIDENT:

You may proceed.

BY MR. HONG KIMSUON:

Q. Could you please look at the document with highlight?

[11.18.00]

The document has been highlighted for your easy reading.

MR. PRESIDENT:

Counsel, what about the other two languages? Have you got the references to French and English versions, and could you also provide the ERN numbers of those relevant pages in the foreign languages, because parties to the proceeding who do not read Khmer may refer or rely on the foreign languages of the document?

MR. HONG KIMSUON:

Thank you, Mr. President. Document ERN in English is 00198219. Khmer ERN was already indicated -- I can repeat, 00197970. This document is not available in French -- or, rather, I don't have the French reference.

BY MR. HONG KIMSUON:

Q. Mr. Kaing Guek Eav, could you please look at this portion of the statement, and would you wish to comment on this?

MR. KAING GUEK EAV:

A. Mr. President, this event is still in my mind.

[11.19.58]

However, there was no letters from Ieng Sary to S-21. I remember -- I still recollect this event vividly, but not remember any letter sent by Ieng Sary to S-21.

May I ask that counsel redirect the question to the relevant

portion he wishes to ask me?

Q. Thank you. This question is relevant to the hierarchy -- or, communication hierarchy from the parties. We just would like to know about your knowledge regarding Ieng Sary's letters to S-21. Before prisoners who were from --

MR. PRESIDENT:

Counsel, you may proceed, Counsel Karnavas.

MR. KARNAVAS:

Thank you, Mr. President. I apologize to my colleague for interrupting.

[11.21.15]

The question assumes facts which are not in evidence. The gentleman testified over six days. Not once did he ever say that any letters were being sent from the Ministry of Foreign Affairs or Mr. Ieng Sary himself to S-21.

Now, I didn't object initially, because I was waiting to see where he would go with this. Clearly, there's nothing in this document that would indicate that. No assumptions can be drawn that would lead to that conclusion from reading this document. It is highly improper, and it's suggestive.

Now, he was corrected by the witness that he never received anything, yet the gentleman persists in this line of thinking and in this line of questioning. So I suggest that he either rephrase or move on.

But what he's doing is highly improper. He is inserting facts

which are not in evidence, and is claiming them to be so. And that's testifying. Thank you.

MR. PRESIDENT:

Thank you, Counsel.

And counsel for civil party is now advised to rephrase the question to be more precise, and as long as the questions are precise then we can save some objections. As indicated by the Chamber, counsel is instructed to ensure that the questions are well put and precise.

[11.23.05]

MR. HONG KIMSUON:

Thank you, Mr. President. I would like to rephrase it.

BY MR. HONG KIMSUON:

Q. Mr. Kaing Guek Eav, last week you testified that the decision to arrest or send someone to S-21 was made - or, were made by the Central Committee. Is that so?

MR. KAING GUEK EAV:

A. The decision to arrest were made by the Central Committee in broader sense, but in a more practical sense, it was Brother Pol who made the decision and, in some cases, Brother Nuon was the one who made such decisions.

Q. So the offices surrounding the Central Office -- and with Mr. President's leave, I would like to present the same document presented by the Prosecution to the witness, and I would like to refer to IS 6.3 on the first page; ERN in Khmer, 00003136; in

English, ERN -- my apologies --

(Microphone not activated)

[11.25.21]

MR. PRESIDENT:

Please make sure your mic is activated before you speak, Counsel.

MR. HONG KIMSUON:

Please excuse us. This document is IS 6.3, ERN in Khmer 00003136; in English, ERN 0 -- my sincere apologies again. I would like to repeat the number in English; ERN number in English is 00182814.

MR. PRESIDENT:

Counsel, could you please indicate to the Chamber whether you wish to have the document be projected on the screen or not? Counsel, please be more precise so that the Chamber can decide what you wish the Chamber to do, otherwise our decision would not be relevant.

MR. HONG KIMSUON:

With the President's leave, we would like this document to be put up on the screen.

[11.27.03]

MR. PRESIDENT:

Court officer is now instructed to bring the hard copy of the document to the witness, and AV official is instructed to put up the document on the screen.

BY MR. HONG KIMSUON:

Q. Witness, have you now seen the document on the screen?

[11.27.44]

MR. KAING GUEK EAV:

A. Yes, I have. And also I have obtained the document in hard copy handed over to me.

Q. My question is relevant to the decisions by the Central Committee. It is about the right to smash inside and outside the ranks.

My question is: Have you ever read and understood the content of this decision?

A. In real practice, I personally used to obey the standing -- the orders from the standing committee of the zones from 1971, and this document was implemented after the -- 1976 because there are a few other points that indicated in the decision for further implementation.

Q. Thank you--

MR. PRESIDENT:

Counsel for the defence, you may proceed.

MR. KARNAVAS:

Thank you, Mr. President. I apologize again. The gentleman is asked a specific question and then he goes on to give whatever evidence he wishes to give. It's non-responsive and it makes it very difficult for the rest of us to know whether to object or not to object.

[11.29.46]

The question was whether he saw it, and then he went on on this

tangent. If the gentleman cooperates with the attorney, I believe we could go step-by-step and this would avoid me having to object to the sort of non sequiturs by the witness. Thank you.

MR. PRESIDENT:

We have two issues here.

One, the Chamber notes that counsels are reminded to refrain from repeating the same questions asked by the Prosecution. The Prosecution has already asked the witness whether he has seen, has read or has heard of the documents prior to the time the witness was called to appear in this Court. We settled these issues already.

The Chamber finds that this kind of question asking for the witness' knowledge of the documents should not be asked again.

Secondly, the witness is reminded to pay attention to the questions asked by counsels.

[11.31.31]

The question asked now by the civil party lawyers are about whether the witness is aware or he know -- don't know about the document. So if witness believe that the -- he has already answered such a question, he may indicate as such. The Chamber hopes the relevant parties and witness pay closer attention to the question and answers.

Again, counsels are reminded of the questions that are not allowed by the law, for example, the leading question or the speculation question.

Counsel, you may proceed.

MR. HONG KIMSUON:

Thank you, Mr. President. Thank you for your reminder.

I have already indicated that this document was shown by the Prosecution and I was moving towards the next question.

[11.32.52]

BY MR. HONG KIMSUON:

Q. Mr. Witness, following from what Mr. President has said, I would like to ask you to answer the questions precisely.

My question is: Khmer people, or what we called "intellectuals" who were sent from abroad to the country, I want to know whether the Ministry of Foreign Affairs had to be informed of these intellectuals or not?

MR. KAING GUEK EAV:

A. Thank you, Mr. President. I can only answer this question in principle.

The ambassadors from abroad were under the control -- direct control of the Ministry of Foreign Affairs, and the Ministry of Foreign Affairs was under the control of the Secretary and Deputy Secretary of the Party. This is my answer to the question.

[11.34.13]

Q. Thank you.

My next question is: Because you have answered to the Chamber that for those who were sent from abroad to S-21, do you still remember -- I would like to refer to Document -- with your --

President's leave, I refer to document D120.

May I request that this document be displayed on the screen? The ERN number is 00242920; the English ERN 00242931.

MR. PRESIDENT:

The Chamber permits. Court officer is instructed to bring the document from counsel to witness and assist with the display of the document on the screen.

BY MR. HONG KIMSUON:

Q. Witness, can you have a look at the portion encircled in red? What can you say about this portion? My apology, I understand that you were examining the document.

[11.36.50]

Mr. President, may I request that the witness read the portion encircled in red?

MR. KAING GUEK EAV:

A. I indicated that I was far away from Ieng Sary. I saw him only twice, as I mentioned earlier. However, I can assert that as a principle of practice before arrests at the Ministry of Foreign Affairs could be made, the decision from Ieng Sary was necessary. There was only one exception that I mentioned earlier, that of Chau Seng; arrested under a false name without Ieng Sary's knowing.

I received the list of persons arrested before they arrived at S-21. I have received the list of persons arrested before they arrived at the prisons. Until August 15, 1977, Son Sen sent the

list to me. After that, it was generally Pang who delivered the lists, sometimes Lin. Thank you.

[11.38.59]

MR. HONG KIMSUON:

Thank you.

With your leave, Mr. President, I would like to provide the documents to witness. It is the transcript documents D288/4.65.1. This is a transcript from Case 001 of August 19, 2009, at page 56.

May I request that this document be displayed on the screen and be provided to the witness?

MR. PRESIDENT:

The Chamber permits. Court officer is instructed to bring the document to witness and the document be displayed on the screen as requested by counsel.

[11.40.03]

MR. HONG KIMSUON:

May I request that the witness be reading the portion highlighted?

MR. PRESIDENT:

So the document has not yet been displayed on the screen? Can counsel indicate the English ERN so that relevant parties can have access to the document; at least the English ERN if not the French one?

(Short pause)

MR. HONG KIMSUON:

My apology, Mr. President. There is a technical problem; the document cannot be displayed on the screen. Can I read the document in Khmer?

MR. PRESIDENT:

Can you provide parties with ERN number -- the English ERN number so that the parties can search by themselves for the document?

[11.42.34]

The Chamber already informed you that when documents be discussed, documents of the three languages -- or at least two languages of the working languages -- has to be referred to. You must be prepared when it comes to examining documents.

MR. HONG KIMSUON:

Thank you, Mr. President.

May I move on to the next question while we are waiting for the searching of the document?

BY MR. HONG KIMSUON:

Q. Mr. Witness, I want to ask you another question because my time is running out.

From your recollections when you were the Secretary of S-21, did you know Chau Seng?

MR. KAING GUEK EAV:

A. Thank you. The name Chau Seng was still in my memory. I remembered a lot about him.

[11.43.59]

Q. Thank you. Can you indicate to the Chamber what kind of person Chau Seng was as he was arrested and brought to S-21?

A. Thank you. Chau Seng was a popular mass. He fought against the Lon Nol. He was the one who established the pedagogic institution that trains teachers, but later on there was an implication made against Chau Seng.

One time in August 1977, Chau Seng said that the Central Committee -- rather, Son Sen told me that Chau Seng was to be sent to S-21. This is the issue surrounding the arrest of Chau Seng.

And then Chau Seng was interrogated. The superior made a decision later that Chau Seng was to be smashed and that superior was Brother Nuon. At the Investigation phase I called him Uncle Nuon. He decided that Chau Seng be smashed.

Q. Thank you.

[11.46.06]

MR. HONG KIMSUON:

Mr. President, may I provide the ERN numbers that I was looking for?

It is D288/4.655.1. The ERN in English is 00367432 through 00367530. And the Khmer ERN is 000367632 through 000367708.

May I request that the witness read the highlighted portion of the document and may I request that the document be put onto the screen?

MR. PRESIDENT:

The assistant is now instructed to put the document onto the screen.

MR. HONG KIMSUON:

With your leave, Mr. President, may I continue with another question instead?

[11.48.19]

BY MR. HONG KIMSUON:

Q. Mr. Witness, in your capacity as the Secretary of S-21, do you remember about a prisoner named Ros Sarin?

MR. KAING GUEK EAV:

A. Thank you, Mr. President. I do not recall Ros Sarin, I never knew this person before.

MR. HONG KIMSUON:

With your leave, Mr. President, may I provide the document to the witness, document ERN 0086716, D108/26.282? And the ERN -- my apology, Mr. President. May I move on to the other question?

[11.50.08]

BY MR. HONG KIMSUON:

Q. My next question, Mr. Witness, concerns another Khmer person named Ouk Ket. Do you recall him in your capacity as the supervisor of S-21?

MR. KAIN GUEK EAV:

A. Thank you. Mr. President, I remember Ouk Ket. I also remember his wife and his daughter. They were civil parties in Case 001.

Q. Can you tell the Chamber about this because Case 001 is a

different case in our case here?

[11.51.13]

Can you tell the Court that Ouk Ket, as well as Ros Sarin and Chau Seng, were indeed ordinary prisoners or they were some other kind of prisoners?

A. I never knew Ouk Ket before, but I remember him very well because during Case 001 Trial, civil parties there -- there were civil parties who were the wife and daughter of Ouk Ket. I indicated back then that Ouk Ket came to S-21 prior to the time that I was the Secretary of S-21, so I concluded that Ros Sarin and Ouk Ket were the diplomats of the GRUNK and Chau Seng was a progressive person, and he may have been in France. They were of different types of people. Chau Seng was in a position to establish training schools.

Q. Thank you. Do you remember where Chau Seng and Ouk Ket were working before they were brought to S-21?

A. Mr. President, may I indicate that I came to knew about -- I came to know about Ouk Ket during Case 001 Trial. His documents were sent out to Ministry of Foreign Affairs. And as for Chau Seng I knew about him from the beginning. My superior told me about him.

Q. When you say they moved to Ministry of Foreign Affairs, does that mean that they worked at the ministry?

A. Yes, it is correct.

[11.54.26]

And that applies to Chau Seng. And as for Ouk Ket and Ros Sarin, I think that they might not be working at the Ministry of Foreign Affairs.

Q. Thank you.

My next question is -- it is only a reminding question. All diplomats, intellectuals, and students who went from abroad to Democratic Kampuchea, were all their names first submitted to the Ministry of Foreign Affairs before they were sent to your superior and to you?

A. Mr. President, in principle, it was like that.

Q. My question is: You said before the Court last week concerning the arrest in the East Zone, you said that if the chief of the unit rejected or requested that the people were to be maintained, they would not be arrested; is that correct?

[11.56.30]

A. Yes, it was -- it is correct.

Q. Concerning the two persons I asked you about a while ago, Chau Seng and Ouk Ket, from your understanding, before Chau Seng was sent to S-21, before Ouk Ket was sent to S-21, there had to be agreement from the Ministry of Foreign Affairs; this is correct?

A. In principle, I can say yes. And that particularly applies to Ouk Ket.

And as for Chau Seng, I think, at the time, Ieng Sary was not at the Ministry, so the Standing Committee decided that Chau Seng was sent to my superior and my superior sent Chau Seng to me. So,

for this practical instance, the decision was made without the Ministry of Foreign Affairs.

MR. HONG KIMSUON:

Mr. President, I am mindful of the time. Maybe we now take the adjournment.

MR. PRESIDENT:

Thank you.

It is now appropriate for us to adjourn for lunch break. The Chamber will adjourn and will resume at 1.30, this afternoon. Security guards are instructed to escort the witness back to the waiting room and return him to the courtroom by 1.30.

[11.58.25]

Yes, defence counsel for Nuon Chea, you may proceed.

MR. PESTMAN:

Yes. Thank you, Mr. President. My client would like to remain downstairs after the break to follow the proceedings from the holding cell.

MR. PRESIDENT:

Having heard the request of Nuon Chea made through his counsel, that request that he be following the proceedings from the holding cell downstairs during the afternoon session, by waiving his right to be present in the courtroom, the Chamber grants the request of Mr. Nuon Chea that he will be following the proceedings from the holding cell downstairs for the duration of the afternoon session.

The Chamber directs that the defence counsel for Nuon Chea submit the written waiver with the thumbprint or signature of the accused person.

AV Unit is instructed to live the proceedings to the holding cell for this afternoon session. Detention facility guards are instructed to bring the accused to the holding cell, downstairs, and return Mr. Khieu Samphan to the courtroom by 1.30, this afternoon.

The Court is now adjourned.

(Court recesses from 1200H to 1332H)

MR. PRESIDENT:

Please be seated. The Court is now in session.

Next, the Chamber hands over to civil party lawyer who has been delegated to put questions to this witness.

MR. HONG KIMSUON:

Mr. President, I do not have any further questions for this witness, but my colleague, Ms. Lyma Nguyen will continue questioning this witness.

MR. PRESIDENT:

Yes, the floor is now yours, Counsel.

MS. NGUYEN:

Good afternoon, Your Honours. Good afternoon, all parties to the proceedings. Good afternoon, Witness and members of the gallery and civil parties sitting inside the Court.

[13.34.35]

Your Honours, before I start, I think it might be helpful to clarify exactly how much time the civil parties have, and what that time goes into. As I understand it, there are six court hours per day. We've already donated one hour to the Prosecution, leaving us five hours remaining. One hour was used earlier by my national co-counsel, with four hours remaining. We have two and a half hours this afternoon, and the way that I understand it, we then have one and a half hours going into tomorrow, and ending at around the first break. If I could have some clarification over this, then that might assist us to formulate the scope and extent of our questions for today.

MR. PRESIDENT:

Counsel Karnavas, you may proceed.

MR. KARNAVAS:

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

[13.35.35]

Of course, we leave it to the wise discretion of the Court. However, it appears that, first, they asked for a day. Now they're going by hours. They have to pick and choose. I mean, nice trick, but that's not how it works. They donated one hour to the Prosecution, we started half hour late today, so they may have a half hour, as far as I'm concerned, tomorrow morning to make up for the half hour that we lost this morning. But to go through the mental gymnastics of the arithmetic that we just did is a bit of sleight of hand.

They asked for one day, they gave part of it away, they have until the remaining of the day, and if the Court desires, they can give them the half hour to make up for starting late this morning. Anything more than that, I think, is a bit too much. Thank you.

[13.36.25]

MS. NGUYEN:

Your Honours, it was always our understanding that one day meant one full day, and that one full day meant six hours, or thereabouts. The calculations were done for the assistance of the Court. Your Honours don't need to answer it right now, but perhaps, towards the end of today, if we can get some clarification on that -- and, yes, in light of --

MR. PRESIDENT:

The Court will not answer to this question. You have the entire day for today. Tomorrow, the Chamber will ask a number of questions to this witness before it hands over to the defence counsel.

QUESTIONING BY MS. NGUYEN:

Thank you for the clarification, Your Honour.

[13.37.31]

Q. Mr. Kaing Guek Eav, before I start my questioning, perhaps I could request for you to be as succinct as possible in your answers, unless I request for a more detailed answer by asking you to explain something or asking you to describe something. Is

that something that you can do?

MR. KAING GUEK EAV:

A. Mr. President, I will oblige.

Q. Thank you, Witness.

Witness, you said in evidence, yesterday, that S-21 belonged to the regiment for the Revolutionary Army of Kampuchea. Was there a division of the Revolutionary Army dealing with the Air Force?

A. Thank you. Mr. President, the 502 Division was the Air Force.

Q. (Microphone not activated)

[13.38.47]

MR. PRESIDENT:

Please activate your mic.

BY MS. NGUYEN:

Q. Witness, the question was: Who was the chief of Division 502?

MR. KAING GUEK EAV:

A. Mr. President, it was Sou Met. He was the chief of Division 502.

MR. PRESIDENT:

Yes, Mr. Karnavas?

MR. KARNAVAS:

Thank you, Mr. President. Earlier, we just heard that additional time is being requested. Now it appears that questions are being asked which seem to be irrelevant -- perhaps more relevant for Case 003 and 004 -- or, 003, and this may be the ploy to suggest that there are civil parties out there for 003.

[13.39.43]

I would respectfully request that the questions relate strictly to 002/01. Thank you.

MS. NGUYEN:

Your Honours, the questions are relevant to Case 002/1; they're related to the communications structure.

The evidence has -- the witness has already given evidence about the structure of the Revolutionary Army of Kampuchea, and these questions relate not only to the vertical communications structures and administrative structures of the regime, but also to the horizontal structures. And, in my submission, they are – they are relevant to this trial.

[13.40.35]

Now, if I may continue?

MR. PRESIDENT:

Counsel is advised to be precise when it comes to questioning to the witness concerning naming individuals. Some individuals may be the subject to be summoned by the Court. This may be against the protective measure principle. The Chamber would like just to remind the counsel to be mindful of this provision.

The Chamber will not remind the witness to address other witness by pseudonyms, because they are not aware of the pseudonyms of other witnesses. Only parties are reminded of using pseudonyms to address potential witnesses in order to be in line with the principle of protective measures.

MS. NGUYEN:

Your Honours, as I understand it, these persons have -- evidence have been given, in relation to these persons and their role in the structure, in Case 001 already, and there is plenty of evidence on the Case 001 case file in relation to the roles of these people.

[13.42.18]

Now, I'm trying to establish that there were certain communication channels that are within the realm of knowledge of Mr. Kaing Guek Eav, and I'm not aware that anyone who has been mentioned in these questions so far has been indeed called as a witness in these proceedings.

(Judges deliberate)

[13.43.31]

MR. PRESIDENT:

Civil party lawyer can continue. The objection made by Defence Counsel Karnavas does not stand.

However, the Chamber would like to remind parties that the discussion at this stage is about the facts concerning the three accused persons. Other irrelevant issues should not be the subject of discussion at this stage. So your question should be very related to the facts.

MS. NGUYEN:

Your Honours, I will do the best that I can.

Perhaps I could show the witness a document, with the leave of

the Court. This is document D288/5.210, with English ERN 00178065. The Khmer ERN is 00052994.

May I have the court greffier forward this document to the witness?

[13.45.37]

MR. PRESIDENT:

Court officer is instructed to bring the document from counsel to witness.

MS. NGUYEN:

Could I also have our case manager show this document onto the screen?

MR. PRESIDENT:

The Chamber permits that. The assistant is instructed to put up the document on the screen.

BY MS. NGUYEN:

Q. Witness, referring to either the document on the screen or the hard copy document in your hand, could you please state whether you have seen this document before?

[13.46.36]

MR. KAING GUEK EAV:

A. Thank you, Mr. President. I have seen this document; I saw it during the Case 001 Trial.

Q. Could you please identify for the Court the particulars of the document, including who it was addressed to, who it was from, and the date of that document, please?

A. Mr. President, the date of this document is the 1st April 1977. Son Sen asked Sou Met to write this document to me. He gave this document to me.

I talked about this during Case 001 Trial.

Q. And could you summarize for the Court what the document is about?

A. Mr. President, I would like to read the first part -- the second part -- the third part, rather, part 1, paragraphs 3 and 4:

"After obtaining the confession of Saom of M-62, we have transferred the followings to S-21:

"1. Phorn, whose wife named Phal (the network of Saom), was sent on the 30th of March 1977.

"2. Sie, whose wife named Hoeung, is a traitor and has already been arrested. Also, he is Saom's network of M-62, sent on the 31st of March 1977.

"3. Muk, a member of Battalion 512 (based on the confessions of Sarum and Saom -- based on the confessions of Sarum and Saom of M-62), was sent during the night of the 31st of March 1977.

"4. Phal, a member of Battalion 514 (based on the confessions of Sarum and Saom of M-62), was sent in the morning of the 1st of April 1977."

[13.50.13]

This document talks about the people sent to S-21 on the basis of Angkar's decision.

And as for number 2, it reads that: "I wish to request Angkar's advice on the remainder in order to take further action."

It means that it needs to seek advice from Angkar for those names mentioned in the confessions. This is my reading, Your Honour.

Q. Thank you, Witness.

You mentioned in evidence, earlier, that the term "Angkar" was used by individuals to sometimes refer to different things. You gave the example that Nat used the term "Angkar" to refer to himself, whereas you would use the term "Angkar" to refer to Pol Pot or anyone who was instructed by Pol Pot.

[13.51.23]

Could you please clarify what "Angkar" refers to in this letter?

A. Thank you, Mr. President. The word "Angkar" mentioned in Comrade Met's letter referred to Pol Pot.

Q. Witness, you said earlier that Son Sen had directed the author of this letter to send the letter to you. Does this mean that both you and the letter's author reported to the same person?

A. Mr. President, both of us reported to the supreme -- superior through Son Sen.

Q. Witness, could I - could I just get you to clarify also what "to take further action", in paragraph 2 of the letter, means?

A. Mr. President, the names on the basis of the confessions of Saom and Sarum that Comrade Met sent to S-21 include others who he sought advice from Angkar for further action. The further action meant whether those names -- those people were to be sent

to S-21 or not, and it was up to Angkar to decide on this.

[13.53.53]

MS. NGUYEN:

If I could take leave of the Court to present another document to the witness?

MR. PRESIDENT:

Can you provide the document number?

MS. NGUYEN:

Yes, Your Honours. The document number is D288/5.211. The ERN in English is 00178066, and the ERN in Khmer is 00002416.

MR. PRESIDENT:

Court officer is instructed to bring the document from counsel and show it to witness for examination.

MS. NGUYEN:

I would also ask, at this stage, for the case manager to bring it up on the screen.

[13.55.32]

MR. PRESIDENT:

The Chamber permits.

BY MS. NGUYEN:

Thank you, Your Honour.

Q. Witness, could you please state whether you've seen this document before and whether you recognize it?

MR. KAING GUEK EAV:

A. Thank you. Mr. President, I saw this document during Case File

001 Trial.

Q. Could you identify the document for the Court, starting again with who it was addressed to, who it was sent from, and the date of the document?

[13.56.35]

A. Mr. President, this letter was Comrade Met's. He sent it to me following the instruction of the superior. It was actually sent from my superior; it was not sent directly from Comrade Met. The date of this document is 30th May 1977.

Q. When you say that it was sent directly from your superior, do you mean to say that it was sent from the office of your superior directly to your office?

A. Thank you. Mr. President, such these documents were sent either from the messengers or some other kind of people, but I'm sure that these documents reached me.

Q. Witness, if you could clarify for the Court, again, the last paragraph, which says: "If Angkar allows, I would like to have that confession in order to search for more enemies".

[13.58.14]

What does "Angkar" refer to in that paragraph?

A. Thank you. Mr. President, the word "Angkar" in paragraph 4 referred to the same person as in the previous document, through Son Sen.

Q. Witness, if the document was sent through -- directly from Son Sen, why is it that Son Sen did not sign the document?

A. Thank you. Mr. President, the writings of Comrade Met was different from others, and we have seen that we had the signature and the names of the -- of Comrade Met in this letter.

Q. Do you mean, Witness, that Met's writing is different from Son Sen's writing?

A. Thank you. Mr. President, Comrade - Comrade Met's handwriting is different from that of Son Sen.

Q. Witness, I have another document to show you, if the Court grants leave. This is document ERN, in English, 00224319; document D108/31.40; and in Khmer, it's ERN 00002078.

MR. PRESIDENT:

You may proceed.

[14.00.49]

Court officer is now instructed to hand over the document to the witness.

And AV officer is now instructed to ensure that the document is put up on the screen.

BY MS. NGUYEN:

Q. Witness, have you seen this document before?

MR. KAING GUEK EAV:

A. (No interpretation)

Q. Could you -- could you please identify the document for the Court, starting with who it's addressed to, who it's from, and the date?

A. This document was another letter by Comrade Met--

MR. PRESIDENT:

Witness, could you please hold on?

[14.01.51]

Counsel, you are on your feet. You may proceed.

MR. PESTMAN:

Sorry to interrupt, but we haven't got the document on the screen. It helps to see the document. Thank you.

MR. PRESIDENT:

Court assistant, could you please advise the Court why the document-- Oh, it is now back up on the screen.

Counsel, you may proceed with the question, but please be reminded that the document be up on the screen. Only when it is projected on the screen and that witness has received the hard copy, then you may proceed with the questions. We wish to do this because it is to be precise, and that parties also can save their objections concerning documents being projected before a question is put, because we have already seem to have established this kind of pattern of work very well already.

[14.03.12]

BY MS. NGUYEN:

Yes, Your Honour. Thank you for the reminder.

Q. Witness, could you summarize what the document is about? And I don't -- I'm not expecting you to read the document. Could you say whether it concerns confessions?

MR. KAING GUEK EAV:

A. This document concerns the request by the upper echelon to obtain confession from Sem immediately, so that Angkar could follow up his confession on time, or as soon as possible. The document is dated 10th of August 1977.

Q. And can you clarify, as you have before, what the last sentence refers to, the sentence that says: "Please reply through Angkar as soon as possible."

A. I think the last wordings could have been understood as "as soon as possible", although it's hard to read from this text. [14.05.39]

However, I do not have any comment on the term "Angkar" -- the different comment other than the one that I already testified.

Q. And just to be clear, you're referring to "Angkar" as Pol Pot or as Son Sen?

A. Son Sen never regarded himself as Angkar, although some of his subordinates would call him Angkar. But I, personally, regarded Angkar as a person who was superior than that; sometimes Nuon Chea, sometimes Pol Pot. So, when Son Sen brought the letter to me, normally he would say that the letter was sent through me by Angkar. That's what he indicated.

Q. Now, Witness, I noticed that the date on this letter is the 10th of August 1977. You gave evidence earlier that, on the 15th of August 1977, Son Sen was sent to Neak Loeang, and Nuon Chea took over Son Sen's position. Do you recall that? [14.07.14]

A. I do not know whether counsel made this mistake or through translation lost, but Son Sen left me for Neak Loeang in 1978 -- rather, 1977, not 1978. That's when Son Sen left for Neak Loeang.

Q. Yes, and if I recall correctly, you gave evidence earlier that, when Son Sen left, he was taken over by Nuon Chea -- or his position was taken over by Nuon Chea, and Nuon Chea became your direct supervisor; is that correct?

A. Yes, it is.

Q. So, given the date on this letter, it appears as though the letter was only written five days before Son Sen was sent to Neak Loeang. Was there a handover from Son Sen to Nuon Chea, in terms of the tasks and responsibilities of his position?

A. I may not wish to respond to this question, because I want to avoid any speculation. I'm afraid that my response would be falling into the line of speculation regarding this particular question.

[14.09.22]

Q. Thank you, Witness. Did you continue to receive similar letters from Sou Met after he left to Neak Loeang in August 1977?

A. I'm afraid I don't recollect the details.

Q. Witness, could you please clarify the system of messengers that was used to send these letters to you?

A. During that regime, Son Sen used two messengers to come to S-21. Comrade Phan was the most frequent person who came to S-21 as a messenger. Comrade Phan would come by car when another

comrade, Comrade Noeun, would come by motorcycle.
After the 15th of August 1977, Brother Nuon used two messengers: Comrade Toeung and Comrade Sot, alias Chiv.
[14.11.22]
Later on, these two people -- never seen again, and Comrade Lin took over the messenger position, and Comrade Ky, the chairman of K-7, who would come to S-21 with letters brought directly from Pol Pot.
So this is how letters were sent to S-21. It is that S-21 had no authority to send anyone from S-21 to obtain the letters from Angkar. It was Angkar who would send messengers to bring letters to us.
Q. Did the messengers use any system of coding when they were delivering the letters?
A. They did not use any specific coding. Brother Khieu used Comrades Phan and Noeun since I had been working with Nat. And when he left, Comrade -- rather, Bong Nuon introduced me to Pang.
[14.13.01]
And also another messenger was introduced. With just first introduction, it was enough for us to get to know one another. And I had known Pang and Toeung, who worked for Angkar, for a long time. So, again, just the first introduction by our superior, then we could establish this communication without any problem.
Q. Thank you, Witness.

I'd like to now move on to another topic, and, as I had alluded to the Court the other day, I will be asking about the capture of foreign nationals off the coast of Cambodia.

[14.14.00]

If the witness could be shown the Democratic Kampuchea Constitution, which was previously shown to him by the Prosecution. I have another copy here for the witness.

MR. PRESIDENT:

Court officer is now instructed to hand over the document from counsel to the witness.

MS. NGUYEN:

Does Your Honour require me to read the ERNs in English and Khmer, or am I able to forgo that, since the document had already been presented to the witness?

MR. PRESIDENT:

Yes indeed, ERN numbers shall be read out so that other parties are informed, because the French, English, and Khmer ERNs are bearing different numbers.

MS. NGUYEN:

Yes, Your Honour. The English ERN of this document is 00184838. It is document number D1.3.22.2. The Khmer ERN starts 0089841 and the French ERN starts 0012644. Could I please have this document shown on the screen?

MR. PRESIDENT:

You may proceed.

BY MS. NGUYEN:

Q. Witness, I draw your attention to Chapter 16 of the DK Constitution; in particular, the second paragraph of Article 21. Can you see that?

[14.16.18]

A. Yes, I can see this.

Q. This part of the constitution reads:

"Democratic Kampuchea adheres to a policy of independence, peace, neutrality, and non-alignment. It will permit absolutely no foreign country to maintain military bases on its territory, and it resolutely opposed to all forms of outside interference in its internal affairs and to all forms of subversion and aggression against Democratic Kampuchea from outside, whether military, political, cultural, social, diplomatic, or humanitarian."

[14.17.05]

Have you studied or taught this part of the Constitution?

A. According to my reading and my experience, the Democratic Kampuchea had implemented this portion of the constitution absolutely and firmly.

Q. Which regiment or unit of the Revolutionary Army of the Kampuchea had responsibility over protecting the coastal waters of the Democratic Kampuchea?

A. The navy forces for Democratic Kampuchea was from Division 106.

Q. And did this division have a mandate to defend the Democratic

Kampuchea's waters aggressively?
A. Rather, the -- this division, Division 164, was meant to protect waters, borders, and any matters relevant to maritime within the territory of Cambodia firmly and absolutely.
Q. Who was the chief of Division 164, and what was his role in relation to the Central Committee?
A. The commander of this division was Meas Muth.
[14.20.23]
He just became member of the Standing Committee recently.
Q. Do you recall having said, in evidence on the 29th of March, that the Minister of Foreign Affairs was the implementer of foreign policy of the Democratic Kampuchea?
A. The minister of foreign affairs was fully in charge of foreign affairs, and I did testify like that.
Q. You also said in evidence that a large number of Thai fishermen were sent to S-21 before the 30th of March 1976. Was the arrest or capture of foreign nationals off the coast of Cambodia a matter of foreign affairs?
A. The list of the fishermen who were still there at S-21 -- and I would like to explain as follows.
[14.21.58]
These people were arrested by people at Division 164 under the order from the general staff under order from Son Sen, not from the Ministry of Foreign Affairs.
Q. Did the resolute opposition of all forms of outside

interference in the internal affairs of the Democratic Kampuchea, which features in the constitution under Chapter 16, form a basis as to the treatment of foreign nationals by the Democratic Kampuchea?

A. Mr. President, counsel seems to have only read out a statement without putting question.

Q. Witness, the question was: Did the policy under Chapter 16 of the constitution on form a basis -- a foundation, for the treatment of foreign nationals by the state?

A. I think, perhaps, the language used here were not the same. The -- Division 164 was embedded with the jurisdiction to protect waters -- maritime border -- exclusively.

Q. Do you recall, in Case 001 proceedings that evidence was led about the detention of foreign nationals at S-21?

A. There were numbers of foreign nationals who were detained at S-21, and later on executed.

[14.25.09]

Q. I'd like you to turn your mind to the Western foreign nationals, the Caucasians who were captured off the coast of Cambodia and taken to S-21. Do you accept that evidence was given in Case 001 that these Westerners included two Australians, one Briton, one New Zealander, and three Americans?

A. I think this issue has been well understood by the world. These -- four Westerners were sent to S-21 -- four only.

[14.25.57]

They were detained and executed and orders were rendered from the superior to burn them with car tires into ashes.

Q. I do have some questions for you about that issue, but before we get to that, I'd like to ask; were the foreigners -- were the foreign nationals considered to be important prisoners or special prisoners when they arrived at S-21?

A. With regard to the Thai fishermen, there was no important consideration regarding them, because they were executed summarily. But, with regard to the four Westerners, there were -- there was some level of attention, and I had to choose some interrogators who had experience interrogating key people to conduct interrogation on these four Westerners.

Q. Why was it that these four Westerners had some sort of special status?

A. These people entered Cambodia illegally, without permission from the Ministry of Foreign Affairs. The Democratic Kampuchea treated these people as spies. These wide-eyed Westerners were believed to have experience in spying others -- or in espionage.

Q. Are you aware whether the Minister for Foreign Affairs participated in any decisions regarding the capture, arrest, or transfer of these foreign nationals to S-21?

A. I think, as a work principle permits, I don't see why the Minister of Foreign Affairs had to do anything with this.

[14.29.20]

It was at the hand of Pol Pot and Nuon Chea who would be the ones

who shall handle this.
Q. Could you confirm what special procedures took place with the special prisoners?
A. Mr. President, at S-21, these people were detained in special rooms. The interrogators themselves were chosen by me. They were experienced interrogators. I was very specific. And after the interrogations there would be a decision to smash. The smash was to be conducted in a formal burning to ash.
Q. In evidence, you said earlier that you conferred with Nuon Chea on a regular basis about the identification of special prisoners.
[14.30.49]
Did you confer with Nuon Chea in this case with the four foreign nationals who you referred to earlier?
A. Thank you. Mr. President, to my recollection, these four prisoners were sent from the superior. They were sent during the times that Son Sen was in charge. And the second time that they were sent, they were sent during the time that Nuon Chea was in charge of the place, so I was following the order from Nuon Chea, and I implemented the order.
Q. You said earlier, Witness, that Nuon Chea gave you an order to burn the foreign Westerner's in tires. When did Nuon Chea give you this order, if you could recall the date?
A. Thank you. Mr. President, I do not recall the date.
Q. Why was it necessary to burn the foreign Westerners in tires?

A. Mr. President, we needed to burn them in tires because they – we wanted them to be burned completely, to burn their bones into ashes.

[14.33.08]

Q. And why was it necessary to burn them to ashes?

A. The reason was that no one would be able to trace -- to trace them so no bones were left behind.

Q. Had these foreign national prisoners been executed before they were burned in the tires?

A. Mr. President, these prisoners were not burned alive. No one was burned alive; they were first killed before they were burned.

Q. After they were burnt to ashes, did you have to report that to your superior?

A. I had to report to the -- to my superiors that it was implemented -- the order was implemented.

Q. And how did you know when that order had been implemented?

A. I reported to my superiors that the regulation or the order was already implemented, and I received the report from Comrade Hor whom I ordered to do the burning.

Q. Did you have to send any evidence to your superiors to show that that had taken place? Where any photos taken of the corpses?

[14.35.52]

A. These four individuals were not taken -- any photos.

Q. I just wanted a point of clarification. You said that there were two lots of foreign nationals who came in at different

times; that the first time -- the first lot who came in was during a period where you were under the supervision of Son Sen and the second lot who came in was during a period when you were under the supervision of Nuon Chea; is that correct?

A. Yes, it is correct.

Q. So are you saying, then, that the first lot came in before the 17th of August 1977 and the second lot came in after the 17th of August 1977?

A. Mr. President, it is correct, but it was not before 17 August 1977, it was after – it was before 15 August 1977 and after the 15 of August 1977.

[14.37.23]

Q. Yes, Witness, thank you for that clarification.

I'd like to show the witness a document. This document has previously been shown to the witness by the Prosecution. It's a copy of the "Revolutionary Flag". Your Honours, may I please have the Court staff bring this document to the witness?

Your Honours, just to clarify the different versions of the document, the Khmer version ERN starts 00064551 and goes to 00064585, the English version starts 00185322 and goes to 00185348, and the French version starts 00524447 and goes to 00524475.

[14.38.56]

MR. PRESIDENT:

Can you also provide the document number; is it a D or an E

document?
BY MS. NGUYEN:
Yes, Your Honour, the document's number is IS 11.14.
Q. Witness, do you actually already have this document before you?
MR. KAING GUEK EAV:
A. Mr. President, it is difficult to find this. May I be provided with a new document?
MR. PRESIDENT:
Court officer is instructed to take the document from Counsel and bring it to witness and the assistant may put the document onto the screen.
[14.40.02]
BY MS. NGUYEN:
Q. Witness, do you recall being shown this very document by the prosecutor on Tuesday the 27th of March?
Just to identify it, I'll say that it's the "Revolutionary Flag" special number, May to June 1978.
MR. KAING GUEK EAV:
A. Thank you, Mr. President. After having seen this document, I'm sure I have received this document. I must have received this document from the prosecutors; the issue was of the May and June 1978.
Q. Yes and, in evidence, you confirmed that you had taught the contents of this document to your staff at S-21; do you recall

that?
A. Mr. President, the "Revolutionary Flag" magazines are the sources for educating cadres in terms of intellectuals and spiritual. Sometimes, I quote -- I quoted from this page, sometime, I quoted from the other page. So I selected certain contents of the "Revolutionary Flag" magazines to teach; I'm not sure of which portion that counsel is referring to.
Q. Witness, I draw your attention to page 26 of the Khmer version of the "Revolutionary Flag"; this is ERN 00185332-- Oh, sorry, excuse me, that was the English ERN. The Khmer ERN is 00064566. [14.42.35]
This is underneath the heading that says: "What are the Contradictions Between our Revolution and the Counter Revolution? What are the Forces Opposing Our Revolution?" That's the heading. Do you see that?
A. Mr. President, yes, I see these points.
Q. The document is also being shown on the screen and certain portions of the document have been boxed in a red colour. I'll take you through those portions.
The first box is a title. The second box says: "The problem is a political one."
The third box says: "The contradiction is between socialism and the capitalists. This is basically the correct problematic and it is basically correct that there must be measures attacking capitalism."

[14.43.44]
The fourth box should say: "Immediately after liberation, the attacks against us began. Who was attacking us? It was the CIA, the Yuon, and the KGB."
Going down the document, the sixth box should say: "The heads we must attack are CIA, Yuon, and KGB. Since 1975, the forces that have attacked us have all nothing other than CIA and Yuon."
Further down that same paragraph, it talks about the CIA: "The only difference among them was that some of these CIA's were more on the American side whilst others were more on the Yuon side."
And then the box further down after that says: "What we want to make clear here is that these traitorous networks have always been with the CIA and the Yuon and that inside the Yuon, the CIA are already predominant."
Further down, the next paragraph that's boxed says: "All such opposition forces are CIA, Yuon, and Soviet espionage agents and it is these forces that we must attack."
[14.45.16]
The paragraph after that says: "To sum things up, in the contradiction with us are the CIA, the Yuon, and the KGB and amongst these, the Yuon are the most noxious and acute."
The next boxed part says: "Our sharpest attack is on the aggressive, territory-swallowing Yuon. At the same time, we attack the CIA and the KGB."
And then on the next page or the - the next page, yes, page 30 of

the Khmer document, there is a statement in the box: "There are only CIA, Yuon, and Soviet forces attacking our revolution." [14.46.10]

Witness, could you explain to the Court what was your understanding of CIA at the time?

A. Mr. President, CIA, at the time, referred to Khmers in Cambodia, but who received appointments from the America.

Q. Did your understanding of the CIA derive from the propaganda documents such as the "Revolutionary Flag" which you said, in evidence, was written by the Party Secretary?

A. Mr. President, the life and death enemy of the Communist Party of Kampuchea were to be determined by the Secretary of the Party. No one could determine that.

Q. Can you explain to the Court – can you please explain to the Court what "Yuon" refers to?

A. Mr. President, "Yuon" refers to "Yuons" who lived in the Khmer territories. Actually, it refers to the Khmer people with "Yuon" tendency; they are -- they were against the Party's policies.

Q. And what was the Party line in relation to the "Yuon" enemy? [14.48.51]

A. The Party policies were to the -- smash all enemies. Those who were arrested were brought to the police and after interrogated, they were to be smashed.

Q. In evidence, last week, you said that Son -- Son Sen directed that S-21 was to identify and extract confessions from CIA

agents. You said that you later had to identify KGB agents and there was also the aggressive "Yuon" who had to be smashed and killed. Could you confirm then the classes of enemies of the Communist Party of Kampuchea included the CIA, the KGB, and the "Yuon"?

A. As the life and death enemies of the Communist Party of Kampuchea were these three groups, CIA, KGB, and the "Yuon" agents.

Q. Witness, just so that we can be absolutely clear, because you explained that "Yuon" refers to "Yuon" who live in Khmer territory or Khmer people with "Yuon" tendencies, are you referring to the Vietnamese when you say "Yuon"?

[14.50.40]

A. Thank you. Mr. President, we have misunderstood one word. Perhaps I made a mistake. We were to explore the "Yuon" enemies within the Khmer territory; we were not to arrest "Yuon" enemies in their territory. Then I moved on to talk about the Communist Party of Kampuchea referring to the old forces of the enemies of the Revolutionary Party of Kampuchea.

Q. Witness, thank you for that, but it is still confusing when you refer to "Yuon" to explain the word "Yuon". So just to be very clear, does "Yuon" mean people who are racially Vietnamese or ethnically Vietnamese or have Vietnamese nationality?

A. In practice and in theory -- in theory we refer to the "Yuon" agents as -- as the agents following the Cambodian territories

and that refers to Khmer people with "Yuon" tendencies and they refers to the forces of the People Revolutionary Party of Kampuchea.

In practice, we saw this together; "Yuon" people were not able to live in Cambodia, they would be looked at every time.

[14.53.10]

Q. I might just move on now. In evidence, earlier, you said that Son Sen reprimanded you for there being no CIA confessions at S-21 on one occasion; do you remember when he reprimanded you for this?

A. Thank you. I do not recall the exact date, but the situation there was that I was with Nat; I was his deputy. I was interrogating a prisoner with him. He took out a piece of paper; he said that now, in Sector 32, a CIA agent was found. No matter if that CIA agent was base, he was still a CIA agent. Now, the security sector of Sector 32 was -- found a CIA agent and how -- and why did S-21 not find any CIA agents?

[14.54.53]

Chap Nam was the chief of the Security Sector; it was Sector 32. It was probably in December because I remember that it was before I got married. Those who were from the Soviet Union were asked and they named CIA rather and then Son Sen questioned why we refer the Soviet people as CIA. And so we questioned them again and so they said they were KGB not CIA, so that is why the KGB agents were identified.

And after that the third category of enemy were identified; they was the "Yuon" agents. The word "agents" is very important here.

MR. PRESIDENT:

It is now appropriate for us to take a short break. We will break for 20 minutes -- rather, we will break for 15 minutes and we will resume after that.

Security guard is instructed to escort witness to the waiting room and return him to the courtroom before we resume.

The Court is adjourned.

THE GREFFIER:

All rise.

(Court recesses from 1508H to 1513H)

MR. PRESIDENT:

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

We would like to hand over to Counsel for the civil party--

We note that counsel for Nuon Chea is on his feet. You may proceed first.

MR. PESTMAN:

I'm sorry to stand up again but I just had a question, because apparently, Mr. President, you said something about three days being given to the Defence to examine or cross-examine this particular witness, in total -- something which not translated into English. I don't know whether I was informed correctly or not.

[15.15.07]

Is it true that we will only have three days for - combined for our cross examination?

MR. PRESIDENT:

Yes indeed, according to the schedule, defence counsels have three days starting from tomorrow. And the Chamber has not determined precisely how the three days will be divided among the three civil - rather, three defence teams because, so far as we observed, each and individual defence counsel has used the allocated time differently. Some may have used more times than the others and some have exercised their rights not to put questions, and they have, for example, indicated to the senior legal officer of the Trial Chamber that they would need half day, but then they would not use the half day asked -- so on and so forth. For this, the Chamber wishes to just make clear that we offer three days for the defence counsels - the three defend counsels. Whether -- how they share the times among themselves -- then they would need to advise the Chamber, and -- yes, we hope it's clear.

[15.17.03]

MR. PESTMAN:

Because we had indicated earlier to the senior legal officer that we were - we did not know how much time we needed, exactly. Of course, dependent on the questions asked by the prosecutor and the answers given -- also to questions by the civil parties, but I - my estimate is now that we will need approximately two days

for our cross-examination. I don't know whether that allows enough time for the other teams to do their part of the cross-examination.

[15.17.36]

MR. PRESIDENT:

Counsel for Khieu Samphan, you may proceed.

MR. VERCKEN:

Thank you, Mr. President. First of all, this whole discussion regarding the duration of the cross examination of the witness now on -- at the dock leads me to underscore the great difficulty - the obscure nature of these proceedings place us.

Regarding, in particular, the way your Chamber is going to use the elements from the investigation. Let me clarify.

I spoke about this matter to all parties present here -- except for the Prosecution, I must confess, and no one is able to answer the simple following question, which is: at the end of this trial, are you going to deliberate and are you going to use the totality of the investigation or will you only limit yourselves to the documents that were produced before the Chamber and debated in public, and that were indexed corresponding to this status?

[15.19.49]

And I mention this right now because, when we cross-examine someone, and especially someone as the witness, who was questioned 65 times, as I already said, you can very well imagine

that if you look at the totality of these 65 sessions it will be very – it will be different from just looking at the transcripts and at the documents that were produced before the Court and approved as such.

So that is my issue, and apparently I'm not the only one who is confused about this -- and this is very important because in terms of allowing my team to determine how much time we're going to need to cross-examine this witness as well as the others, of course.

[15.20.32]

MR. PRESIDENT:

Could you advise the Chamber how much time would you need? Counsel for Nuon Chea indicated that they would need approximately two days for this so the Chamber is now expecting from you the exact time your counsel – your team wishes to have. As we have learned from the past that sometimes you would ask for more time and that, when it came to the time you put questions, then counsel chose not to put any question.

And it is difficult for Chamber to determine the time for each counsel. We understand that witness has different experience accounts or testimonies to give to the Chamber, and for that the Chamber cannot make any decision on the time and that – for that reason as well we also need to understand from counsels -- they are supposed to advise the Chamber on how much time they need.

On Friday, counsels are also supposed to provide some preliminary information concerning the times needed to the Chamber in that meeting.

[15.22.37]

And at the same time the Chamber also needs to consider whether questions are repetitious and if questions are repeated, then Chamber may remind parties concerning their time used.

MR. VERCKEN:

Yes, Mr. President, I understand very well your concerns. And this is why, in order to clearly address your concerns in the most reliable way possible, I am requesting clarification as soon as possible, and, if possible, right now, about how this trial is going to unfold. I'd like to know very clearly, and I need this in order to determine how much time I will require to cross-examine the witness.

I need to know the rules according to which your Tribunal operates; and I need to know which are the documents that you're going to take with you when you deliberate. Are you going to use the totality of the investigation for your deliberations?

[15.24.13]

Well, in that case, what I'm trying to say is that the cross-examination will necessarily be longer because it will not be based only on elements that were put before the Chamber during the hearings. But on the other hand, if you tell us that the only elements that you're going to take with you when you are going to

deliberate are the transcripts and the documents that were – that were produced before the Chamber and that were indexed, well, then, this will restrict, of course, the time that I will need to cross-examine the witness.

And this question is being asked, in fact, from both sides: from the Prosecution as well as from the Defence, so I think that it is essential to obtain a clear and simple answer as soon as possible. And then, on that basis, of course, we will be able to address the concerns of the Chamber.

MR. PRESIDENT:

Counsel for Ieng Sary, would you wish to make any observation concerning this?

(Judges deliberate)

[15.26.58]

MR. PRESIDENT:

Counsel Karnavas, you may now proceed.

MR. KARNAVAS:

Thank you, Mr. President. Thus far, I've prepared approximately two days' worth of examination. However, that is based on if I were to be going first, which I'm not. Depending on what happens with the Nuon Chea team, obviously, I will then reconsider and edit away things that might have been covered by them, assuming they're covered sufficiently. And so I can only say that at least a day I will need. I'll try to be as efficient as possible but I have prepared for two days for the gentleman.

And before I sit down, I notice that we've eaten up about -- approximately half hour worth of the civil parties' time, and I do think -- at least the Ieng Sary team thinks it's - it would be fair to give the civil parties one hour tomorrow morning to make up for the lost time this morning and this afternoon that's been take up with procedural matters. Thank you.

[15.38.10]

MR. PRESIDENT:

International Co-Prosecutor, you may now proceed.

MR. SMITH:

Thank you, Mr. President. Certainly, in answer to the defence team for Khieu Samphan, it would be the Prosecution's position that all of this witness' prior statements be taken into account in your deliberations, and all of his prior testimony. Your Honours have already made a decision on this point and stated that all of the prior statements of a witness are deemed put before the Chamber.

[15.28.46]

The witness is available here for cross-examination, and certainly it accords with international criminal law practice particularly in relation to the acts and conduct of the accused. If the witness - the witness needs to be present for examination and now that that has occurred, we would ask -- we will be submitting that all of his prior testimony and statements be taken into consideration. Thank you.

MR. PRESIDENT:

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

MS. SIMONNEAU-FORT:

Yes, good afternoon, Your Honours, good afternoon, President. First, a few observations regarding the issue that was raised by the Defence, I believe that it's very difficult for us to gauge precisely how much time is necessary for examination ahead of time, independently of the issue of documents. It's difficult because we do not know the questions that are put by the other parties before us so we can only provide you with estimates. And I understand, of course, that the Defence teams are not always able, just as we are, to provide a specific time.

[15.30.12]

Now, regarding the issue of documents, I – in my opinion, I also believe that we should clarify which documents you're going to use when you deliberate. As far as I am concerned, I thought that any document that had been put before the Chamber could be used during the deliberation, but it might be a good idea for your Chamber to specify exactly what it means by "document produced before the Chamber", because obviously this is not clear for everyone. It is true that -- regarding the quantity of documents that your Chamber will use will have an effect on the time for examination.

[15.30.59]

And last point and please forgive me for insisting, and I was

going to ask you this question at the end of the day but I will do it right now because we're discussing this issue of examination. And I think there was a misunderstanding regarding our request for extra time. I'm not going to count up our time, precisely, but it's true the hearing started 30 minutes late this morning for reasons that we could not control. Thirty minutes is a lot in a one-day examination and we would like at least to be able to recuperate these 30 minutes, but also the 20-25 minutes that we are spending now discussing an important issue. So I am delighted to see that my colleague working for - my colleague -- the Ieng Sary defence is willing to grant us one hour now, and I believe indeed that it would be a good idea to have one extra hour tomorrow because we have lost more than 45 minutes without us being responsible for this.

[15.32.10]

So I am kindly requesting the Court to grant us an extra hour. And I think it's also normal for the Defence to ask for extra time if the Defence feels that it's necessary. This hearing is based on a debate, and we should not limit this time to debate the issues if the parties believe that it is necessary and -- during which time we also put documents before the Court.

MR. PRESIDENT:

Defence Counsel for Mr. Khieu Samphan, you may proceed. And this is the last time you will take the floor for this afternoon's session.

MR. VERCKEN:

Not this afternoon, Mr. President; with regard to this question. I would like to respond to the prosecutor and say that contrary to what he has said the practice that he wishes to have applied is not at all that of the International Courts.

[15.33.12]

International courts apply an accusatory procedure and the Chamber has to deliberate on documents tendered into evidence and there has to be a public debate on that. This is what happens in France and it is similar to what we are doing here. The assize courts cannot deliberate without the documents.

Let me cite the situation at ICTR, the International Criminal Tribunal for Rwanda, where the practice that is being presented by the prosecutor doesn't obtain the -- the proceedings cannot proceed -- or cannot be held without the documents being tendered into evidence and debated upon by the parties.

MR. PRESIDENT:

Is this your last standing, Mr. Pestman? Would you -- how many times more you need to take the floor?

MR. PESTMAN:

Well, I certainly hope it's my last time. It's a bit confusing because there's two discussions running parallel.

[15.34.33]

There's one about the amount of days allotted for the Defence. I haven't heard Khieu Samphan's position on that particular issue,

so I can count two plus maybe two, it's already four, so I foresee a problem.

I would like to know that as far as I'm aware that the prosecutor and the civil parties together had six-and-half, seven days to examine this witness. So I would maintain that we have at least a similar amount of days to our disposal to cross-examine the witness as well.

[15.35.05]

The other discussion is quite interesting, but it's not the first time that we have this discussion, the discussion about the probative value of statements given before the Investigating Judges which are not dealt with or mentioned during the examination of a witness.

We had this discussion with the senior legal officer and she told me -- and I think it's important that that is put on the record -- she told me or us that persons present at the time that she took the position she thought that the Trial Chamber would take the position that only those excerpts which were discussed with the witness or by the witness could be used as evidence, and not other statements or excerpts which are not dealt with in court.

MR. PRESIDENT:

Yes, please.

MR. SMITH:

Thank you, Your Honours. I think there's a couple of things that have been confused here.

Firstly, the Prosecution is not asking Your Honours to take the witness statements -- this witness's statements and trial transcript into account without them being placed before the Chamber.

[15.36.27]

We put them on our list to be placed before the Chamber, and Your Honours' have already stated that once the witness appears the documents are in fact beyond but before the Chamber. That was a ruling of Your Honours.

Secondly, the practice at the International Criminal Tribunal for the Former Yugoslavia is that if a witness appears that statement can go in as evidence in conjunction with the witness testimony.

[15.36.56]

Also, the practice is that witness statements can go into the Chamber's consideration without that witness appearing if that statement does not relate to material relating to the acts and conduct of the accused.

In this situation, because the witness is here, he's here to be cross-examined on his statements and any testimony he gives. And so it is the international practice that statements that have been put before the Chamber can be taken into account.

Thank you.

MR. KARNAVAS:

I apologize, Mr. President, but just--

MR. PRESIDENT:

You are not yet permitted to take the floor, Counsel. You can't just stand up and talk. You promised once that you would seek leave from us.

Now, concerning the delay and the loss of time for counsel for civil parties this morning because of the traffic jam, today's hearing will be delayed to four-twenty.

However, there have been interruptions from parties concerning questions, objections, so this contributes to the loss of the time to be given to the civil party lawyers.

[15.39.15]

To reflect this, the Chamber decides that an additional one hour will be provided to civil party lawyers tomorrow morning to continue their questionings to this witness.

Secondly, concerning the documents to be the basis on the Chamber's decision, the Chamber finds that in -- at paragraph 3 of the Rule and Evidence Provision, the Chamber has not observed any other provisions besides Internal Rule 87.3, that the Chamber will consider evidence to be placed before the Court or the documents that are placed before the parties by the Chamber.

[15.40.42]

Documents considered to be -- will be considered to be placed before the Court when their contents are summarized before the Court. This is the basis for the Chamber to consider its decision.

Secondly, because of the facts in the Closing Order are broad in

nature, the Chamber considers Internal Rule 89 ter concerning severance of the proceedings. This was the basis of the Chamber's decision when it comes to the Severance Order.

This is different from the facts set out in the Closing Order; that is why we are dealing with this segment, Case 002/1. The Chamber has been following the order as mentioned in the memorandum that was sent out to the parties.

And in order to make this clear or even clearer, I would like to hand over to Judge Lavergne to specify this issue because it deals more with the French proceedings.

Judge Lavergne, you may proceed.

JUDGE LAVERGNE:

Yes. Thank you, Mr. President.

[15.42.59]

I do not know whether the reference to French civil law is actually pertinent, but what I know is that you've made proper reference to Rule 87.3 which is the rule that is applicable to this Case and which provides clearly that for the Chamber to rule it has to rely on documents tendered into evidence.

And we should also be clear on this point; we cannot make do with parts of documents read out. When a document is tendered into evidence, it is the entire document which is used by the Chamber as the case may apply.

I think we have already clarified this matter and stated that when a witness is testifying all prior testimonies, all prior

declarations, have to be tendered into evidence, which means that the parties have the opportunity if they so wish to rely on those documents to ask questions, and that is part of adversarial proceedings.

[15.44.19]

So if the parties wish to use the documents, they may do so, and if they do not wish to do so, so be it, and the Chamber relies on those documents in making a ruling.

I hope this clarification settles the matter and the rule that applies is Rule 85.3.

MR. PRESIDENT:

The Chamber now hands over to civil party counsel to continue her questioning.

The Chamber will not give the floor to you again, Counsel. That was your last forum. I asked you that clearly.

Now, civil party counsel can continue her questioning and the proceedings will last until 4.20.

MS. NGUYEN:

Thank you very much, Your Honours.

BY MS. NGUYEN:

Q. Witness, just before the break, I asked you about the incident where Son Sen reprimanded you for there being no CIA confessions at S-21. I asked you for the date that he reprimanded you, and you said it was probably around December. Can you clarify what year this was, please?

[15.45.59]

MR. KAING GUEK EAV:

A. Thank you for your clarification. It was in December 1975, before I got married.

Q. Thank you, Witness. Did you feel under pressure from Son Sen to obtain CIA confessions at S-21?

A. Thank you. Mr. President, at that time I understood that it was more of an -- imposing an order than an explanation.

Q. So you understood that you must carry that -- carry out that order; is that correct?

A. No one could reject the order of the Party. Soldiers had to obey the orders.

Q. And was Son Sen, likewise, under pressure himself from the upper echelons to obtain CIA confessions from S-21?

[15.47.52]

A. I would be speculating if I answered this question.

Q. Did Nuon Chea ever impose on you or order you or make you feel pressured to extract confessions at S-21 for people being CIA?

A. Mr. President, when Son Sen talked about the facts that S-21 could not find any CIA, it was like an imposition of an order already and that imposition of order was from Son Sen. And when Nuon Chea came to supervise S-21, S-21 was already in a position that it had to follow the Party's policies. Everyone had to be in agreement that the Party's policy was to be implemented.

Q. Why was it necessary to have CIA confessions at S-21?

A. Mr. President, the duty of S-21 was to implement the counter-espionage -- rather was to counter-espionage. That was why we were required to find CIA, KGB and the territories following "Yuon" agents.

MS. NGUYEN:

Your Honours, I now seek leave to have the witness shown another document. This is document number D57 and it is ERN 008 -- sorry, 00088751. This document appears to only be in the Khmer language although there is some English written on it.

[15.51.29]

MR. PRESIDENT:

The Court permits. The assistant is instructed to put up the document onto the screen and court officer is instructed to bring the document to the witness.

MS. NGUYEN:

Your Honour, I might just add that this document also goes by the number D108/26.272.

BY MS. NGUYEN:

Q. Witness, have you seen this document before; do you recognize it?

MR. KAING GUEK EAV:

A. Mr. President, this document was shown to me during the Case 001 Trial. However, if we move into this -- move to the other pages of this document, we would be able to see who was -- who the interrogator was. Was it Mam Nai or Comrade Pon?

Q. Perhaps I would just get you to identify the document first and then we can get into those details later.

[15.53.01]

Could you please turn over to the page to where there is a chart-like schedule and could you please identify the columns -- the titles of the columns at the top of the page and also the title of the document?

A. In the first column, it reads the names of the prisoner entered on the 26 of November 1978.

Q. Are there any other identifying particulars contained on that schedule such as names, age, gender, and where they are from?

A. In this document, yes, there is. There's the age of these two individuals. It's 29 years old, both of them, both of them were male, and they were sent from Kampong Saom. These two victims were arrested and interrogated, and who were considered as the foreign intelligence, were from Hawaii.

[15.54.59]

Q. Witness, you are referring to the first and second entry on the document. Could you please read the names of these two individuals?

A. The first one, his name was Christopher Edward DeLance. Another one is Michael Scott Kemo (sic).

Q. Just for the record, I think that reads "Michael Scott Deeds". Witness, do you remember seeing these two prisoners at S-21?

A. Thank you. Mr. President, when I went to S-21 I saw one

English person. I do not recall his name, and I only knew about the other three foreigners brought to S-21.

Q. Did you see any confessions from Christopher DeLance and Michael Scott Deeds during your time at S-21?

A. Mr. President, I do not have the Khmer translation.

Q. Witness, I'll repeat the question again.

The question -- Witness, the question was: Did you see the confessions of Christopher DeLance and Michael Scott Deeds during your time at S-21?

[15.57.52]

A. Thank you. Mr. President, I have seen the confessions of these four individuals. If you wish to ask me any specific questions about these confessions, I am pleased to receive any confession.

MS. NGUYEN:

Yes, Your Honour, I might take this opportunity to hand over a copy of the confession of Michael Deeds to the witness. It is a rather lengthy document, and I think that it could help to refresh his memory.

The ERN of this document is 00211734 -- that is the ERN of Khmer version of the document. It is document D22/21/3. And the English version of the document is ERN 00335569. The French version of this document is ERN 00323822.

[15.59.27]

May I have the document passed to the witness, please?

MR. PRESIDENT:

What is the purpose of asking the witness concerning this specific document?

MS. NGUYEN:

Your Honour, we've heard the witness give evidence about the Party line in relation to CIA and KGB and "Yuon". The significance of the document, Your Honour, is that it is a very lengthy document. It contains a great deal of detail about CIA operations, training, reporting lines, communications, equipment, technical instruments, missions and purposes, and intelligence in the region, which has a very Communist Kampuchea -- Communist Party of Kampuchea political slant to it.

I just wanted to show the witness this document and have him comment on whether or not -- or how the victims came to confess to these things, or rather, the process taken, the efforts taken, for the interrogators to extract this specific, very detailed information from the victims.

[16.01.16]

The confession itself, Your Honour, is not to be used for -- to prove the truth of its content, it's not the contents of the document if it sought to be relied upon, these documents were obtained under torture and I think that there is ample jurisprudence that confessions made under torture are inherently unreliable.

The information to be derived from this confession is to be derived from the length of the confession, the details included

in the confession, the political slant taken in the information given, and the resemblance to party propaganda of the information extracted from the victims.

(Judges deliberate)

[16.04.07]

MR. PRESIDENT:

The Chamber rejects the counsel's request to put this document for debate. Counsel may proceed further with other questions instead.

MS. NGUYEN:

Your Honours, if you are against me on this one, I can move on, but I would like to draw your attention to a ruling that the Trial Chamber made in Case 001. Excuse me, Your Honour, it is a division of the Office of the Co-Investigating Judges in Case 002 and also related to the PTC division.

It's document D130/8 and it's an Order on the use of statements which were or may have been obtained by torture. It was dated the 28th of July 2009. And paragraph 27 of this document says:

"That the question of reliability of the information contained in a confession does not arise if the information obtained is not being used for the truth of its contents, but rather as evidence that the CPK relied on the contents of the confession to carry out systematic crimes falling within the jurisdiction of the ECCC.

[16.05.38]

It goes on to say that, for example, a confession may contain lists of names of people that the torture victim has identified as traitors and if it can be demonstrated that the people listed were later arrested or executed, this may assist in proving that the charged persons relied on these confessions in order to commit systematic arrests and/or executions. As such, the information contained in the confession is not being used for the truth of its contents; that is, it's not being used to establish that the persons concerned were actual traitors, but rather to show how the confession was used and that is, that it was used to commit crimes against the persons named in the confession."

In this case, the -- the confession isn't relied on for its inherent truthfulness, but if Your Honour -- if Your Honours are against me here, I can move on and I can question the witness from his memory.

(Judges deliberate)

[16.08.56]

MR. PRESIDENT:

The Chamber decides, therefore, that you may proceed with your questionings.

MS. NGUYEN:

Your Honours, just to be clear, does that mean proceed to ask the witness from his memory or -- yes, okay. Thank you very much.

Witness--

MR. PRESIDENT:

Indeed, you're supposed to proceed with the questions asking for the witness -- asking witness to tell -- testify based on his memories, what he witnessed and heard. So your questions could be proceeded and the Chamber will also rule upon immediately if the questions are not relevant.

BY MS. NGUYEN:

Thank you, Your Honours.

[16.10.08]

Q. Witness, you just mentioned before that you remembered the confessions of the foreign nationals who entered into S-21. Generally speaking, how long were these confessions; if you could recall length of pages, for example?

MR. KAING GUEK EAV:

A. I don't remember, but I know it was lengthy.

Q. And the -- did these confessions come to you in both the English language and the Khmer language?

A. The confessions came into two versions; both English and Khmer.

Q. Did the prisoners -- the foreign national Western prisoners, did they write in their own mother tongue, English?

A. Western prisoners made their confession in their native language.

Q. Were these then, subsequently, translated into the Khmer language or were they translated simultaneously as the confession was being obtained?

[16.12.03]

A. In interrogating these four Westerners, I recruited a person who could speak English very well to be with the interrogator when interrogation took place.

Q. So the interrogation and the translation of the confession were taken or were carried out by two different people?

A. Indeed, there were a translator or interpreter selected among the prisoners and the interrogator.

Q. Would you agree, from having read those confessions, that the information contained in the confessions align with the political message that the Communist Party of Kampuchea wanted to send out to its Party members?

A. I'm afraid I did not understand the question. Could it be rephrased?

Q. Witness, you read these confessions and you understood their contents; is that correct?

A. I neither reject this entirely, nor accept it entirely because these accounts are separate. This confession was obtained in the new context to me.

[16.14.33]

Q. And, Witness, could you please clarify for the Court what you neither accepted nor rejected? What account did you neither accept nor reject?

A. Normally, things that were new, I could never deny it immediately, entirely, and I may remember them. And that's all.

Q. During the interrogation sessions, were there any guidelines given to the interrogators as to what should be extracted out of the victims?

[16.15.48]

A. Normally, guidelines and objectives were communicated to us all along. As the chairman of S-21, I just wished to know whether the interpreter understood the language he's supposed to render and I had to be with him sitting side by side to learn whether this was genuine and, indeed, I learned from that moment that the interpreter was of good quality; he could render the confession.

Q. Witness, what I'm interested in knowing is what did the interrogators put to the victims to extract the confessions that they obtained to the victims being CIA agents?

[16.17.19]

A. With regard to this specific case, I'm afraid I cannot respond. The people whom I assigned to interrogate these four Westerners were those who had been working at M-13 and interrogation techniques were also taught to them there and they were skilled in their job.

Q. Were the contents of documents such as the "Revolutionary Flag" used by interrogators during the interrogation sessions with victims?

A. The "Revolutionary Flag" magazines' portions regarding the enemies of the nation including the CIA, KGB, and the "Yuon" agents were well trained to every member of the Party. I don't

believe that this notion would ever be conveyed to the prisoners anyway because member understood it well.

MR. PRESIDENT:

Since it is now appropriate time for today adjournment, the hearing session today will adjourn, and the following session will be resumed tomorrow, at 9 a.m.

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

The Court is adjourned.

(Court adjourns at 1619H)