អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 18-Apr-2012, 16:12
CMS/CFO: Kauv Keoratanak

TRANSCRIPT OF TRIAL PROCEEDINGS
PUBLIC

Case File Nº 002/19-09-2007-ECCC/TC

10 April 2012
Trial Day 50

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

Trial Chamber Greffiers/Legal Officers:
SE Kolvuthy
Roger PHILLIPS
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For the Office of the Co-Prosecutors:
SENG Bunkheang
William SMITH
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HONG Kimsuon

I N D E X

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
MR. KAING GUEK EAV alias DUCH	Khmer
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PESTMAN	English
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 0900H)

MR. PRESIDENT:

Please be seated. The Court is now in session.

As scheduled, the Chamber will today continue to hear the testimony of the witness, Kaing Guek Eav alias Duch, who will be questioned by Khieu Samphan's defence team.

The floor is now given to Khieu Samphan defence team to question the witness. You may proceed.

QUESTIONING BY MR. VERCKEN:

Thank you, Mr. President. Good morning to everybody present in this courtroom. Good morning to you, sir.

[09.02.33]

Q. In asking you some questions, I'm going to try and restrict myself to asking you questions about information that you claim to have been in possession of at the time of the facts.

I don't think anybody here can reproach you for having wished to study the period of Democratic Kampuchea and to have wished to defend yourself before the judiciary that has accused you, but the fact remains that you are neither expert nor historian and that you are, therefore, not called upon here to comment upon documents, the existence of which you were unaware of at the time of Democratic Kampuchea and which cover issues that you did not directly witness yourself at that particular time.

So I'll begin by asking you a few general questions, as is customary, before we focus in on some points in your statements because they would, I believe, fall within the framework that I have set out in these opening remarks.

[09.04.12]

Before the meeting of the 6 January 1979 that we will talk about in a while, did you have any particular contact, of any kind, with Mr. Khieu Samphan?

MR. KAING GUEK EAV:

A. On the 6th of January, let me set that date aside, I would like to respond on the events before the 6th of January. Before that date, I did not have any involvement with Khieu Samphan; I only saw him from a distance on the 17 April 1978 commemoration.

Q. When you were questioned by Investigating Judges on the 23rd of August 2007, in document D86, on page 3, French ERN 00147929, Khmer 00146551, you said to the Judges that, under Democratic Kampuchea, you were not allowed to meet Khieu Samphan; can you confirm this today please?

A. During that period, I did not have a right to meet with Brother Hem or Khieu Samphan.

[09.06.39]

Q. Who imposed this particular ban?

A. That is the Party's principle. We could only meet and report to the direct superior. Khieu Samphan was not my direct superior.

Q. 24th of June 2008, E3/107, on page 6 talking to the Investigating Judges, French ERN 00197983, English 00198222, and

Khmer 00197973, you said that -- let me just repeat the Khmer ERN, it's 00197973 -- you said that Son Sen never talked to you about Khieu Samphan; can you confirm that please?
A. Son Sen did not say anything about Khieu Samphan because there was nothing related to him to talk about.
[09.08.51]
Q. Yesterday, in this courtroom, you said that you did not know what happened to the S-21 confessions that you sent upwards to your superiors. I'd like to know if you can confirm what you said to the Investigating Judges on the 19th of November 2008 in D117, French ERN 00238823, English ERN 00242875, Khmer 00238833 - 9833, and you stated to the Investigating Judges: "Nothing allows one to suppose that Khieu Samphan himself read the confessions." That's what you said at the time; are you able to confirm that, please?
A. I could not see it clearly. Could you please make a slight projection of the phrase that I -- that you said I spoke to the Co-Investigating Judges?
[09.10.45]
MR. PRESIDENT:
Please try to follow the procedure as practiced by other parties and as informed by the Chamber. You need to prepare your work as the Ieng Sary's team did yesterday so that it could speed up the proceeding and not to waste your time.
(Short pause)

Counsel, do you have any hard copy of the document? If you do, please deliver them to the court officer so it can be projected on to the screen. The document from the case file that needs to be projected to the screen can be delivered to the court officer as the Chamber grants you the permission to present such a document to the witness.

Court officer, once you receive the document, please follow the same procedure as you did yesterday.

MR. VERCKEN:

I have the document, Mr. President. I'm just going to underline it so that the witness can immediately locate the passage himself.

[09.12.50]

If the greffier could kindly come to assist, then we can pass the document on to the witness.

MR. PRESIDENT:

Court officer, please receive the document and you can deliver it to the witness.

MR. KAING GUEK EAV:

Mr. President, I would like the counsel to repeat his question.

MR. PRESIDENT:

Counsel, please repeat your question regarding the document put before the witness.

BY MR. VERCKEN:

Q. Yesterday, in this Court, you said that you did not know what happened to the S-21 confessions which you sent upwards to your superiors and, in the past, you made a statement which could be compared to what you said yesterday and you said, to sum up, nothing allows me to affirm that Khieu Samphan, himself, read the confessions.

[09.14.34]

I'm simply asking you if you can confirm that statement.

MR. KAING GUEK EAV:

A. I still stand by the fact that I did not know what my superior did with the documents. Secondly, I still maintain my position that Brother Hem did not read the documents before Son Sen. Let me repeat, I did not acknowledge that Brother Hem read the document before Son Sen. It was only Son Sen who read the document before everyone else.

Q. Moving on to another question, during the investigation and in these recent days, you have claimed that after the arrest of Chou Chet you were told, in confidence, by Bong that Pol Pot asked him not to convene Vorn Vet to the meeting at which there had to be a decision about the arrest of Chou Chet, but rather you said that Mr. Khieu Samphan should be invited instead.

[09.16.52]

My first question on this is as follows: As far as you are aware, did Pang attend the Standing Committee meetings?

A. I actually wanted -- want the counsel to present the document on the screen so that the public can see it.

Of course I can respond to your question immediately, so I will request the President to allow the counsel to present the document on screen.

MR. PRESIDENT:

Counsel, are you relying on any particular document for this question?

MR. VERCKEN:

Well, at this stage, not particularly, Mr. President. I was simply putting a question to the witness.

[09.18.22]

MR. PRESIDENT:

If this is a general question, then the Witness, you may need to respond.

MR. KAING GUEK EAV:

The counsel, in his question, wants to know whether Pang has the right to attend the meeting.

Pang was the organizer for the meeting place in order to -- for the members of the Standing Committee to convene the meeting. In principle, I believed Pang did not have the right to attend the meeting.

BY MR. VERCKEN:

Q. Well, then, sir, does that mean that Pang was not able to tell you whether, for example, Mr. Khieu Samphan himself attended a particular meeting?

MR. KAING GUEK EAV:

A. Pang was the one who invited members for the meeting. On that day, Pang did not invite Brother Vorn, but instead he invited Brother Hem.

[09.20.10]

This is according to Pang, who followed the orders from Brother Pol.

Q. Would it be true to say that the only information that Pang gave you on that day was that there had been a change in the invitations, Khieu Samphan instead of Vorn Vet?

A. Vorn Vet was a member of the Standing Committee, but Khieu Samphan was not. He was a member of the Central Committee.

Q. Witness, I don't know if my point is getting through here, but what I'm trying to ask you is the specifics of the information that Pang shared with you on that day. Did Pang tell you anything other than: "Well, instead of Vorn Vet, I've been asked to invite Khieu Samphan"?

A. This last question is a bit different from the question -- from the previous one; let me respond to that.

[09.22.18]

Initially, Pang told me that on that day Vorn was in his office, but Brother Pol, instead, asked him to invite Brother Hem. Then Pang explained to me that Vorn Vet was difficult to work with. At each meeting he did not -- he was not happy and he was not active; that what was Pang's explanation to me.

Q. And if I understand correctly, that's all he said to you.

A. At that time, that's what was explained to me by Pang.
Q. Is Pang still alive today?
A. Chhim Sam Aok alias Pang was arrested and put in S-21. He already died.
Q. Was anybody else present at your talk that day with Pang?
A. The conversation with the superior or the superior from about could not be -- involve any other person or nobody would be near the -- the people who made that conversation.
[09.24.31]
Q. True, but if that conversation had taken place while Pang himself was already detained in S-21.
A. When Pang was detained at S-21, I did not interrogate him. I even -- I did not even go and meet him.
Q. How do you explain the fact that in a transcription of an audio recording of your interview with the UNHCR -- refugee agency, in other words, you say that Pang told you this after he had written his confession? In IS 20.19, pages 2 and 3, French ERN 00160922, French (sic) ERN 00002507, Khmer 00160890--
[09.26.30]
MR. PRESIDENT:
The International Prosecutor, you may proceed.
MR. SMITH:
Good morning, Mr. President.
I would just ask that the document could be produced to the witness. And I was wondering whether learned counsel had the

English ERN number as well? That would be helpful.

MR. VERCKEN:

Yes, yes, I did say it actually, 00002507. Mr. President, I've got the document.

MR. PRESIDENT:

Court officer, can you take the document from the counsel and deliver it to the witness

MR. VERCKEN:

And if I may, Mr. President, I'd like to have this projected on the screens.

MR. PRESIDENT:

Yes, you may do so.

(Short pause)

BY MR. VERCKEN:

Q. (Microphone not activated)

[09.28.07]

Sorry, I forgot to turn my microphone on.

According to my French translation here, what it says is that: "After Pang had finished writing his responses, I was chatting informally with him and Pang told me that Vorn Vet, even if he was not busy elsewhere, was never invited to their meetings."

Sir, how do you explain the apparent difference between what you're telling us today and what you said in 1999?

MR. KAING GUEK EAV:

A. The written record of the 4th through the 6th by the UNHCHR (sic), as you may recall, I objected to that document.

In light of what you ask me, was the essence of what I asked Pang when Pang still had his full authority.

Number 2, Pang also scolded me when Comrade Hor was arrested. He said that if I were not to work with my superior, I would have been arrested a long time ago.

[09.30.18]

Q. Just forgive me for interrupting. I think that you have not correctly understood my question. In fact, I was not questioning you on the two points that you just raised. I was questioning you on the apparent change in your testimony.

You said in 1999 that you had spoken with Pang after he had signed his confessions. So given the way S 21 operated, this means after he had been tortured, and here right now you are telling us that you had not spoken to Pang when he was at S 21.

So the point of my question is to ask you why is there such a difference between both testimonies. Where is the truth in this?

A. This is the truth what I have just said. Pang told me when he was in power. I asked him sometime in April 1978 following the arrest of Chou Chet.

Q. Do you remember when Chou Chet was arrested, the date when Pang was arrested?

[09.32.40]

A. I do not remember the arrest date of Pang, but I do remember the date when Pang was arrested. Let me repeat; I do not remember when Pang was arrested, but I do remember the date when Chou Chet was arrested.

Q. Yes, of course. Yes, you did tell us when Pang had been arrested, at least the month, and that was April 1978. I'm sorry; I'm referring to the discussion. Chou Chet -- I mixed this up with Chou Chet's arrest.

Can you remind me -- or can you tell me again when Chou Chet was arrested, because I'm not sure that you told the Chamber?

[09.33.51]

A. Chou Chet was arrested in April 1978.

Q. Now, let's return to Pang's arrest. You tell us that you don't remember the date when he was arrested. Therefore, could you tell us if this -- if he was arrested a long time after Chou Chet or just in the weeks that followed Chou Chet's arrest?

A. It was after. It was between the arrest of Chou Chet and So Phim when they purged the East Zone. They purged the East Zone in -- sometime in June 1978, so it was between when Chou Chet was arrested and So Phim was arrested. It was between this.

Q. Okay. So on the basis of your recollections, this occurred between -- or within two months after Chou Chet's arrest; is that correct?

A. It may have been around that time. It was about two -- in two months after the arrest of Chou Chet.

Q. In his confession at S 21, Chou Chet -- did Chou Chet incriminate Pang?

A. I do not recollect it well. I think there was no implication or incrimination against Pang.

Q. Before Chou Chet's arrest, had Pang already been incriminated in other confessions? Because this did occur before Chou Chet's arrest.

(Judges deliberate)

[09.37.47]

MR. PRESIDENT:

The witness does not have to answer the last question put by the defence counsel because the Defence put the question based on the confession extracted by way of torture.

So the defence counsel is advised to examine the question to be put to the witness. Particularly, he should refrain from asking questions concerning the confessions extracted by way of torture.

[09.38.37]

MR. VERCKEN:

I am not trying to use information that was revealed in confessions done under torture. I'm not trying to have the witness consider this information as true.

But however, given the way S 21 operated and given the way the regime also operated, Duch already indicated to us that all that was necessary was to be mentioned in a confession to be observed or arrested, and that was the object of my question. My question is not based on the content or on the truthfulness of the information. I am absolutely not interested in that. I'm only trying to know whether before Chou Chet's arrest there had been in S 21's history confessions in which Pang had been incriminated. That's all I am looking for, and if that is the case, then I will put another question to the witness.

[09.39.58]

But of course this question has no relation with the truthfulness of the information in the confessions obtained under torture. So I think that I am perfectly abiding by the rule that consists in not taking as true information that exists in the confessions, that--

So may I please ask the Chamber to reconsider its decision in view of what I just explained? And may the Chamber allow me just to continue putting the questions -- to continue with my line of questioning?

(Judges deliberate)

[09.41.57]

MR. PRESIDENT:

The defence counsel may put a general question. However, the Defence should not demonstrate that they -- he bases the question on the statement or confession made by the prisoner who was smashed at S 21, and that should not be the basis for the question to be put to the witness.

BY MR. VERCKEN:

I'm going to, therefore, try to reformulate my question, Mr. President.

Q. Witness, according to you, before Chou Chet's arrest, was Pang being observed by the regime?

MR. KAING GUEK EAV:

A. To my recollection, it was when I was working with Son Sen. Brother Son Sen allowed the prisoners to implicate Pang when he was with me.

Q. And this permission to accuse Pang, did it precede Chou Chet's arrest?

A. Yes, it must have been before that because Son Sen parted from me on the 15th. Brother Son Sen parted from me on the 15th of August 1977.

[09.44.31]

Q. Well, first of all, did Son Sen tell you personally that he wished to have Pang's name included in confessions? Is that what you are telling us?

A. It was a very long story. There were two different stages, and I would like to mention the last stage of the two.

One day, Brother Son Sen asked me that an individual whom he sent to S 21 for a confession, why didn't he implicate Pang. I told him that, there was another individual who had implicated Pang earlier, but when I reported that to you, you mocked at me, and at that time you could not help laughing at me as well.

But then Brother Son Sen said, well, I admitted that it was my mistake. So, well, I would like to listen to his confession, so whatever he said please let me know. I want to know that.

That was the last meeting with him.

Q. And what Son Sen told you -- your superior -- on that day, asking for Pang's name to be kept in confessions, did this mean, in your opinion, that Pang was being monitored?

A. Yes, that was the case, because he had been monitored for quite some time already. But there was -- that was another move, a new move because they had to listen. They wanted to listen to a confession that implicated Pang.

[09.48.03]

Q. Thank you for this answer.

Yesterday, while you were answering Counsel Karnavas' questions, you described the fear in which you were living during the period of Democratic Kampuchea. And I'm asking myself, that given the fact that Pang was being monitored and that Son Sen, as you just said, had requested to have his name kept in the confessions, I was asking myself whether you had thought it was prudent for you to ask questions to Pang, as you claimed to have done so, Pang who was still free, who was still working then, if you thought it was prudent to ask questions to him on the way the Standing Committee operated?

[09.49.22]

A. This was how we worked. We had to maintain certain secrecy in our work, and we also had to do certain things as well. Each secret affair is classified based on the level to which it should be made known.

Q. I understand what you are telling us, but I am not sure that you have understood what I told you. You knew that Pang was being monitored. Isn't that correct, and before Chou Chet's arrest, correct? And after Chou Chet's arrest, you then went to ask questions on the Standing Committee to a person whom you knew perfectly well that he was at least being monitored, or that he was on the hot seat.

So was it prudent for someone like you who was so cautious, who was so wary of his security, which you described during the past day?

A. Each and every one whom Pol Pot and Nuon Chea did not trust were not so aware. They did not realize what was going on, so we continued to work as normal.

[09.51.59]

Q. Witness, may I please interrupt you? I am interrupting you because I'm not speaking about the others; I'm speaking about you precisely. And you said that you had been informed of the fact that Pang was being monitored. And my question is based on this information that you are telling us now.

You are informed, apparently, of the fact that Pang has been incriminated and that Pang is monitored and that Chou Chet has been arrested, and you still discuss issues related to the operations of the Standing Committee with Pang? Weren't you therefore facing an enormous risk?

[09.52.52]

A. I understand the question put by the counsel, but I would like to answer it in stages.

So long as the Standing Committee does not declare that Pang was to be arrested, then Pang remains in authority to give instruction or lead S 21. S 21 had to abide by this designation. If S 21 leaks secret information, then S 21 would be held responsible, certainly on the question I asked Pang concerning the fact that the Standing Committee did not want me to leak any information whatsoever to Pang.

Q. I didn't hear the end of your sentence. I don't exactly understand the meaning of what you were saying in French.

A. I would like to summarize it as follows. As for the implication by a prisoner against Pang, it was the responsibility of S 21 to ensure that this secret thing would not leak and Pang would not learn that. It was not the leak to the outsider, but a mere leak to Pang himself.

[09.55.58]

Q. Yes. Yes, I do understand. Okay, fine--

(Microphone not activated)

THE INTERPRETER:

Please activate the microphone.

MR. VERCKEN:

You were speaking to him while he was still -- he still held his position, and you knew that he was being monitored. And this was -- meant a lot in -- under the regime of Democratic Kampuchea.

So weren't you taking the risk that when -- the day when he would be arrested, that he would incriminate you as being a person who tried to obtain information on the Standing Committee? Weren't you, therefore, facing a very significant risk, you -- not the others, you -- personally?

[09.57.09]

A. That was virtually impossible. How could the interrogator at S-21, would let Pang implicate me in that context? In addition, if Pang would implicate me, would the Standing Committee believe his implication?

Q. But the person who preceded you at S-21, Nat, was also arrested and tortured and then executed at S-21, and now you're telling us that you felt beyond all of this and that you felt protected in the Democratic Kampuchea system because you were the head of S-21. Is that what you're telling us today?

A. Nat's implication was not originated from S-21. Again, the implication against Nat did not originate from S-21. It was the sole decision of Brother Pol. The counsel may refer to document dated the 21st of April 1976.

Q. I must interrupt the witness. I want to pick up on what you've just said to us. You, in E3/106, page 5, told the Investigating Judge that Vorn Vet had incriminated you in his confessions. So, contrary to what you've just told us, you weren't in any way protected in S-21, and even in the position you occupied, you were perfectly liable to be incriminated in other people's confessions that were made in S-21 under torture. So I don't think you were protected and sheltered in S-21.

[10.01.02]

A. That is correct.

First, Vorn Vet implicated me. He did that.

Secondly, his response was separate from those he implicated.

Thirdly, the interrogator also told me about that. I said, "Let him do it."

And, fourth, I actually showed that document to Brother Nuon regarding the implication, and if Brother Nuon were to arrest me, let him do it.

Q. So your position today is that, when you had your conversation with Pang in April 1978, you didn't feel at all worried in asking him the questions that you did ask him; that's what you're telling us, is it?

[10.03.08]

A. That is correct. I was not worried about this matter.

Q. I would like to come back to the transcript of the audio recording of your talks with UNHCR that I mentioned at the outset this morning; and the code is IS 20.19. And in that transcript, you say that Pang shared this information with you after he had finished writing his confession. Do you contest the contents of the transcript?

MR. PRESIDENT:

Prosecution, you may proceed.

MR. SMITH:

Your Honour, I just ask that counsel put specifically what the witness said in the interview, because I don't think it was categorized accurately.

I think the discussion in the interview was more of a general discussion rather than a specific discussion in relation to the arrest of Chou Chet and the circumstances surrounding it. So it's a bit misleading in that regard.

But perhaps the passage could be put complete, and then he can comment.

[10.04.50]

MR. VERCKEN:

Mr. President, let's make things simpler. Let's look at a different document which I would like to put to the witness. And as far as I am aware, it is not subject to the kinds of interpretations that the prosecutor has just mentioned. It is the record of questioning of Mr. Kaing Guek Eav alias Duch, dated 9th of June 1999, before the Military Tribunal. It's D288/6.52/4.25.

And in that paper, the gentleman present says that:

"Sometimes I had conversations with those who had already been interrogated such as Touch Phoeun, Chhim Sam Aok alias Pang. The subjects were primarily for me to find out about the lives of Pol Pot, Ieng Sary, Son Sen, Khieu Samphan, and Touch Phoeun when they were in France. As for Chhim Sam Aok alias Pang, Chou Chet alias Si, and Vorn Vet, I wanted to know the internal structure of the Party, the history of the Party, the Revolutionary Communist Party of Kampuchea; and, secondly, on the question of direct interrogation, I did this in cooperation with other people on the orders of Son Sen."

I'd like to give you a copy of that statement. And, Mr. President, I'd like to have it put onto the screens as well.

MR. PRESIDENT:

Court officer, can you take the document?

[10.07.22]

BY MR. VERCKEN:

Q. Witness, do you not wish to look at this document?

MR. KAING GUEK EAV:

A. Yes, please, you can proceed with your question.

Q. It would appear, Witness, that what you said to the Military Tribunal in June 1999 runs counter to what you said in this courtroom under oath a few minutes ago. How do you explain this?

A. That record of statement was in a summary form. Three or four events were combined together with the use of a single adverb or adjective. Let me clarify that.

I asked Touch Phoeun -- that is, several months after the confession was made and after he was fed good food and he was in good health -- I asked people to arrange a room for me to meet him. That was the time I asked about the lives of Professor Ieng Sary and other Sister Thirith and Brother Son Sen--

[10.09.47]

Q. Excuse me to interrupt, Witness, but you're talking about somebody else. I am talking about the person whose name appears in this record and who we've been talking about already this morning, namely, Chhim Sam Aok alias Pang.

It's perfectly clear from these minutes that you said that after this person had been interrogated you talked to him, and if you look at the last page of the document that I gave to you--

MR. PRESIDENT:

Counsel, once you put a question to a witness you need the witness to provide or to complete his response first before you can move on to your next question, so that we can get the response in full from the witness.

[10.11.00]

MR. VERCKEN:

You're quite right, Mr. President. It just seemed to me that the witness was taking a bit of a digression here, Mr. President, and that he wasn't really answering my question which was about Pang. I'm quite happy to leave him the time to respond to the actual question I asked. Thank you, sir.

MR. KAING GUEK EAV:

Let me continue. With Brother Touch Phoeun, I only asked him -- or met him after several months of the confessions which were completed.

Pang spoke to me when he was arrested and his arrest was ordered by the superior, that is, from Brother Nuon.

Separately, regarding Chou Chet alias Si, after several months of interrogations and confessions, I met him--

MR. PRESIDENT:

What is the problem? Do you have an issue with the French translation?

(Short pause)

[10.12.42]

The AV Unit and the court officer, could you please check the technical issue with the French booth and report to the Chamber immediately?

MR. VERCKEN:

Mr. President, we just didn't hear the French translation of the question you put.

MR. PRESIDENT:

Counsel, could you please repeat your question again because the French translation did not come through?

[10.13.52]

MR. VERCKEN:

Would you like me to repeat what I've just said a second ago or my actual question to the witness? The question to the witness? Very good.

MR. PRESIDENT:

The witness, could you continue with your response to the question put by the counsel which was interrupted due to the technical issue? So please continue your response to the question, in particular the final segment. You do not need to start from the beginning.

MR. KAING GUEK EAV:

Mr. President, regarding the time that I met Touch Phoeun, it was about one month after he was tortured, or probably a little bit more than one month.

First, I asked him about the lives of the revolutionary people in France. Brother Touch Phoeun talked about the Brother Pol, Brother Van, and other Sister Thirith, and Touch Phoeun also confirmed that Son Sen was persuaded to join the revolution by Brother Van and Thirith.

Separately, regarding Khieu Samphan, I asked why Khieu Samphan always respected Brother Pol so much--

MR. PRESIDENT:

Do you have any issue, Counsel?

[10.16.12]

MR. VERCKEN:

Yes. It's going to be difficult for me to continue questioning the witness, Mr. President, if you don't allow me to contain Mr. Duch when he waxes lyrical like this.

I'm asking him about Pang and off he goes talking about what he would say after torturing somebody else, and frankly, it's not relevant to the subject we're talking about now.

[10.16.48]

And I'm going to find this difficult to abide by the time limits you have imposed upon me if you allow the witness to set off on long digressions on irrelevant issues, so I would ask you to authorize me to require of the witness that he answers my questions directly.

MR. PRESIDENT:

The Chamber is also hearing the response of the witness; because, in your questions, it involved several people. You refer to the statement made by the witness at the Military Court, and that statement was summarized, and that is his time -- or his turn through response to your question. And of course it cannot just be a focus on one person, as it is related to several people. That is the intention of the Chamber: if you put a question in regard to that paragraph, let him respond and conclude his response first. It is not that you pose a question and then allow him to respond only to what you need to hear, and, if not, then you would not allow him to respond; then it is not appropriate for the Chamber to proceed in this fashion.

Now, Counsel, put your question precisely and in short form for the witness to understand. You try to quote a paragraph involved several people, and it is not just involved in one single person.

[10.18.57]

MR. VERCKEN:

I quite understand, Mr. President. Perhaps, because we're going through three languages, here, there may be one or two impediments to the communication between the Defence and the

Chamber, but I'm sure that this is not going to be a problem.
I did read out the passage (unintelligible) from the 1999 minutes, and that is a place where the witness gives several examples of people he talked with after they had been tortured in S-21, but you will of course understand, sir, that my question was not relating to all of these people whose names are quoted here, but solely to Pang and the fact that, as far as Pang is concerned, the statement by Mr. Kaing Guek Eav on that day in 1979 contradicts what he has stated under oath just now before your good selves.
[10.20.21]
Just now, he said that he had never spoken to Pang when he was held in S-21, but in 1999 he gives several examples of people he talked with while they were imprisoned in S-21 and among the list of names we have Pang, and that is the point of my question; that's all.
So, if the witness's choice is to talk to us about all of the other people except Pang who are quoted in that 1999 record, then so be it. But what I'm interested in my line of questioning -- and I'm sure you're going to get to this in the end, Mr. Witness -- is Pang.
BY MR. VERCKEN:
Q. And so, as regards Pang, please, what is your explanation for the contradiction between this 1999 record before a Cambodian judge while you were in the presence of your lawyer, and what you

have just stated under oath before this Chamber? How do you explain the difference? Thank you.

[10.21.52]

MR. KAING GUEK EAV:

A. If the counsel wants to ask only about Pang, then please remove this document from the screen. And you don't need to provide this document to me because, if you rely on this document, it involves several people, not just only that individual.

Q. Do you contest the contents of the record of 1999?

A. Please only ask your question related to Pang if that is what you wish. Otherwise, you have to include several people in -- if you relied on this document.

MR. PRESIDENT:

Counsel, could you please repeat your question? You can ask general question and remove this document so you can pose your question in defence of your client. And there is no need to rely on this document because this document is related to several people and not only Pang.

[10.23.34]

This witness already made it clear regarding this individual, Pang, but there was some technical issues relating to the translation.

So let me repeat. If you relied on a paragraph of a document which involves several people and you put a question for only one person, then there is no need to rely on that segment of the document. You may need to rephrase your question so that it is precise and beneficial, otherwise he would do the same.

MR. KARNAVAS:

Mr. President. Mr. President, may I be heard? Because the ruling that you're making, the rest of us are going to be stuck with for the rest of the trial. With humility, let me just say that your ruling is not correct.

[10.24.42]

First, you tell us to provide documents. We provide documents, he rejects them. The witness does not get to control the Court. It doesn't matter whether the document contains other names.

He's being confronted with something that he said before another institution. Today, he said one thing. In another instance, he said something differently. It's classic confrontation. In fact, under oath today, first, he said with Pang that he never spoke to him at S-21. Later on, under oath again, he said he spoke to him. This is a classic example of how to show when a witness is lying and to deny now counsel for the defence the opportunity to show that a witness is lying is improper.

[10.25.36]

Yesterday, the Prosecution was able to interfere all the time. Now, the Prosecution is sitting quiet. Allow the Defence to do their job in classic confrontation showing one statement under one instance, another statement under oath here. And the gentleman is subject to perjury.

So he must answer the question and he doesn't get to dictate to you, Your Honours, how you are supposed to control the proceedings.

As I noted yesterday, he is not at S-21; he is not here to tell us how to conduct the proceedings; he is not here to interrogate. He is here to be interrogated.

(Judges deliberate)

[10.29.53]

MR. PRESIDENT:

The Chamber would like to give the floor to Judge Lavergne to clarify the matter. You may proceed.

JUDGE LAVERGNE:

Yes. We don't want to interrupt your questioning; we just want to re-establish things.

There have been a few hitches as we have gone along, and so let's get down to the basics of what you are asking.

If we understood correctly this morning, the witness, with respect to Pang, said that he had never met him or never talked to him in S-21; is that indeed what you said this morning?

MR. KAING GUEK EAV:

I did not meet Pang after he was arrested, but before he was arrested, I had met him.

JUDGE LAVERGNE:

And during the interrogation -- and counsel Vercken can correct me if I'm mistaken -- but counsel Vercken referred to a certain number of documents.

[10.31.42]

First of all, your interview by the UNHCR and also your examination by the -- by the Investigating Judge of the Military Tribunal, and in both of these statements there is an apparent contradiction with what you said this morning because it seems that you spoke about a discussion that took place at S-21.

So is this clear to you? Did you see these documents? Were you able to note that it was indeed Pang's name that was mentioned among other names, but it was Pang's name that was mentioned in the interview that was conducted by the Investigating Judge at the Military Tribunal?

And if this is the case, can you explain why there is a contradiction or not between these different statements?

Did you understand my question or would you like me to repeat it?

MR. KAING GUEK EAV:

Your Honour, the defence counsel presented me a document from the Military Court. I started responding to his question and I mentioned that this document points to many individuals, namely, Chou Chet, Touch Phoeun and Pang. And I did mention in my answer that these four individuals were different, but the Military Court described them -- the Military Court summarized these four individuals using only -- using the same verb, the same adjective and adverb to describe the four individuals.

[10.35.03]
And I seek the permission from the Court to make the distinction in terms of the description of four individual, as follows.
And my last suggestion to the defence counsel was that, if he wants to specifically refer to only Pang, then I would suggest that this document be removed from me so that I could respond to that question immediately.
But so long as the defence counsel insists that I refer to this document, I still maintain my position that I would like to describe the four individuals contained in this document in a separate manner.
MR. PRESIDENT:
Well, the time is now appropriate for the morning adjournment.
The Chamber will adjourn for 20 minutes.
Security guards are instructed to bring the witness to the waiting room and bring him back here by five to 11.
The defence for Ieng Sary?
MR. ANG UDOM:
Good morning, Mr. President. Good morning, Your Honours.
Due to a health concern, particularly his lumbago, Mr. Ieng Sary would like to request the Chamber to excuse himself from participating directly in this courtroom, but instead follow the proceeding from the holding cell downstairs. For this reason, we would like to request the Chamber to grant this request.
MR. PRESIDENT:

Please be seated, Counsel.

Having heard the request by Mr. Ieng Sary through his defence counsel to waive his right not to be present directly in this courtroom but instead follow the proceedings from the holding cell downstairs through video-link in the holding cell for the whole day today due to his health concerns, the Chamber grants this request.

So Mr. Ieng Sary will be brought to the holding cell downstairs where the video-link is connected for him to follow the proceeding for the whole day.

The Chamber requires the defence counsel to submit the Chamber a written waiver of the Accused with his thumbprint and signature.

And the AV technicians are instructed to connect the video-link to the accused Ieng Sary so that he can follow the proceedings from the holding cell downstairs.

And security guards are instructed to bring Mr. Ieng Sary to the holding cell downstairs where the video-link equipment is ready for him to follow the proceedings from there.

[10.38.27]

The Court is adjourned.

(Court recesses from 1038H to 1102H)

MR. PRESIDENT:

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

I notice the Prosecution is on his feet. You may proceed.

MR. SMITH:

Thank you, Mr. President. Mr. President, I need to take the opportunity to make a statement about the conduct of parties before this Court.

Your Honours, under Rule 22.4, you know, lawyers have an obligation to promote the fair and effective conduct of the hearings. I can't let the outburst of the defence counsel for Ieng Sary pass. The tone, the manner, the accusations towards the witness were completely in contravention to Your Honours' rulings.

I understand counsel's frustration as rules develop, but I just would ask that all parties -- all parties abide by general standards of fair conduct in the proceedings.

I think, Your Honours, if all parties had outbursts like we saw from the Ieng Sary defence team, this hearing would result in a real disarray and would take away from the integrity of the proceedings.

[11.04.36]

Again, I understand the frustration. I certainly don't want to say the colour should be removed from the courtroom, and certainly counsel for Ieng Sary are highly competent counsel, but I would not like the public to feel that that type of outburst -- those types of accusations were appropriate for a courtroom.

So I just would ask Your Honours to advise parties -- all parties to abide by the rules of etiquette and proper practice in the courtroom. I'm not going to repeat what was said, but I just would ask that that occur. Thank you.

[11.05.23]

MR. PRESIDENT:

Defence Counsel, you may proceed.

MR. VERCKEN:

Thank you, Mr. President. I was not standing up to respond to the Co Prosecutor. I wanted to continue my questioning. May I do so?

MR. PRESIDENT:

Of course, but before we hand over the floor to you I'd like to give the floor to Judge Lavergne.

[11.05.59]

JUDGE LAVERGNE:

Thank you very much, Mr. President. I'll try and hand the floor over to Counsel Vercken as soon as possible.

But just to be absolutely sure that everybody understands the thrust behind the questions that are being put to him this morning, I would like just to proceed to a brief clarification.

Mr. Witness, this morning you stated that you had an opportunity to talk about a certain number of issues with Pang connected with the Standing Committee and that this conversation took place before Pang's arrest, in other words, a conversation that didn't take place in S-21.

And, now, before we broke for the adjournment, the Khieu Samphan defence confronted you with one of your statements which you made before the Investigating Judge of the Military Court on the 9th of June 1999 and I will simply read one statement from that where you are asked, "Did you ever personally interrogate prisoners who…" and you said:

"At times, I went to converse with people that have been interrogated such as Touch Phoeun, Chhim Sam Aok, alias Pang, Chou Chet, alias Si, and Vorn Vet."

[11.07.52]

And then you go on to explain that on other occasions you went straight into questioning, but there it was different.

But, here, we're talking about conversations with people who had already been interrogated and if you read that sentence, it's "after they had been interrogated in S-21". Now, if we allow your statements and that sentence, then there does appear to be a contradiction because if you had a conversation with them after they had been interrogated, it must have been in S-21. So, please, can you tell us why there is this discrepancy or if, in your view, there isn't any contradiction at all? Thank you.

MR. KAING GUEK EAV:

Your Honour, regarding this matter, it seems there is a contradiction. In fact, there is none. I already informed the Chamber here, that the record of interview at the Military Court was in a summarized form meaning they summarized the four individuals with a single verb, a single adjective, and a single adverb.

[11.09.56]

If a particular individual needs to be put to my question in order to respond to this statement, of course, I cannot accept that. I stand by this document provided that this is recognized as a summarized statement. All the four individuals were distinct.

JUDGE LAVERGNE:

Well, Witness, I'm going to read this sentence again and just tell us yes or no if it was a sentence that you actually said -- if this does mirror what you said to the Investigating Judge. I read:

"At times, I went to converse with people that had been interrogated such as Touch Phoeun, Chhim Sam Aok, alias Pang, Chou Chet, alias Si, and Vorn Vet."

[11.11.12]

Now, did you say this or are you telling us that it hasn't caught the nuances of what you actually said?

MR. KAING GUEK EAV:

Your Honour, this is not based on the recollection, but that is the truth. I met Touch Phoeun after he was interrogated. Chou Chet, alias Si, I also met him after he was interrogated. As for Vorn Vet and Chhim Sam Aok, alias Pang, Pang, himself, I had met him before his arrest and once he was nearly arrested, he blamed me, but I did not want to touch on that matter. As for Vorn Vet, I already stated that I met him before he was interrogated so those were the events.

To sum up, I met two of them after they were interrogated and I had met two of them before they were interrogated.

BY MR. VERCKEN:

Q. Witness, let me get a first clarification. As I understood it in my translation, you said that Pang incriminated you in his confession; is that what you are telling us?

MR. KAING GUEK EAV:

A. Pang, himself, was implicated before the 17 April '77. That was before the 15 August '77.

Q. Would you kindly look at the last page of the Military Court summary from 1999, the final page, please?

[11.14.40]

Can I have this on the screen, Mr. President, please?

MR. PRESIDENT:

Yes, you may do so.

BY MR. VERCKEN:

Q. This is the excerpt right at the end of your statement in 1999 where it says:

"The written record was completed at 1645 hours on the same date and the content was read out to the respondent who then agreed to thumbprint it as evidence along with us below."

And you then see the signatures of the four lawyers present, your lawyer, yourself, the registrar, and the Investigating Judge.

[11.15.52]

My question is as follows: The Investigating Judge and the registrar say that you were read your statement and we know that you are a specialist when it comes to anything concerning interrogating people and is your statement before us today essentially to say that you let a mistake that crops up several times in your statement pass through your fingers without correcting it?

A. The language which I explain regarding this statement that it is a summary and, of course, it shall be acceptable to ordinary people to absorb it, to understand it, and to accept it. At that time, that -- that's what I said and that's what it was summarized and, of course, that was my thumbprint. I believe this is not something which is going to incriminate me. For that reason, I provided my thumbprint there.

[11.18.09]

So to sum up, I acknowledge that I provided my thumbprint and I stand by the statement and I allowed them to summarize the statement.

Q. Witness, do you understand that the contents of these minutes of the 9th of June 1999 which you tell us you signed without needing to check it because the statements that should have been there were not incriminating; are you aware that this record acquires a crude importance when you look at it on the basis of the transcriptions of the recordings of the interviews you actually had with the Office of the High Commission for Refugees the very same year as this Military Court record and in which you also say that you talked with Pang while he was detained in S-21? What's your comment on that?

A. Before the Investigating Judge at the Military Court made that summary, I was asked many questions regarded -- regarding many events and that how it was summarized at the time.

[11.20.18]

At that time, myself and the Investigating Judge did not have this statement before us yet. The Investigating Judge and myself did not have the record by the UNHCHR (sic) and we did not see the original voice recording by that organization.

MR. VERCKEN:

(No interpretation)

MR. KAING GUEK EAV:

May I conclude my response first?

As for the statement dated 4 to 6 of May, I already made my stance clear regarding those records and the Co-Prosecutors also stated that they were simply just the records.

As for my interview with UNHCHR (sic), which was conducted on the 30, the first, the second, and concluded on the third, and I already rejected that record.

[11.22.39]

As for the record by -- as for the statement by the -- by the Investigating Judge at the Military Court, I stand by that statement.

BY MR. VERCKEN:

Q. Witness, I understand. This morning you told the Chamber that, at the time, when you had your talk with Pang, you weren't afraid of being arrested; do you remember saying that?

MR. KAING GUEK EAV:

A. The conversation between Pang and myself were the conversation between the leader and the one who was led. So let me repeat, the conversation was between the leader and with the one who was led.

Q. On the 2nd of April 2008, you were questioned before the ECCC Investigating Judge; this is D86/24, and I'm preparing a copy for the witness and I would like the President to allow me to have this excerpt put on the screen.

MR. PRESIDENT:

Court officer, could you take the document from the counsel and deliver it to the witness?

[11.25.14]

BY MR. VERCKEN:

Q. We have highlighted the section, Witness, so you can see where it is on the hard copy, and you were assisted by your lawyer on this particular occasion, and this is what you said. Question by the Co-Investigating Judge:

"Why do you keep a non-expurgated version and, at the same time, when it appears that one name has been removed?"

"Answer: It is only in the case of those who were provisionally considered innocent but who sooner or later would be arrested. For those who were protected, I destroyed the confession. That is, in fact, what happened when I was criticized by Son Sen for having allowed a confession to show Pang's name who was Chairman of the 870 Committee working group and Pol Pot's messenger to me. Sometime later, he actually blamed me in reverse. I had removed the name of Pang when he was hoping to see it."

[11.26.39]

And then your lawyer, Francois Roux, asks you a question:

"Given the conflicting orders you received from different people and given the fact that your predecessor had been executed at S-21, did you not fear that your turn would come eventually?"

And the charged person answers as follows:

"I've already explained that each time I was summoned by the superiors, I was terrified and so was my wife. I was more and more scared."

My suggestion to you, Witness, is that what you say here is in contradiction to what you have said under oath before the Court this morning. In one case, you say that you were terrified and in the other, you claim not to have been terrified at all; it seems to be a contradiction, kindly explain.

A. There was no difference or no -- there was no contradiction. The meeting with the superior, it had -- I had to be opened and honest. However, in general, there were several events that made myself fearful. The time that it became so terrified when the Party; that is, Brother Nuon Chea order the arrest of Nget You alias Hong, Sochea (phonetic), for instance, so I was terrified like the rest for the general situation.

[11.29.46]

As for my conversation with my superior, I was not scared; I had to report to my superior.

Q. Do you remember when -- and please forgive me for my pronunciation, when Nget You alias Hong was arrested?

A. The three individuals were arrested after the 15 August 1977.

Q. Do you remember if Ta Mok had complained about Chou Chet?

A. Actually, Ta Mok did not like Chou Chet; that was my observation.

Q. Do you remember the statement that you made to the Investigating Judge on 2 April 2008 and this is written record D86, again, /24? So this was an interview on 2 April 2008 on page 4, ERN in French 00195948, English 00178061, Khmer 00178048 and you say that before Chou Chet's arrest, all of his subordinates had been arrested pursuant to the Ho Chi Minh doctrine which you even qualified as saying that it consisted -- and before cutting the bamboos, it was necessary to shave off the thorns; so do you remember this statement and can you confirm having said it?

[11.33.42]

A. I do remember and I stand by this statement.

Q. I suggest to you, Witness, that this detail that you have given to us shows to us that Chou Chet's arrest seemed to be the result of a plan that had been thought of for a while; do you agree with what I'm saying?

A. I do not quite catch what's the language. I think that the language should be simplified because I cannot really understand.

[11.34.50]

Q. You said that before Angkar arrested Chou Chet, all of his subordinates had also been arrested and you specified that this chronology of events -- first the subordinates and then Chou Chet, himself -- corresponded to the application of a doctrine, the Ho Chi Minh doctrine, which states that before cutting the bamboos; you have to shave off the thorns. So, therefore, I'm putting the question to you if you understand the statement as meaning that Chou Chet's arrest was the result of a plan that consisted first in "shaving off the thorns" quote unquote and then cutting the bamboos.

A. The content of my explanation to the Co-Investigating Judges back then was exactly as what's being described. I clarified again, I did explain to the Co-Investigating Judges the truth and nothing but the truth. Of course, before the arrest of Chou Chet, his subordinate had been arrested. I still recollect when I provided that statement to the Co-Investigating Judges. I even cited two examples for him.

[11.37.45]

Q. So then why do you believe Pol Pot was obliged to replace at the last moment Vorn Vet by Khieu Samphan if this was only a plan that had already been decided since long?

A. I think I have never told the Co-Investigating Judges that Pol

Pot decided that Khieu Samphan be replaced by Vorn Vet. Never have I told them that. I merely told the Co-Investigating Judges that Brother Khieu Samphan took or designated Nuon Chea's brother-in-law to the industrial hospital 75 to replace Vorn Vet's wife. Correction, Nuon Chea's sister-in-law, not brother-in-law.

Q. Did you say to the Investigating Judge of the ECCC that Khieu Samphan had participated in the decision-making process of arresting Chou Chet?

A. This is the same issue. I learned it from Pang that Brother Hem came in. Then Bong Hem was invited by Pol Pot to take part.

[11.41.20]

Q. To participate in order to do what?

A. That was again the same issue. It was to discuss in the Standing Committee on the arrest of Chou Chet.

Q. Do you remember having said to the Investigating Judge that in fact Khieu Samphan had been summoned instead of Vorn Vet only to be informed of the purging procedures?

A. I do not recollect that. I don't know.

Q. Well, for the record, this is D90, page 6. This is the interview of 25 June 2008 on page 5 and 6, ERN French 00198811, English 0019883, Khmer 00198875.

MR. PRESIDENT:

The International Co-Prosecutor, you may proceed.

[11.43.50]

MR. SMITH:
Thank you, Your Honour. If there are any further questions on this topic, I would just ask the witness be shown that particular part of the statement if it's required to refresh his memory.
MR. VERCKEN:
I could show him the document, but I was not intending to continue with this line of questioning. But if it's necessary, of course, that won't be a problem.
MR. PRESIDENT:
Court officer, please take the document from the counsel and present it to the witness.
(Short pause)
[11.45.05]
BY MR. VERCKEN:
Q. Have you read it, Witness?
MR. KAING GUEK EAV:
A. Mr. President, I do not know as to which part of this document the defence counsel is referring to and expects my answer. Thank you.
Q. The passage that is underlined and that is indicated with a tab. It's on page 6.
If you please allow me, Mr. President, I can display it on the screen.
MR. PRESIDENT:
The Chamber grants that, and it has been a practice before the

Chamber that whenever parties wish to put questions to the witness concerning any particular document, it would be ideal to have it projected on the screen.

Witness, have you found the portion of the document you are being referred to?

MR. KAING GUEK EAV:

A. I'm sorry, President, I haven't seen any highlighted part on this document, so I cannot find it.

[11.47.03]

MR. PRESIDENT:

Defence Counsel, please be precise on the part of the document you want the witness to respond to because this document is long and it might be difficult for the witness to locate the part you are referring to.

MR. VERCKEN:

Can I have the document for a little moment so that I can make sure that the passage has been properly underlined?

MR. PRESIDENT:

Court officer, please remove the document from the witness and bring it to the defence counsel so that he can underline or highlight part of the document which he wishes to discuss.

BY MR. VERCKEN:

In fact, the passage was already highlighted, Mr. President.

Q. Do you see the excerpt in question, Witness? Please take your time to read it.

[11.48.35]

MR. KAING GUEK EAV:

A. Mr. President, I have found the portion which I am asked to comment on and I would like to read it as follows. And I would like the defence counsel to link this portion with another portion above this particular passage so that it links the story well. If you ignore the preceding passage, then the meanings would be vastly different. And I insist that the defence counsel links to the preceding passage so that the public at large can view it.

Q. Well, I presented the document to you because this was requested to me by the prosecutor, and if I have to read out the entire document, I'll never be able to finish my examination. I made a proposition to you. You told me that you didn't remember your statements, and I'm giving the document to you. There's a segment that I underlined in which you say that:

"According to me, if Khieu Samphan had been invited to attend the meeting during which Chou Chet's arrest had been decided, it was not to participate in the decision-making process, but only to be informed of the purging process."

What I'm interested in is the reason for this summons. The Court will be able to understand the rest of the statement. I only questioned you on this specific passage, and that's all.

Now I have refreshed your memory, so do you remember having said what is highlighted, yes or no? I'm not asking you to give me a full analysis. I'm asking you only if you remember having said this.

[11.51.21]

MR. PRESIDENT:

I think there might be a confusion in the two languages because in Khmer, when it is highlighted in the English portion, it was not complete in the whole paragraph. So I think that we should highlight a complete portion of that so that it can be understood. At least in Khmer language it has to be a complete sentence.

[11.52.07]

MR. KAING GUEK EAV:

I would like to read out the passage in this statement:

"Thus, in my opinion, if Khieu Samphan was invited to attend the meeting during which the arrest of Chou Chet was decided, it was not to participate in the decision but to be informed of the purge process."

BY MR. VERCKEN:

Q. Thank you for reading this out, Witness. And I would like you now to tell us what you meant that day, when you used the expression "according to me". So what you just read, does it correspond to the information that you claim was given to you by Pang, or is this your later interpretation that you are sharing with the Judges that day?

[11.53.43]

MR. KAING GUEK EAV:

A. This is my opinion and it was my opinion on the role of Khieu Samphan back then.

Q. In the conversation you claim you had with Pang, Pang -- did Pang explain to you why Vorn Vet had been cast aside -- had not been included in the meeting that we're speaking about, of course?

A. Vorn Vet was cast aside because according to Pang, Vorn Vet was a difficult person to work with. According to Pang's explanation, Vorn Vet, on several occasions, opposed against the Party concerning the identification of enemies.

Q. We know that Vorn Vet was arrested or will be arrested at the beginning of November of the same year, and the fact of having challenged before the meeting regarding Chou Chet having opposed the Party, did this put him in a touchy position? Did this explain why he was being monitored?

A. I think the Defence may, based on the translation which diverged somewhat from my original words, to form another question.

[11.56.35]

MR. PRESIDENT:

The defence counsel, please hold on. The witness needed to clarify his answer because he said that the translation into French and English were not correct from what he said, and I also advise the interpreters to be extra careful in rendering his statement.

BY MR. VERCKEN:

Q. Can you please repeat again why Vorn Vet had been excluded from the meeting regarding Chou Chet's arrest?

MR. KAING GUEK EAV:

A. Pang explained to me in general terms that Vorn Vet was a difficult person to work with. So whenever he did not like it, he would isolate himself and then he expressed his dissatisfaction. So, consequently, when the matter was concerning with Vorn Vet, Brother Pol made it clear that Vorn Vet would not be invited.

Q. Not being invited to a meeting where decisions were taken was a way of excluding someone during the regime, wasn't it?

A. The measures taken by Brother Pol surprised me because Brother Vorn was a member of the Standing Committee. Brother Hem was not a member of the Standing Committee.

Q. May one say that from the standpoint of the prevailing system, excluding Vorn Vet from the meeting amounted to a sanction?

[12.00.03]

A. I dare not conclude or make any conclusion out of this, but I simply want to mention that this was an extraordinary situation which surprised me.

Q. Do you remember what you said to the Investigating Judge -- or rather, do you remember the last time you saw Vorn Vet?

A. I last saw Vorn Vet on the 3rd of November 1978.

Q. And that was when he was already a prisoner; is that correct,

Witness?
A. Could you please repeat your question? I cannot catch it.
[12.01.33]
Q. I apologize for my question not being sufficiently precise. What I wanted to ask you was before he was arrested, did Vorn Vet come to S-21?
A. Thank you. When there was an order to arrest Pang, Brother Nuon told Vorn Vet to meet me - [correction, interpreter], when there was an order to arrest Vorn Vet--
THE INTERPRETER:
Sorry, Your Honour; could you please ask the witness to repeat his answer?
BY MR. VERCKEN:
Q. Yes. I think we have a small difficulty with the translation.
[12.02.53]
MR. KAING GUEK EAV:
A. I would like to repeat my answer. When Pang was arrested, Brother Nuon asked Brother Vorn to meet me and he sent along with him a letter designating him to work with me.
Q. The letter said who should work with who?
A. The letter indicated that I was supposed to work with Brother Vorn. And once again I would like to emphasize that without this letter, I would not be given any right to work with Vorn Vet.
Q. Given the fact that Pang's arrest occurred two months after Chou Chet's and bearing in mind what you have just said, that

Vorn Vet came to work with you when Pang was arrested, didn't you agree that the information that Pang would have sent -- is supposed to have sent to you on the fact that Vorn Vet, at the time, was in the spotlight and being excluded from the decision-making process, all the more extraordinary?

[12.05.12]

A. I think we should look at the dates of the events when they unfolded. Brother Vorn was cast aside from the meeting of the Standing Committee. It was not clear to me whether or not he was cast aside on several occasions, but what was clear to me was that when Bong Vorn came in before Brother Pang was arrested. Therefore, before any arrest decision was executed, then the lower echelon would have to report in good faith to the upper echelon.

[12.06.34]

MR. PRESIDENT:

The time is now break -- it is appropriate to take a lunch break.

The Court will adjourn until 1.30 this afternoon.

I note that the defence counsel for Nuon Chea is on his feet.

Again, the Court will resume at 1.30 and security guards are instructed to bring Mr. Witness to the waiting room for the witness and bring him back to this courtroom before 1.30 this afternoon.

The counsel is on his feet. You may proceed.

[12.07.14]

MR. PESTMAN:

Thank you, Mr. President. My client would prefer to follow the remainder of the proceedings from the holding cell downstairs because of his poor health. I have the appropriate or the necessary waivers here to hand over to the court officer.

MR. PRESIDENT:

Thank you, the defence counsel. Please be seated.

Having heard the request by Mr. Nuon Chea through his defence counsel expressing his waiver of his right to be present directly in this courtroom but, instead, to follow the proceeding from the holding cell downstairs for the rest of the day due to his health concern, the Chamber grants the request through the defence counsel that Mr. Nuon Chea would follow the proceeding by video-link from the holding cell downstairs this afternoon. And he has expressed his waiver of rights to follow the proceeding directly in the courtroom.

[12.08.39]

The Chamber requires the defence counsel to submit the Chamber the letters of waiver with the thumbprint and signature of the Accused.

AV technicians are instructed to connect the video-link to the accused Nuon Chea so that he can follow the proceeding for the rest of the day and security guards are instructed to bring Mr. Nuon Chea and Mr. Khieu Samphan to the holding cell downstairs. And this afternoon, please bring only Mr. Khieu Samphan back to this courtroom before 1.30.

The Court is adjourned.

(Court recesses from 1209H to 1331H)

MR. PRESIDENT:

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

The floor will be given to Mr. Khieu Samphan's defence team to continue questioning this witness. You may proceed.

BY MR. VERCKEN:

Thank you, Mr. President. Good afternoon to the Chamber and all those who are present here. Good afternoon to the witness.

Q. A few days ago, you said before this courtroom that Khieu Samphan had a unit under his orders, the electrical plant at Chak Angrae.

Now, could you tell us where you get this information from about Chak Angrae?

[13.33.28]

MR. KAING GUEK EAV:

A. Regarding my statement that Brother Hem controlled at least one unit which was the electrical plant in Chak Angrae, it's based on the following reasons.

The chairman of the electrical plant in Chak Angrae was arrested and taken to S-21. His name was Youk Chuong, alias Chorn. He said that Brother Hem taught him to become a CIA agent. And for all the affairs in the -- the affair of the CIA, he had to follow the guidelines taught or instructed by Brother Hem at the Chak Angrae power plant.

For that reason, I sought advice from Brother Nuon, and for that reason I believed - or, this is the evidence showing that Brother Hem controlled the power plant in Chak Angrae.

Q. Yes. So what I've understood from this is that the information you have from an S-21 confession.

[13.36.03]

A. That is correct.

Q. On the 28th of March, 2012 before this courtroom, you maintained that on the 6th of January 1979 on the eve of the Vietnamese invasion of Phnom Penh you attended a meeting in the presence of Khieu Samphan and that the meeting was held in the Suramarit Buddhist lycée. And you told the Court in E1 -- E1/55.1, page 95 in the French version:

"I knew the person in charge of the state storage facility, but when I saw that the person in charge of that facility was attending the same meeting under the supervision of Bong Hem, I realized that Bong Hem was in charge."

And so my question to you is the following. At this meeting which, as you tell us, took place on the eve of the invasion, was the question of the state storage facilities discussed in any way whatsoever? In fact, was it the subject of the meeting?

[13.38.04]

A. Brother Hem chaired the meeting regarding the situation that the Vietnamese soldiers arrived in the Cambodian territory. He said that "Don't be surprised; just carry on with your work" because the matters were managed by Roeung and San.

Q. I'm lost here. What was under Roeung and San?

A. When the Vietnamese entered, then Comrade Roeung and Comrade San would be able to counter the Vietnamese forces.

Q. And this Comrade Roeung was the same person who was under Khieu Samphan's supervision for the state warehouses, or are we talking about somebody else? The name does seem to be similar.

A. Comrade Roeung and Comrade San, they were secretaries of two separate divisions.

[13.40.16]

Q. So do I take it that during this meeting on the 6th of January 1979 the question of the state warehouses did not come up in the conversation?

Can you confirm, please?

A. That is correct. There was no discussion about the state warehouse. There was a discussion only on the invasion by the Vietnamese troops.

Q. But when one comes to consider the statement you made in this courtroom and which I have re-read, the impression one gets is that the simple presence of the person in charge of the warehouses and the presence of Khieu Samphan at the same meeting that leads you to assume that there is some kind of hierarchical link between these two people. Now, is this right? Is this true?

[13.41.38]

A. There were a number of participants in that meeting, but I clearly knew Comrade Roeung from the state's warehouse. So I concluded that it might be possible that Comrade -- that Brother Hem also controlled the state warehouse.

Q. In other words, it's an assumption that you made at the time and that you continue to make right now; is that correct?

A. I made a conclusion at that time and today, yes, I make the same conclusion.

[13.42.56]

Q. And to try and substantiate that conclusion that you drew, the essence is that there were these two people, Khieu Samphan and the head of the state warehouses, present at the same meeting.

A. They attended the meeting chaired by Nat. And usually whoever chairs the meeting, it means that person was the superior of the attendants. At that time, it was only Brother Hem who talked about the situation, and nobody else.

Q. But you were at the meeting, Duch, and Khieu Samphan was not your direct superior, is that right?

A. I believe you, Counsel, you should look at a bit further up. Comrade Lin called me to ask me to go to work. And when I took my moto to the Suramarit school, I stopped there and then the comrade came to pat my shoulder and invited me in. I was -- actually hesitated because Brother Hem was not my superior, but Comrade Roeung just encouraged me to get inside.

I think I made a mistake. Let me correct. It's Comrade Lin, not

Comrade Roeung. Comrade Lin who actually pushed me in. So I entered because I knew he -- Comrade Lin would not do that if he was not authorized to do so.

[13.46.01]

Q. Thank you, Witness, for those points of information. But that particular anecdote that you have shared with us, you will agree, has absolutely no relation to the question of whether or not Mr. Khieu Samphan was responsible for the state warehouses.

Do you agree?

A. Your conclusion is based on your personal reason and I made my personal conclusion. And I still have reasons to maintain my conclusion as it is because regardless of any regime we are under, no one would be authorized to spread information to anyone except their subordinates, or his or her subordinates.

When I entered, all the seats were already occupied except one, and Comrade Roeung at the time asked me to sit in that chair.

[13.48.08]

Q. All right. But I'm not asking you to repeat your story. But are there any other reasons that might have led you to deduce that there is some kind of hierarchical link between Mr. Khieu Samphan and the state warehouses which would have led you to think that the other gentleman was his subordinate?

Is there something that made you really believe that Mr. Khieu Samphan was in charge of the state warehouses, or is it just the series of events that you have divulged just now that makes you

think, broadly speaking, that everybody attending the meeting was a subordinate of Khieu Samphan?
[13.49.06]
A. That is correct. I still believed those people sitting around Brother Hem were his subordinates, including Comrade Roeung.
Let me confirm that, at that time, Brother Hem did not speak to me, not even a word, not even a smile.
Q. Is it possible that you might have adduced information to the effect that Mr. Khieu Samphan was in charge of the state warehouses from a confession obtained under torture in S-21?
A. I did not talk about the content of the confessions.
Q. That's true, but I'm asking you the question anyway.
A. Counsel, could you please repeat your question because only half of my statement was heard on the channel that I'm listening to.
[13.51.10]
Q. Which channel are you listening to, Witness?
A. I'm listening to the French channel, says the witness.
Q. All right. Well, if your answer didn't come through correctly, would you like to repeat it, please?
MR. PRESIDENT:
Counsel, could you repeat your last question because only half of your question was interpreted.
And as for the witness, you are reminded that please you should pause until the interpretation of the question concludes before

you start to respond.

And, Counsel, please also slow down, as the witness is listening to you in the French -- on the French channel and he needs to finish listening to the interpretation first before he could respond. So please leave sufficient time between the two of you.

[13.52.38]

BY MR. VERCKEN:

Yes, I understood that, Mr. President. I'll be more careful.

Q. My question was a simple one. Backing up your statements of the 6th of January 1979 that you have just talked about -- or your observations, rather, might there be other information that you could have drawn from confessions obtained in S-21?

MR. KAING GUEK EAV:

A. There are two separate issues here. One is my observation regarding the 6th of January 1979 event. That was the event that led to my conclusion, the conclusion that Brother Hem controlled at least one unit of the state warehouses.

As for the second matter, that is, the confession of Chhoun, Chhoun confessed that his superior, who was appointed by the CPK, that is, Brother Hem, his superior taught him how to become a CIA agent and how to operate like a CIA agent. Therefore, as Brother Hem controlled the power plant in Chak Angrae was known by Chhoun, that's why he implicated his superior, that is, Brother Hem, who was appointed by the Communist Party of Kampuchea. So I do not touch upon any content within the confession of that comrade.

[13.55.34]

Let me continue. When I reported to Brother Nuon, Brother Nuon did not say anything because the confession implicated Brother Hem. It meant that he acknowledged that Brother Hem controlled that plant, and he was appointed by the CPK to do so.

He only threatened me that I -- that Brother Nuon threatened me that--

Q. In sum, then, Witness, the information that led you to conclude that, in your view, Mr. Khieu Samphan had a unit under his command is, (a) the fact that you didn't want to go into the meeting, but -- because Mr. Khieu Samphan was going to be there, but you were practically forced to go in anyway; two, that the meeting was chaired by Khieu Samphan; and, three, because in at least one confession obtained in S-21, Khieu Samphan had been connected with somebody in charge of that electrical plant.

Is that a fair summary of what you're telling us?

[13.57.42]

A. In principle, yes, it is correct.

Q. Thank you. Just now you said that Lin called you to the meeting.

During the investigation phase, you talked about Lin at the first stage, but also Doeun as being the person who summoned you to the meeting. Can you remember that variation in the name of the person who summoned you?

A. I may confuse because the two individuals have the rights to make a phone call to me.

Q. And they called you to come to the meeting, is that right? Please repeat in the microphone.

A. That is correct. The two of them had the right to make a phone call to me to call me for work. As for Comrade Lin, he did not have the right to make a phone call for me to work. Not only have the right to make a phone call to me to work, he also had the right to ask me to arrange my forces to receive the people that he would send.

[14.00.12]

Q. Thank you. And during the investigation, you described often the state of mind and even the panic in which you were as of the 2nd or 3rd of January, you said, during which your superior at S-21 had given you the order to execute the last prisoners. Do you remember that description you gave of your mental state during that period, or would you like me to remind you of what you said?

A. I still remember. I remember all.

[14.01.08]

Q. So then can you please repeat it here?

A. Mr. President, after I received order from Brother Nuon to destroy the remaining prisoners, I came to tell Comrade Hor to follow the order, for him to execute the order because it was his work. He was responsible for that work.

And as for me, I said to myself to destroy all, that means Vorn Vet, who was recently arrested. So could it be me who was to be arrested? It was then that I became terrified. I couldn't even sleep, and I stayed at home.

I had my blood pressure. I got up only when we had to have meal, and I took my wife to have meal. And after that, I came back home and sleep. I did not even go to the place where I usually went. No one saw me going out of my house.

[14.03.22]

Q. Except to go to a meeting on 6 January where this crucial information is going to be given to you, meaning that everything is fine, Phnom Penh is well defended and you can continue with your activities as if there was nothing.

Is that the case?

A. It is correct.

Q. I now would like to revisit a statement you made on 4 July, 2002 before the Military Tribunal, and the index number is D288/6.52/4.43 on page 3. The French ERN 00327365, English 00329135, Khmer 00095691. And we are going to give you a copy, a Khmer version. And you can see the underlined passage on the last page.

And can I please display this on the screen?

And during this statement during which you were questioned about your knowledge of Khieu Samphan -- and this was 2002. And you say that, "Up until today -- as for Khieu Samphan, today we have

never met. Not even once".
Have you read the passage?
[14.06.11]
And my question is the following: How can you explain this apparent contradiction between your statement on 4 July 2002 before the Military Tribunal and what you're saying today under oath?
A. Mr. President, in this case, as two people are included, the Military Court included two people here. I was never under any official control by either Ieng Sary or Pol -- or Khieu Samphan. That was what it means here.
When it comes to this kind of summary, we can understand it this way.
Q. So your explanation is that when in 2002 you say that you never met Khieu Samphan, well, in reality, what you wanted to say was that you were not his subordinate; is that the case? Is that your explanation?
A. (No interpretation)
Q. Can you please repeat your answer? We did not get the French interpretation.
A. It is correct.
[14.08.16]
Q. Now I would like to consider the issue of the laissez-passer which you spoke about. And you spoke about this on the 1st of April 2008, when you were questioned. And the Investigating

Judges were asking you then: "Why didn't you escape like everyone else?" And you answered then -- and I quote:

"Personally, I had a quarterly laissez-passer that was signed by a surnamed Khang, and it was the alias of someone whom I don't know. But when I saw Khieu Samphan's handwriting, it seemed to me that it was his."

And then, here, before the Chamber, on 28 March 2012, you stated that Pang had provided you with a laissez-passer, not a quarterly laissez-passer as you said in 2008 in document E3/106, but a laissez-passer for six months, which was signed again by Khang.

[14.09.57]

And you stated that, back then, you had asked Pang who was this Khang in question -- I hope that I'm pronouncing it right -- and that Khang answered you: "Bong Hem."

And here, before the Chamber again, you stated:

"I looked at this handwriting, and I compared the documents, and I concluded that it was probably the same person who wrote this. It was surely him because I once saw his handwriting -- [you were speaking about Khieu Samphan] -- when he had sent a letter to his friend in the Special Zone."

So my first question regarding this is the following: How long was this laissez-passer valid for; for three months, for six months?

[14.10.54]

MR. PRESIDENT:

Witness, please wait.
Yes, International Co-Prosecutor, you may proceed.

MR. SMITH:

Thank you, Your Honour. I think the question relates to the passages that the defence counsel were putting to the witness. We didn't get the document number that he was referring to of the Co-Investigating Judges' statement, and I just would ask perhaps for the ERN number of that passage. And perhaps if the witness could be provided that passage so that he could provide a more enlightened answer.

[14.11.33]

BY MR. VERCKEN:

That's true. I apologize. And I went a bit too fast.
So yes, I do have here a copy that I can give to the witness, a copy of his statement -- or rather, of his examination of 1 April 2008, and the index is E3/106, and the ERNs are the following: French 00177646, English 00176535, Khmer 00177625.
Q. So you have had the time to look at this document. And what was the validity of this laissez-passer? Was it three months, six months?

[14.12.56]

MR. KAING GUEK EAV:

A. Mr. President, since the implementation of the pass until the time that I was asked by the Investigating Judges, it had been 30 years, so I am confused. I'm not sure whether the pass was valid for three months or six months.

I was talking about the validity over a period of a semester because Pang had gone, and I was issued a pass. So I was thinking of this period. That's why I said it was valid for a period of six months.

MR. PRESIDENT:

Your mic was not activated when you spoke the last time, Duch.

MR. KAING GUEK EAV:

Mr. President, the validity of the pass -- well, when it comes to the validity of the pass, I am confused. I'm not sure whether the validity was six months or three months. I'm not so sure.

I think between the time that Brother Khieu went to live in Neak Loeung and the times that Pang or Brother Hem signed the pass for me, it was over a long period of time. So on this basis, I said it was probably six months.

[14.15.27]

BY MR. VERCKEN:

Q. Are you sure that this was Khieu Samphan's signature?

MR. KAING GUEK EAV:

A. Mr. President, at that time there was no signature. It was initialled. It was written quickly just like my name. We wrote our name in a quick manner.

And as for my answer, whether I am sure or not -- as for the writing, I am sure that it was the writing of Brother Hem, and the reason is (microphone not activated).

[14.16.24]

Q. So you're saying this on the basis of initials that were drafted very quickly.

A. And when we look at the writing, it recalls the letters that he wrote -- Brother Hem wrote to his friend sometime in 1973 or 1974.

MR PRESIDENT:

Can witness repeat what you have just said? Because before that your mic was not activated, and so there was no translation. Without the mic being activated you cannot be interpreted.

[14.17.13]

MR. KAING GUEK EAV:

A. Mr. President, the writing on the pass as I trust what Pang said, that writing belongs to Brother Hem is because Pang said Khang's handwriting belongs to Brother Hem, and Brother Hem signed the pass. So, when it was clearly told to me, I recalled his handwriting back in -- that I saw in 1973 or 1974.

BY MR. VERCKEN:

Q. So, to summarize what you just said, on the basis of a piece of handwriting that you saw a few years before on a letter which you compared to two initials that were scribbled quickly on a laissez-passer you are able to conclude that it was the same person? Is that what you're saying?

MR. KAING GUEK EAV:

A. His full name was written on that pass.

[14.19.01]

Q. Which full name?

A. The entire content; the older writings on that pass belongs to Hem.

Q. I know that the question has already been put to you and maybe the question might seem a bit excessive but can you -- are you able to analyze handwriting even if you claim to have done so but what qualifies you to do this? You had no document to make any comparisons and you're just comparing this with what you remember from several years ago. So, do you have any kind of specific experience in terms of comparing handwritings and especially under such difficult circumstances?

A. Mr. President, I would like to indicate that there was no reason for Pang to lie to me; that the writing in that pass did not belong to -- belongs to Brother Hem so this is the important reason. How could a superior lie to his subordinate?

[14.20.43]

It was only about a pass. It was about who signs the pass. How could Pang lie to me? I don't think so.

Q. Are we speaking about the same Pang, the same Pang who was arrested, tortured and executed at S-21?

MR. PRESIDENT:

Witness, please answer. It was too quick for you to answer so there was no translation.

MR. KAING GUEK EAV:

A. Yes, that Pang was the same person.

BY MR. VERCKEN:

Q. And can you explain one last point to me; what was the power of a laissez-passer that was signed by someone who was completely unknown?

MR. KAING GUEK EAV:

A. Those who knew, knew about that and those who did not know, did not know about that. Soldiers would recognize that the pass was signed by Brother Khieu; they would recognize the handwriting of Brother Khieu.

[14.22.24]

Others, when seeing that kind of letters or pass, would recognize that the letters were written by a certain person, they knew that.

Q. And a laissez-passer that was drawn up by a certain person was enough to allow you a freedom of movement?

A. At that time, if the pass was not signed by Khim and the soldiers walked, they would be arrested.

[14.23.23]

Q. Who was Khim?

A. Mr. President, Khim is Khieu; it was used as a signature on a pass.

Q. But it was not Khieu Samphan, was it?

A. Khieu was Son Sen. Khieu Samphan would be used with Khang.

Q. So, this laissez-passer didn't allow you to go anywhere if I

understand you correctly, the laissez-passer that was signed by a so called Pang?
A. No pass was signed by Pang.
Q. I'm sorry, I said "Pang" -- that was my mistake -- instead of "Khang"; I meant "Khang".
So, if I understand what you're saying correctly, a laissez-passer signed by Khang didn't allow you to go anywhere because it was necessary for the laissez-passer to be signed by Brother Khieu; is that the case?
A. No, it does not mean that. When Brother Khieu was in Phnom Penh, our pass was signed by Khim.
Whenever I was asked for the pass I would show the pass and I would be allowed to go and after Brother Khieu went to Neak Loeung for a period of time, I held a pass signed by Khang, and no one asked me for the pass with the signature of Khang.
[14.26.06]
Q. Yes, fine, but the revolutionary name of Khieu Samphan -- and everybody knows his name was Bong Hem, wasn't it? It wasn't Khang, whom you are suddenly speaking about.
A. We are on two different sides now. We are on two different sides. We do not understand each other.
Brother Khieu has a lot of names. 89, Son Sen; 62, Son Sen; 21, Son Sen. And he used the name Khim when he signed on the pass; that was for the pass only. Besides, as for Brother Khieu Samphan, most people knew him by his name Hem. I knew him by

"Hem" as well, but when he signed on a pass, he used the name Khang, it was Khang.
Q. And everyone knew that?
[14.27.53]
A. Even though I was asked for the pass, I believe I would be able to go because the pass was official.
Q. You are telling us that it was Son Sen who signed the laissez-passers normally. Is it because he was your superior?
A. He was my superior.
Q. And is this why he signed your laissez-passer?
A. It is correct.
Q. What was the validity of a laissez-passer signed by Mr. Khieu Samphan whereas Mr. Khieu Samphan was not your superior?
A. Mr. President, Khieu Samphan was a name used in the past, long time ago. So people in Trapeang knew already that the name was used to sign on a pass. They all knew. So, as to the value of the pass, it was up to the one who asked for it, who checked it.
Q. Where is the pass today?
[14.30.09]
A. It is correct for you to ask me this question. I sent to the -- I told the Office of the Co-Investigating -- rather the Co-Prosecutors to look for the pass at S-21 because when I ran away, I dropped it there.
Q. And why wasn't it Nuon Chea who signed the pass, since you seem to be implying that he would be the successor to Son Sen?

A. Pol Pot and Nuon Chea were high above the hierarchy so it would be unlikely that both would sign the travel pass.

[14.31.27]

Q. Khieu Samphan was only president of the State Presidium, in other words, nothing at all, is that right?

A. Khieu Samphan was not as high as Pol Pot and Nuon Chea but he was still high that he could sign the pass. He was a member of the Central Committee, a full fledge member.

Q. Have you got any kind of documentary evidence or are you aware of any that might serve to confirm your statement about this pass?

A. The year today is 2012; from 1979, it has been 34 years. Many people are separated and died. How could it be possible to find someone who would know about this or to arrest more people for them to know about this? Please do not make any more arrest, either because you believe me or not.

Q. Let's change the subject. In the Foreign Ministry, who was in charge of taking prisoners to S-21?

A. I will not answer this question.

Q. Why, Witness, do you not want to answer it?

[14.34.25]

A. As I said earlier, in general it was Comrade Lin who sent them to me and now you want to dig up about anything else?

Q. No, I'm not here to dig. I would just like to draw your attention to your statements. On the 3rd of June 2008, in E3/60, page 9 and 10; French ERN 00195616 and 17; English 00195606; Khmer 00195598 -- and I read: "In the business of the foreign minister, that ministry there was a messenger who brought the prisoners to S-21, it was a person called Cheam, who was the same age as me. People were not detained within the ministry but taken directly to S-21."

Can you confirm the name of the individual that you quoted to the Investigating Judge in 2008?

[14.36.27]

A. That record of interview at the Office of the Co-Investigating Judges --

MR. PRESIDENT:

Court officer, can you deliver the document from the Counsel to this witness. Also, can you project the document on screen?

BY MR. VERCKEN:

Thank you, Mr. President. It's just being done.

Q. So your answer please, Witness. Do you confirm what you said to the Investigating Judges of the ECCC on the 3rd of June 2008?

MR. KAING GUEK EAV:

A. I never reject any statements that I made before the Office of the Co-Investigating Judges at ECCC.

[14.37.46]

In this case I also do not reject this document. The thing is I just do not wish to respond to the Counsel's question.

Q. Well, without answering you therefore confirm what you said in

2008, is that right?

A. I will not respond to your question regarding the someone or about something that you want to lead into.

MR. PRESIDENT:

The Chamber will take a 20-minute break, and we shall resume at 3 p.m.

Security guards, can you take the witness to the waiting room and bring him back here at 3 p.m.?

THE GREFFIER:

All rise.

(Court recesses from 1439H to 1501H)

MR. PRESIDENT:

Please be seated. The Court is in session.

Before handing over to defence counsel for Mr. Khieu Samphan to continue his questioning to the witness, the Chamber would like to remind the witness that the Chamber has noted that you have been tired for the time that you spent in giving testimonies before the Chamber. This is a fact. However, at the same time, the Chamber hopes that, Mr. Witness, you continue to give your testimony for another one hour.

The Chamber has already informed the witness previously that witness has the obligation to answer to questions posed by the parties on the basis of what you hear, know or experienced concerning the facts or events relevant to the case. And as indicated by you, Mr. Witness, yesterday, we are here to seek the truth concerning the events occurred.

The United Nations and the Cambodian government agreed to create this tribunal, and for this purpose, again, the Chamber hopes that you continue to try to contribute or help the Chamber -- or assist the Chamber to seek the truth. Can you do this, Mr. Witness?

[15.03.45]

MR. KAING GUEK EAV:

Thank you, Mr. President. I volunteer to continue giving testimony.

MR. PRESIDENT:

Thank you, Mr. Witness.

I now hand over to the defence counsel to continue his questions to this witness.

BY MR. VERCKEN:

Thank you, Mr. President. I believe I'll be finished very soon. And in line of what you said to the witness, I will repeat the question that he did not wish to answer before we adjourned for the break.

[15.04.29]

Q. And the question was: Who, at the Ministry of Foreign Affairs, was in charge of bringing prisoners to S 21?

MR. KAING GUEK EAV:

A. Thank you. Earlier, I answered that in general it was Comrade Lin; and I'm talking about a general practice.

And now you are asking on a different issue, but I will answer to that question following the direction from Mr. President. I do not reject my answers to the Office of the Co Investigating Judges. Comrade Yem once brought Comrade Thean (phonetic) to S 21.

Q. And the name of the comrade you just mentioned is spelled C-h-e-a-n; is that correct?

A. Mr. President, the messenger of the Ministry of Foreign Affairs was Cheang (phonetic).

[15.06.21]

Q. Thank you, Witness.

I have very few questions left.

I think there was a little misunderstanding before. I believe that you did not answer directly the question regarding how you knew that Roeung was working at the state warehouses.

A. Mr. President, Comrade Roeung worked at the state warehouse. He met me during the 17 April ceremony at Borei Keila. He worked especially in the South Zone. I knew Roeung from a long time ago.

MR. VERCKEN:

I have no further questions, Mr. President, and our team -- the Khieu Samphan defence team is also done with questioning.

MR. PRESIDENT:

Thank you.

[15.08.12]

Because we still have time, and the defence counsel for Mr. Nuon

Chea was informed the other day that, if we have any time left, the floor will be given to the national defence counsel for Mr. Nuon Chea so that he can put some more questions to this witness, the floor is now yours, Counsel.

QUESTIONING BY MR. SON ARUN RESUMES:

Good afternoon, Mr. President. Good afternoon, Your Honours.

Once again, I thank you very much that I have another opportunity to put more questions to Mr. Duch, the witness.

Q. First of all, Witness, I would like to ask you about what you told defence counsel for Mr. Khieu Samphan. You said there was a letter signed by Mr. Nuon Chea. There were four letters, actually, telling you to work with Brother Vorn. Do you still have the letter, or did you already give to -- give it to the Office of the Co Investigating Judges or the Office of the Co Prosecutors?

Secondly, was there any intervention from Mr. Nuon Chea?

[15.09.59]

MR. KAING GUEK EAV:

A. Mr. President, I would like to indicate to the Chamber that, in the letter, it was written as introducing Comrade Vorn to work at the place, and there was a mention of the name Buon, or Brother Buon. That was a secret name for Brother Nuon Chea. As I remember, I did not keep the letter. I forgot about it.

Other letters of Brother Nuon, yes, I kept those other letters, but when I ran away, I did not bring them with me, so I'm not sure whether the Office of the Co Prosecutor could get a hold of those letters.

So this is my answer to you. And I'm not sure about the rest of -- the other part of your question, Counsel.

[15.11.22]

Q. My other question is: Do you believe that this is the order of Pol Pot, or it was the intervention -- direct intervention of Mr. Nuon Chea?

A. Mr. President, as a principle, it was Brother Pol who decided, and it was Brother Nuon who would monitor the practice. So I believe that it was the decision by Brother Pol, and Brother Nuon monitored the work, because Brother Pol never showed up in person.

Q. Thank you.

My next question is-- In a statute of the CPK it reads that the deputy secretary followed the secretary, so it is not possible for Nuon Chea to decide, even though it was his own work, for example concerning the assembly for education. Therefore, whether the work was correct or not, it was for Pol Pot to decide or to be responsible, and so the ultimate decision was on -- was to be made by Pol Pot; is this correct?

[15.13.11]

A. Mr. President, in his capacity as a general controller, it is correct, yes, he was the one who decided on the work. And once the decision was made, the decision had to be executed. The subordinate would be implementing the order, and there was someone who would be monitoring the work.

For example, as indicated in the decision of the 9th of October 1975, it stated clearly that, with the absence of Brother Pol, Brother Nuon would decide on Brother Pol's behalf. Through the analysis of documents from S 21 -- that is, after 1978 -- I did not see that Brother Nuon sought any advice from Brother Pol; he only wrote short annotations, for example regarding the arrest of Kang Chap in Preah Vihear Province.

[15.14.39]

So, when the secretary was not there, it was the deputy secretary who would take over the work. That would fall in line with the Statute of the Party as well.

And when it comes to the Party's work, it meant that the control of the biographies of the cadres. We were told not to believe in the networks of the enemies; we were told to believe in our own networks.

Bong Nuon was in charge of Long Norin's biography. He was better than -- he knew better than Ieng Sary did. Especially when Pol Pot was not there, Brother Nuon would make the decision. And when Pol Pot made the decision, it was Pol -- it was Nuon Chea who would monitor the work that was executed.

Q. Thank you.

Witness, you were the head of S 21, and the rank was equal as the chief of the district, this according to your answers to the Co

Prosecutor.

My question is: Given this rank as equal to the head or the chief of the district, I assume that you were educated at the same level as chiefs of district. How could you understand or know a lot more than that?

[15.16.55]

A. Mr. President, I lived in the Communist Party of Kampuchea since 1971, and when it comes to the study of the Party Statute, I studied it since 1977 (sic), so I knew that the Party would assign a core pillar and a Central Committee. That is my initial understanding.

And I read a Chinese book which talked about the revolution in China, and I gained such knowledge since then.

So it has nothing to do about the rank being close to the chief of the district or the head of the division.

So we understand what was stipulated in the Party Statute, and I learned since 1967 about the discipline of the Party.

[15.18.09]

Q. Thank you. Your answer is a bit lengthy, and I did not intend to ask you to discuss that, not things that you learned in China or whatever.

My question is: Given your status, your rank, how could you know a lot about the Party? Did you know about that because you were told or did you know about that because you read documents?

A. Mr. President, in the Party Statute, it – it mentions clearly that the leadership in the country is the Central Committee and it stated clearly that a subordinate obeyed the superiors. It was also mentioned in the Statute in 1967, the Statute that I learned, the Statute that was created in 1960. I learned that clearly and I was determined to respect the Party. When I came to M 13, I was told that I was to obey the decision of the Central Party. So this is the story.

[15.19.49]

Q. In your role as -- or as your -- as the head of S 21, you were also in charge of the interrogators and the one who examines the confessions. Would like to state again, when you became the head - rather, before you became head -- the head of S 21, what roles did you have? Did you have the same roles when it comes to -- if you compare the roles between Pol Pot and Nuon Chea? Do you understand my question?

A. Mr. President, I have answered to that question. I indicated already, during the Case 001 Trial, I indicated again and again; the Chamber is my witness.

S 21 -- the hierarchy at S 21 is not after Duch, it was Mam Nay. It's not Mam Nay, it was Duch. For all work of the Communist Party of Kampuchea, in the face of the history, the ones who were responsible for this are these two people, Pol Pot and Nuon Chea. And again, in the absence of Pol Pot, Nuon Chea decided on the work.

[15.22.07]

Q. Do you have any evidence to say that, in the absence of Pol Pot, Nuon Chea would decide, and when Pol Pot was present, Pol Pot would decide and Nuon Chea would monitor the implementation?

A. First, we all reviewed the document dated 9 October 1975. The contents of it I already stated.

If one is not present, the other one will make a decision. So one would make a decision and one would monitor the implementation of that decision. And if one is not present, one would decide and would also implement the decision.

And we also have the evidence regarding this, in particular evidence from S 21, the confession of the person named Kung Kien, that I mentioned this morning.

[15.23.21]

The prosecutors already know the document number of that confession of Kung Kien. So I reported about that document to Brother Khieu - that is, to Son Sen -- and it was likely that Son Sen would deliver it directly to Brother Nuon -- that is, the evidence showing that, in the absence of Pol -- of Brother Pol, Brother Nuon would decide. So that was evidence during the time that Pol Pot declared that he was not well.

And for all these details, you may consult the statement I made with the Office of the Co Investigating Judges. So you would have both: the documents with my handwriting and the handwriting of the relevant individuals. So the documents exist, and the evidence also exists.

Q. Thank you. When Son Sen went to the East Zone on his mission, did you know that Son Sen went to the East for any particular period? And when did he return?

A. Son Sen separated from me. Initially, I did not know where he went to, but later on my younger sibling, who was a medic at the general staff, came to visit - to visit me and said that he was there, at Neak Loeang, as he was at Neak Loeang as well, and that's how I knew about that.

And when you talk about the period, Son Sen separated from me on the 15 of August '77, and I did not see him until the 25th of June 1986, when he called me in order to put me to work. So it was a long period that I separated from him, so from '77 until the 25th or the 26th of June 1986, if I could recall.

[15.26.22]

Q. So, from the 15 August 1977, when Son Sen went on a mission to the East, you said that Nuon Chea was in charge of security on his behalf.

I'd like to clarify that, when you returned -- I think, the 26th of June 1986; is that correct, if I am not mistaken?

A. I think we two misunderstand each other. I said I separated from Son Sen on the 15 of August 1977 and I met him on the 25th or the 26th of June 1986. Either it's the 25th or the 26th 1986, when he called me to put me to work again.

Q. So the time that you separated from Son Sen was quite a long time.

However, in between, was there any document stating his return? If he were to return upon the completion of his mission to the East for one, two, or three months, did you ever -- did he ever contact him in his capacity of the Minister of Security?

A. Son Sen and I, since we separated, I maintained our communication through radio communication on a monthly basis until the last month. That is in fact after the arrest of So Phim -- I meant it's before the arrest of So Phim.

[15.28.37]

Q. Thank you. I'd just like to -- need your clarification that upon the return of Son Sen, I believe, although I do not have any document to put it into evidence-However, from my understand, the mission was not that long, he went on his mission and returned, because through your vertical network -- that is, to report to the Ministry of Security--

My question is: Upon his return, did he still work as the Minister of Security? If so, why you did not meet him during that period?

MR. PRESIDENT:

Prosecutor, you may proceed.

MR. SMITH:

Your Honour, I object to the question because it's based on information that counsel says that he - that he doesn't have or doesn't know of; it's just his own intuition that he came back. And so it's a leading question and it's actually not based on any substance that he can put forward.

I mean, he can ask the witness: Did Son Sen return, and when did he return? But he's putting forward facts that he's unaware of himself.

[15.30.13]

MR. PRESIDENT:

Counsel, do you have any reply?

MR. SON ARUN:

I'd like to reply to the objection raised by the Prosecution.

In fact, the witness said: When Son Sen returned, the period in between was too long and that he could not use that event to incriminate my client. In fact, the Minister of Security was still in his position upon the return of that minister to Phnom Penh.

If the witness said he met with the minister on the 25th or 26th of June 1986, it was far too long a period. So, then, it means the work between the Ministry of Security and other security centres could not function.

I, of course, do not make a conclusion, but it seems very unlikely.

[15.31.32]

MR. PRESIDENT:

The objection by the Prosecution is sustained.

Counsel, please rephrase your question and try to avoid your subjective conclusion. You need to rely on the events and the relevant facts within the case file.

BY MR. SON ARUN:

Thank you, Mr. President.

Q. I'd like to continue with my questions.

Based on your statement to the OCP on the 26th of March 2012 that the subordinate needed to report to the superior, namely the platoon heads to report to the company and the battalion heads to report to the regiment, how come you made a report to Nuon Chea in the absence of Son Sen? Does it mean that it is in contradiction to the hierarchy -- the hierarchical structure that you stated before the OCP, and which is also contradictory to Chapter 3, Article 6, of the Party statute?

[15.33.07]

MR. KAING GUEK EAV:

A. As an independent regiment, S-21 is under the subordinate of the general staff. As for the logistics, weaponry, and medical supplies, clothing, uniforms, for instance, they are under the direct subordinate of the general staff. Before Son Sen was engaged at the battlefield, all the yearly trainings at S-21 was with Son Sen.

Besides, after the 15 August 1977, I separated from Son Sen. I use that word: we were separated.

And as for Son Sen, I already stated that he was appointed as Minister of -- at that time, it was called Minister of Country Defense, not National Defense. That was his title then. And his role was in charge of the general staff, and his activities were accordingly so.

In the time of need by the country, the general staff was ordered to go to station in Neak Loeang. So it was upon their communication that -- when he was called to the ministry; that was in relation to the general staff.

Separately, at S-21, we were under the control of Son Sen. Son Sen already stated that: "Comrade, you need to report all of the documents to S-21 to me personally, as I represent Angkar." And that was his exact words. And in practice I never reported to anyone else except Son Sen.

[15.35.38]

Now, let me refer to the Party Statute. What you stated is correct: the subordinate has to respect the superior. So the regiment needed to report to the division, but for the independent regiment, it is needed to report to the general staff.

However, S-21 was established by Article 8 of the Party Statute, under the control of the - of the Standing Committee. I do not have that document with me. If you need, I would seek the President's permission to show the article on the screen.

Q. Yes, I have that article with me. I thank you for your reply. However, I do not have much time and I have more questions to ask, so I would prefer you to respond briefly and precisely.

You -- in your reply to the Prosecution that, in 1979, Brother

Nuon ordered you to smash all the remaining prisoners, can you reconfirm whether the order from Brother Nuon was actually the order from Nuon Chea or from someone else? And that's question number 1.

And question number 2: Where was Son Sen in early January 1979, before the arrival of the Vietnamese soldiers in Phnom Penh? How was the orders executed? Was it verbally or in writing? Was it with any particular signature or stamp? If not, did you believe that it was the order from Nuon Chea at the time?

[15.37.52]

A. Thank you, Counsel. Let me clarify that. Brother Son Sen was likely engaged in the battlefield from the 25th of November 1978 -- my apology, it was '77 -- because the signature on the document sent to S-21, as we seen during the hearing in Case 001, his last signature was on the 25th of November '77. So I believed that Son Sen was engaged in the front battlefield scenes. As for my communication through radio, it was not frequent. So Son Sen never met me in person from that date. That's the first point.

And for the second point, regarding the order to smash the remaining prisoners at S-21, the order was from -- on the 1st of January 1979, but I was not that precise. However, the remaining prisoners were all smashed on the 3rd of January '79. That is based on my recollection.

So Brother Nuon issued the order directly through me. And let me recall some of the words in the order, and that I met him in person.

[15.39.39]

He said: For all the remaining prisoners, you need to smash them all, Comrade.

Then I asked him: So what about the "Yuon" detainees? Do we have to smash them? Because we need to prepare the text for the radio broadcast.

He said: Smash them all, because sooner or later we will find them.

Then I asked: About the "Yor-8" [Y-8], do we have to smash them too?

Then he said: That is up to you.

And that was his exact wordings from him to me at the time.

Q. Thank you, Witness.

Another question for you. You talked about the standing, the zone -- the Standing Committee at the zone was the one who made a decision at that zone level. What about at the sector, or at the district, or the cooperative levels? Was it a common practice that the secretary at those respective levels need to make the decision or need to request for approval from the upper echelon?

[15.41.11]

MR. PRESIDENT:

Witness, please wait.

The International Prosecutor, you may proceed.

MR. SMITH:

Mr. President, just for clarity's sake, it's not clear whether counsel's referring to the decision to smash from the 30th of March 1976, which authorized zones to kill, or whether he's referring to other general decisions not in relation to killing. I think it would be useful for the witness to know what type of decision he's referring to.

MR. PRESIDENT:

Thank you, the Prosecution.

[15.41.57]

Counsel, could you rephrase your question to be more precise for the witness to respond? Usually, we base questions on the document. So, usually, you can pose general questions based on the document.

BY MR. SON ARUN:

I do not wish to reply to the objection raised by the Prosecution. I'll move on to another question.

Q. Regarding bringing the people to Phnom Penh, it was at the discretion of the secretary or deputy secretary. How did you know about that? You were only just chairman of S-21.

A. The soldiers were established in 1956 as a secret force for the Party. It was established by each zone. However, they were under the control of the Party. Talking about the Party, here, means talking about the secretary and the deputy secretaries. In 1974, this force was gathered to become a division under the control of the Party secretary. That's how it was formed.

Regarding the 1971 Party Statute, it was rather slightly different from the one that we have. Soldiers were the close children of the Party. That's how it was stated.

Q. Thank you, Witness.

Regarding the role of S-21, which was to get the confessions which would implicate others -- that is based on your statement before this Court -- and the superior, that means your superior, was that your common practice at the time?

[15.45.16]

A. That was the common practice, Mr. President. That was the way the CPK practised since the Issarak period.

Q. When Son Sen went to the East Zone on his mission, you told the Court that, during that period, Nuon Chea was in charge on behalf of Son Sen. Did you ever see any official document appointing Nuon Chea in his place in charge of security? And who appointed him?

A. Since I went to see Son Sen when I was under his control, he said what was told to be done by Brother Nuon. I did not just make it up. It showed that above Son Sen was Brother Nuon and then Brother Pol, and that was commonly known.

And on the 15 of August 1977, I was called -- I think it was Comrade Lin or Comrade Nat -- I was called to work, and at that time it was not at the location to the north of Borei Keila, where Son Sen worked, it was at some other institute. I went to the second floor and I met Brother Nuon there. He said: Comrade

Khieu now go through the front battlefield, and I am here to lead you on his behalf; and we also had Comrade Pang and Comrade Lin both of whom you already know. That's what he told me.

[15.47.49]

So, as he was a deputy secretary, everybody knew; we all knew that Brother Nuon was more senior than Brother Khieu. So that's how it was.

Regarding any official transfer of authority or any official stamp, no, it did not exist.

Q. Last week, on the 5th, I actually asked you the question, but due to the time limit, I'd like to ask you the same question with some additional supplementary questions.

When you were asked by the prosecutors whether you believed that the "Revolutionary Flag" magazine could be duplicated, and you said you believed that, yes, they were the copies.

And the question is: Why do you believe that they were the copies? What do you base your assessment on? That's question number 1.

And for question number 2: Do you know where the original copies of the magazines are kept when you received? And do you know where they are located or kept now? I refer to the original magazines.

[15.49.27]

A. Regarding the "Revolutionary Flag" magazines, I did read them successively since late 1971 or early '72. That's point 1.

And point number 2, that I acknowledge that the photocopies of the "Revolutionary Flag" magazines, I already stated that I did not see them making photocopies, but I believe they are the copies of the original copies.

And if you ask about the location of the original copies, maybe some were collected from S 21, and I believe the original copies are maintained by Chhang Youk.

Of course, I know about these movements because I also follow the proceedings in this Court.

Q. I have another question for you. The document that is your handwritten document, E180, with the title "Lessons Learned from the Experiences of the Elders of Former Generations" -- ERN in Khmer is 00787939, in English, 00791979 -- you wrote that Ho Chi Minh decided to remove Son Ngoc Minh to Hanoi and left Sieu Heng in charge in the country.

[15.51.44]

What were the policies of Ho Chi Minh? And do you have any evidence to support the policy by Ho Chi Minh, so that the Cambodian people can understand about the historical event?

A. The document of this kind was maintained in the document by the CPK after the general convention. Ho Chi Min removed Son Ngoc Minh to return to Hanoi, and there were 1,100 Cambodian combatants and cadres; they were taken to study in Vietnam. And that was the fact.

[15.52.44]

As for his exact wordings, we did not have any of that.

Sieu Heng was kept in the country. That point was also mentioned in the document of the CPK.

[15.53.24]

Q. I have another question. In your writing, E180 -- in ERN in Khmer, 00787952; English, 00791999; that is after the coup d'état -- you talk about the presence of the Vietnamese troops in Cambodia. You said that the "Vietnamese troops who took refuge in Cambodia defeated the Lon Nol authorities at district levels and established a provisional authority.

"This provisional state power belongs to the Vietnamese Workers' Party. However, in appearance it was Cambodian:

"[As] cadres sitting on the Sector and District Party Committees were all Vietnamese with Khmer names.

"[The] Cambodian troops who were mobilized by [Vietnamese] were part of the Vietnamese party and under the control of the Vietnamese Company Committees. "Confiscated weapons and booty belonged to the Vietnamese party.

"Cash and taxes belong to Vietnamese party."

That was the extract from your paper. You said that the authority was a "provisional authority" and that it shall be delivered to the Khmer Angkar.

I want to ask whether was there any handing over to the Khmer authority. If so, when was the event?

[15.55.25]

A. Let me give you one or two examples which are historical events.

In -- my native village is in Stoung. Vietnamese liberated Stoung about the 16th of March, let's say -- I apologize, let's say it was in June. Then they appointed a cooperative to become a district front committee. His name was Prum (phonetic). And later on the Khmer Angkar arrived with Comrade Noeun (phonetic). Actually, Noeun (phonetic) died at S 21. He became the district secretary at the time. So that was the changing over of the authority.

As for S'ang area and Kaoh Thum, Leuk Daek and Kien Svay, they were controlled by those authorities from An Giang province. They appointed their front committees, district committees-- I get confused. They organized the sector committee and the district committee and they appointed the soldiers, the front committee at the district and the sub-district and the village levels.

[15.57.07]

So they brought to Vietnam all the booties and confiscated weapons and also the taxes. An Giang authority controlled all these.

By July or August, the East appointed a party committee for Sector 25 to protest against the Vietnamese authority until the Vietnamese authorities shot dead a tax - a Cambodian tax collector to the south of Preaek Sdei. And until that December, the authority was handed over from Sector 62 of An Giang to the sector under the control of the East. That is about the handing over.

Sometimes it was shorter; sometimes it was a longer period. So, in Stoung, it was in a short period of time for the transition of power.

Q. Thank you.

In the paragraph which I read, I have five questions and I already asked one. So I still have only four more questions for you.

For question number 2: Why the Vietnamese Party established the authority to control within the territory of Kampuchea at the time?

[15.58.53]

A. I think this would lead to my conclusion as I analyze the situation, and I can draw a conclusion. Vietnamese and Vietnamese soldiers took refuge in the Kampuchean territory, and during the coup d'état, Lon Nol got assistance and weaponry supply in a ship by SEATO, and he also returned the Vietnamese migrants back to Vietnam.

They were detained first in various locations. One was near Psar -- Kandal Market and they were sent through other refugee organization or Red Cross to Vietnam. That was the time the Vietnamese soldiers from the South raised the flag of the United Front to defeat the Lon Nol authority and to take control of the local authority.

And what was the purpose of that? In fact, we relied on the Vietnamese assistance. However, in fact, Vietnamese took the opportunity to control Kampuchea, but of course that not be - that was not possible. But they stay as well as they could and where they could benefit from the area.

[16.00.54]

Q. Thank you.

I have three more questions, then it's finished.

Regarding the Vietnamese authority in Cambodia, how many were they? Can you-- And where were they in Kampuchea? Can you tell the Court?

A. The Vietnamese committees who controlled soldiers and established by Vietnam in Kampuchea after - after the coup d'état in 1970, they were all -- went back to Vietnam. I only know the committee commander in Kien Svay.

As for the committee controlling KaohThum district, was Nhien Nam Do (phonetic). They all went back to Vietnam.

Q. Thank you.

This is my last question: How can you explain the strategy by Vietnam on the Kampuchean territory?

[16.02.29]

A. Let me talk about the event after the coup d'état of 18 March 1970.

We did not seek their support or assistance; they were already there. They used weapons to chase away the Lon Nol authority.

And what was the purpose? We also can't explain that. So it is very difficult to say about the real intention because we -- no one explained that to us.

MR. SON ARUN:

Thank you, Witness. Thank you, Mr. President. I conclude my questions.

MR. PRESIDENT:

Thank you, Counsel. Thank you, Witness.

The time is now appropriate for the adjournment.

Before the adjournment, the Chamber would like to ask all the three defence teams whether your clients are intending to confront this witness.

We may start from Nuon Chea's defence team.

MR. PESTMAN:

Thank you, Mr. President. As we announced last week, if I remember correctly, our client would like to read a statement, or give a statement in response to this witness' testimony.

[16.04.40]

And now that I am on my feet, there's also some other more procedural points we would like to raise next week. I think we have to digest what has happened and how the examination of this witness unfolded. And we would like to come back to at least two decisions your Trial Chamber took during the examination of this witness, which we believe violate our right to examine this witness effectively. But I will come back to that next week.

But to answer your first question -- or your question, our client would like to respond to what this witness has said in the past weeks. I do not expect it will take more than 10 to 15 minutes.

[16.05.49]

MR. PRESIDENT:

The schedule that we are intending to have is for your clients to question the witness; it's not for the lawyers. So you may need to consult with your client whether your client wishes to confront this witness.

MR. PESTMAN:

I want to ask him whether, in addition to the statement he would like to give here, he has some questions for the witness as well.

(Judges deliberate)

[16.08.29]

MR. PRESIDENT:

What about Ieng Sary's defence?

MR. ANG UDOM:

Your Honours-- Also, good afternoon, Mr. Kaing Guek Eav. Mr. Ieng Sary already declared his exercise of remaining silent and he still maintain his right. As for witness Kaing Guek Eav, he will maintain that right as well. Thank you.

MR. PRESIDENT:

Thank you for stating the ground.

As for Khieu Samphan's defence?

MR. KONG SAM ONN:

Thank you, Mr. President. Mr. Khieu Samphan does not wish to question the witness, Duch. Thank you.

(Judges deliberate)

[16.12.03]

MR. PRESIDENT:

Thank you to all the three defence teams for your response.

The Chamber would like to inform Nuon Chea's defence that, if you wish to make a remark or observation regarding the proceeding in questioning this witness, please put it in writing and submit it to the Trial Chamber. All parties are having the same right and they also have the right to respond to the submission by Nuon Chea's defence team in writing.

And, regarding that Nuon Chea wishes to make a statement which takes five to 10 minutes, that's all what we get.

And as for the two other defence teams, they do not wish to question this witness.

The time is now appropriate for the adjournment.

Once again, the Chamber would like to thank the witness, Kaing Guek Eav alias Duch, for your endeavour to respond to several questions during these several days period with patience and best effort.

[16.13.41]

We, the Chamber, do not have any question for you at this stage.

Security guards, you are instructed to take Kaing Guek Eav alias Duch to the detention facility.

Lead Co-Lawyer for civil parties, you are on your feet in a very last minute. It seems very inappropriate to do so. Next time, please try to use the time within the Court session, and just not after or -- or immediately before the adjournment of the day.

MS. SIMONNEAU-FORT:

Mr. President, please forgive me for taking the floor at the very last minute. I won't be very long.

I thought that the Chamber had taken a decision regarding Mr. Nuon Chea's statement. If this is not the case and if it is indeed possible for Mr. Nuon Chea to make a statement, well, then, we would like to be able to discuss this when the hearing will resume -- that is to say next Wednesday.

[16.15.02]

But we would like to express ourselves. We thought that the decision had already been taken; we didn't believe that this point could be re-discussed.

MR. PRESIDENT:

The Court is now adjourned and it will resume on Wednesday, 18 of April 2012 -- that is after the celebration of the Khmer New Year -- and it will commence at 9 a.m.

Security guards, you are instructed to bring the three Accused to the detention facility and have them back here, in the courtroom, on the morning of 18 April 2012, before 9 a.m.

(Court adjourns at 1616H)