



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

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

18 April 2012
Trial Day 51

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

The Accused: NUON Chea
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KHIEU Samphan

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LIM Bunheng

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
MR. IANUZZI	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PAUW	English
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. SAUT TOEUNG (TCW-617)	Khmer
MR. SENG BUNKHEANG	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer

1

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

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 During today's session, we shall begin with the statement by Nuon
6 Chea, the statement he's going to make concerning the testimonies
7 of Mr. Kaing Guek Eav, alias Duch. Then we shall proceed to the
8 questioning of Nuon Chea by the Bench, should Nuon Chea wishes to
9 respond to questions.

10 The Chamber also plans to hear testimonies of the witness. The
11 Chamber has already informed to the party. This witness will be
12 heard immediately after, for example, Nuon Chea has reserved his
13 right not to respond to questions, if he wishes so.

14 The court officers are - greffiers are now instructed to report
15 to the Bench on the presence of the parties to the proceedings.

16 THE GREFFIER:

17 Mr. President, Your Honours, the Co-Prosecutors are present.

18 [09.08.15]

19 Mr. Nuon Chea, Ieng Sary, and Khieu Samphan are present.

20 Counsel for Nuon Chea is present, counsel for Ieng Sary is
21 present -- but only his national counsel is present -- while
22 counsel for Khieu Samphan is present.

23 TCW-617, who is a witness, is now ready to be called. This
24 witness has no relations to any parties to the proceedings and
25 has taken an oath already.

2

1 MR. PRESIDENT:

2 Thank you.

3 Security personnels are now instructed to bring Nuon Chea to the
4 dock.

5 (The accused Nuon Chea is taken to the dock)

6 MR. PAUW:

7 Mr. President, good morning. Good morning, Your Honours. Good
8 morning to all the parties. And good morning to the wider public.

9 I have a few short comments to make before we turn to the
10 questioning of Nuon Chea, if you would allow me two minutes to do
11 so.

12 [09.09.37]

13 We have received the email from the senior legal officer
14 informing us that we are not allowed to make submissions this
15 morning, and naturally we will respect that ruling and we will
16 not be making the submissions that we were planning to make.
17 Just for the record, we wish to state that these submissions
18 would have dealt with some important fair-trial concerns that
19 came to light during the questioning of Duch, and it is our
20 position that submissions like these -- relating to fair trial
21 concerns -- must be discussed in open court, in public, for the
22 wider audience to see and hear. And we feel that a public trial
23 means that Defence concerns as to the violation of our client's
24 fair trial rights should be discussed in public, and fair trial
25 observations should not be relegated to written submissions.

1 I thank you. This was all, for us, before we turn to the
2 questioning of Nuon Chea. I thank you for your attention.

3 [09.11.05]

4 MR. PRESIDENT:

5 Mr. Nuon Chea, you may proceed.

6 You indicated, before the Chamber heard testimonies of Kaing Guek
7 Eav alias Duch, that you would wish to make some statement -- you
8 were not allowed to do that -- and that you were advised to take
9 the opportunity of the conclusion of Mr. Kaing Guek Eav alias
10 Duch's testimony; then you could make your statement.

11 The Chamber found it difficult to offer you the opportunity to
12 give the statement before we concluded the hearings before the
13 Khmer New Year. So, today, we are now offering you the
14 opportunity to make your own statement or observation, should you
15 wish to do, concerning the testimonies made by witness Kaing Guek
16 Eav, alias Duch.

17 You may now proceed.

18 MR. NUON CHEA:

19 Mr. President, Your Honours, and my respected fellow Cambodian
20 citizens, I will be very brief, but my comments will be genuine
21 and with a sense of justice.

22 [09.13.00]

23 I would like to inform the Cambodian people that I have never
24 had, any time -- ever been responsible for the operation of S-21.
25 What Duch has accused me has been untruthful and very unjust

4

1 towards me. I have never ordered, I have never received any
2 documents from Duch, and I have never been the superior of Duch.
3 Duch is a person good at speaking. He has been a very experienced
4 person. He has engaged in several Court proceedings. He, at
5 times, confused. He could not even remember clearly the
6 annotations made on some documents. He have - he has mistaken
7 annotations made by Pol Pot for my annotations.
8 May I, therefore, ask that the Bench - the Court set aside all
9 the accusations made by Duch against me. If I had made such
10 annotations, I would like to ask that to respond to any questions
11 by any party for the time being. Thank you, Mr. President and
12 Your Honours.

13 [09.15.05]

14 MR. PRESIDENT:

15 Mr. Nuon Chea, are you now reserving your right to - not to
16 respond to parties?

17 We understand that you are, but what about the response to the
18 questions by the Bench? Do you also wish to reserve this right
19 not to respond to them?

20 MR. NUON CHEA:

21 Mr. President, I do not think I understand your question
22 properly.

23 MR. PRESIDENT:

24 Just now, we have heard that you reserved your right not to
25 respond to questions made by parties in the proceedings.

5

1 The Chamber wishes to also inform you that the Bench -- or the
2 Chamber -- is not a party to the proceedings. The Chamber, in
3 particular the Bench, is here to adjudicate your case.

4 And we heard that you only reserved your right not to respond to
5 parties' questions. What if the Bench puts questions to you? Are
6 you also reserving your right not to respond to such questions
7 from the Bench? We have already made clear that, after your
8 statement, the Chamber shall proceed to put questions to you
9 concerning the facts in the second segment of the trial of Case
10 File 002/1.

11 [09.16.55]

12 Could you indicate to the Chamber whether you are also reserving
13 your right not to respond to the Chambers as - the Chamber as
14 well as the parties altogether?

15 MR. NUON CHEA:

16 Mr. President, may I have a moment with my counsels, please?

17 MR. PRESIDENT:

18 You may have that moment.

19 Security personnels may retire so that Nuon Chea can have some
20 moment with his counsels.

21 (Discussion between the accused Nuon Chea and his counsel)

22 MR. NUON CHEA:

23 (Microphone not activated)

24 [09.18.35]

25 MR. PRESIDENT:

6

1 Could you insure that your mic is activated before you speak?

2 MR. NUON CHEA:

3 Mr. President, I would like to reserve my right to remain silent.

4 MR. PRESIDENT:

5 Is it clear, now, that you reserve your right not to respond to
6 even questions by the Bench? Is that so?

7 MR. NUON CHEA:

8 I think I may need to discuss this with my counsels first.

9 MR. PRESIDENT:

10 Did you have already – did you have that discussion, or would you
11 wish to have another moment with your counsels?

12 Please listen to my question again. The Chamber has noted your
13 statement. You indicated that you would like to reserve your
14 right to remain silent – or not to respond to questions by party.
15 The Chamber has noted this very well.

16 [09.19.43]

17 But the question is: If questions are to be put by the Bench --
18 the Judges of the Bench -- are you willing to respond to
19 questions by the Judges or not? Because today's proceedings are
20 dedicated initially by questions by the Bench, and you indicated
21 you exercise your right to remain silent; we just would like to
22 know whether your exercise of right to remain silent applies to
23 questions put by the Judges as well.

24 MR. NUON CHEA:

25 Mr. President, I would like to state again that I would like to

7

1 reserve my right to remain silent.

2 MR. PRESIDENT:

3 Thank you. We have noted your position.

4 Co-Prosecutor, we note you're on your feet. You may now proceed.

5 MR. LYSAK:

6 Thank you, Mr. President, and good morning. We just want to make
7 our position on this issue, again, clear.

8 [09.20.58]

9 There's a pending motion that addresses this. This is even more
10 disturbing, as the Nuon Chea team was put on notice – they were
11 put on notice that, if he made his statement this morning, that
12 he was to be subjected to questioning, and, knowing that, he
13 proceeded to make a statement and then to refuse to answer any
14 questions.

15 As set forth in our motion, it is simply not proper for an
16 accused to waive his right to remain silent, make a statement to
17 the Court -- that he is innocent, that he had nothing to do with
18 S-21, that his accuser is a liar -- and then to refuse to answer
19 questions. There are consequences to this, as we have submitted.
20 There can certainly be no weight to his exculpatory assertions.
21 And we would also--

22 MR. PRESIDENT:

23 Could Co-Prosecutor hold on? Nuon Chea appears to have a problem
24 hearing the rendition into Khmer.

25 Court officer, could you please ensure that his headsets battery

8

1 has not yet ran out?

2 (Short pause)

3 [09.22.54]

4 Mr. Nuon Chea, could you please indicate to the Chamber whether
5 you have missed the whole statement made by Co-Prosecutor or you
6 heard partial of the statement?

7 MR. NUON CHEA:

8 Mr. President, I have not heard anything from the Co-Prosecutor.

9 MR. PRESIDENT:

10 Co-Prosecutor, could you please repeat the whole statement?

11 MR. LYSAK:

12 Yes. Thank you, Mr. President.

13 As I said, there's a motion pending on this, but it is clearly
14 not an acceptable practice for an accused to waive his right to
15 remain silent and make a statement to the Court -- in which he
16 affectively says, "I did not do it", "I had nothing to do with
17 S-21", "my accuser, Duch, is a liar" -- to make a - for him to
18 make an assertion like that and then to refuse to answer any
19 questions to test his assertion.

20 [09.24.03]

21 As per our motion, there are consequences when an accused
22 attempts to engage in gamesmanship like this. There certainly can
23 be no weight afforded to his exculpatory assertions, and it is
24 also our position, as set forth in our motion, that negative
25 inferences can be drawn when an accused refuses to answer

1 questions. So it is important that the Accused be on notice of
2 this.

3 And at this time, we would suggest - we would like to revisit
4 this issue after the Trial Chamber rules on our motion, at which
5 time the Accused may wish to reconsider his position and answer
6 questions. And certainly we would like to make a record of the
7 types of questions that the Accused is unwilling to answer
8 relating to this matter. But I would - I would submit the best
9 time for that is after the Trial Chamber has ruled.

10 But we want our position on this matter to be very clear. Thank
11 you, Mr. President.

12 MR. PRESIDENT:

13 Thank you, Co-Prosecutor.

14 [09.25.16]

15 Lead Co-Lawyer for the civil parties, you may now proceed.

16 MR. SON ARUN:

17 May I respond to the Co-Prosecutor?

18 MS. SIMONNEAU-FORT:

19 Yes, Mr. President, Your Honours. Good morning to you all. Allow
20 us, on behalf of the civil parties, to show how indignant we are
21 regarding this position. We are also indignant from a legal
22 standpoint.

23 Mr. Nuon Chea is of the view that, whenever he wishes, he may
24 make statements, come out of his silence, say a few words, and
25 then go back into his silence.

10

1 Now, the first question that arises is: What is the possibility
2 he has to make statements? What is this right he has to make
3 statements whenever he so wishes? What is the legal status of
4 such statements? It is not provided for in the Internal Rules,
5 that he should behave in this manner.

6 [09.26.20]

7 And in particular, besides that, Mr. Nuon Chea is of the view
8 that he can avoid all confrontation, that he may make statements
9 whenever he so wishes, whereas confronting others, confronting
10 witness and the parties is the duty of all parties here, and it
11 is also part of a fair trial.

12 Due process is not only the right of the Defence; it is also the
13 right of the civil parties. It is a right recognized for
14 everyone. And if Mr. Nuon Chea continues to speak as he is doing,
15 only when he so wishes, without accepting to take questions, he
16 is not complying with this essential rule, which is the rule of
17 due process, Rule 21 of our Internal Rules.

18 Let me add this: Mr. Nuon Chea always takes refuge behind his
19 right to remain silent. I think one thing should be clear: the
20 right to silence, in civil law, is not only the right to silence
21 in common law jurisdictions, because in common law jurisdictions,
22 when an accused person speaks, he speaks under oath; and here, he
23 is not speaking under oath. And anything he says without taking
24 an oath, that does not have any weight.

25 [09.27.54]

11

1 And the right to silence is not an absolute right which is over
2 and above the fair trial rights of all the parties. And he is
3 avoiding his obligations to take questions in due process.

4 So it is completely unacceptable for an accused person to make
5 statements without accepting to take questions and to be
6 contradicted.

7 And in future the Chamber should not grant such right to the
8 Accused whenever they wish to make statements without taking any
9 questions. I thank you.

10 MR. PRESIDENT:

11 Counsel for Nuon Chea, you may now proceed.

12 MR. SON ARUN:

13 Mr. President, Your Honours, I would like to respond inclusively
14 both to the Civil Party Lawyers and to the Co-Prosecutors.

15 [09.28.54]

16 Mr. Nuon Chea has made it clear that he would like to make a very
17 brief statement of about three to five minutes. He did so -- he
18 asked that at the beginning, before testimonies of Mr. Kaing Guek
19 Eav alias Duch was heard. The President said that Mr. Nuon Chea
20 could do so at a later date. We fully respect the call of the
21 Chamber and we never disrespect the Chamber, as what counsels --
22 my learned colleagues indicated.

23 And last week we also heard that Nuon Chea wished to do so and
24 that the Chamber only allowed him to make his statement today.

25 His statement is -- was brief. He prepared in writing, and it was

12

1 shorter than a page long, and he only wished to respond to the
2 accusations made by Duch.

3 And he made it very clear that he would like to reserve his
4 rights not to respond to the parties and to the Chamber. He
5 indicated that, with regard to other questions, he would like to
6 consult with his counsels. It doesn't mean that will reserve his
7 right to remain silent all along; he only wishes to consult with
8 his counsels when time fits.

9 Thank you.

10 [09.30.45]

11 MR. PRESIDENT:

12 Mr. Co-Prosecutor, would you wish to raise new issue? If you
13 willing to go into the same issue, then you are not allowed to do
14 so or -- unless it is new.

15 MR. LYSAK:

16 No, Your Honour, I just wanted to remind the Trial Chamber and
17 our counsel that the Court issued a memorandum, last week, that
18 said that, if the Accused made a statement, that he was to be
19 subjected to questioning. That's all. Thank you.

20 MR. PRESIDENT:

21 Security guards are now instructed to take Mr. Nuon Chea back to
22 his seat behind his counsel.

23 (Technical problem)

24 Security guards are instructed to take Mr. Nuon Chea back to his
25 seat behind his counsel as the translation issue is being

1 settled.

2 (The accused Nuon Chea leaves the dock)

3 [09.33.36]

4 The Chamber now proceed to hearing the testimony by the witness

5 scheduled to be heard today. Since the accused Nuon Chea

6 exercises his right to remain silent, the Chamber will summon

7 witness TCW-617 to this courtroom.

8 And the Chamber wishes to advise the parties in these proceedings

9 that, in the event when the Accused exercises his right to remain

10 silent, the Chamber will render a decision on the matter after

11 coming back from the break.

12 Court officer is now instructed to bring witness TCW-617 to the

13 courtroom.

14 (The witness is taken to the dock)

15 [09.35.56]

16 Court officer, please ensure that he has the headset ready so

17 that he can listen to the interpretation.

18 QUESTIONING BY MR. PRESIDENT:

19 Good morning, Mr. Witness. Can you hear us?

20 Q. What is your name?

21 MR. SAUT TOEUNG:

22 A. My name is Toeung.

23 Q. Please make sure that you answer when your microphone is

24 activated.

25 What is your name?

1 A. My name is Saut Toeung.

2 Q. Do you have any alias?

3 A. (Microphone not activated)

4 Q. Please wait until you mic is on before you answer the
5 question.

6 [09.37.22]

7 You do not have to rush. Please be relaxed in answering the
8 question.

9 Do you have any alias?

10 A. No, I don't.

11 Q. How old are you now?

12 A. I am 62 years old.

13 Q. What is your occupation?

14 A. I am a farmer.

15 Q. What is your father's name?

16 A. My father's name is Ya.

17 Q. What is your mother's name?

18 A. Yim.

19 Q. How many children do you have?

20 A. Nine.

21 [09.38.37]

22 Q. Mr. Saut Toeung, according to the report by the greffier,
23 according to the best of your knowledge, you do not have any
24 relationship with the civil parties and the charged persons; is
25 that correct?

15

1 A. That is correct.

2 Q. And the greffier also indicated that you have already taken an
3 oath; is that correct?

4 A. Yes, that is correct.

5 MR. PRESIDENT:

6 Before putting question to you, the Chamber wishes to inform you
7 your right and obligations as follow.

8 [09.39.39]

9 Mr. Saut Toeung, in your capacity as the witness in the
10 proceedings before our Chamber, we wish to advise you that you
11 may exercise your right not to self-incriminate yourself when
12 answering the question. It effectively means that, if any
13 statements you make may incriminate you by any ways, then you may
14 refuse to answer that question. However, as a witness, you also
15 have the obligation to respond to question put by the parties and
16 the Chamber, except when those questions may incriminate you, as
17 I have already advised you. And you shall tell the truth, and
18 nothing but the truth, based on your personal experience that you
19 have come across.

20 Do you understand these rights and obligations?

21 A. I do not thoroughly understand.

22 [09.41.17]

23 MR. PRESIDENT:

24 Again, whenever the question put to you may incriminate you, you
25 may refuse to answer to those questions; that is your right.

16

1 However, you may exercise your right to respond to those
2 questions, but, again, you may reserve your rights not to respond
3 to any questions that may incriminate yourself. However, you are
4 supposed to tell the Chamber the truth, nothing but the truth,
5 from your experience that you have come across or observed by
6 yourself.

7 The Chamber also wishes to advise the Prosecution that, in the
8 process of hearing this witness, the Chamber would grant the
9 Prosecution the first order of putting the questions to this
10 witness.

11 So we now hand over the floor to the Prosecution to put the
12 question to the witness. You may proceed.

13 [09.42.50]

14 I note that the defence counsel for Nuon Chea is on his feet. You
15 may proceed.

16 MR. IANUZZI:

17 Good morning, Your Honour. Thank you. And good morning, everyone.

18 I have a brief submission with respect to what you've just said
19 -- that is, the caution that you've just given pursuant to Rule
20 28.

21 It's our position, and we submit that, for the sake of clarity
22 and fairness, this witness, this particular witness, should be
23 well apprised of the OCP's stated position on self-incrimination
24 -- that is, that "there always remains a possibility of a
25 prosecution, however unlikely". And that's a quote from the

17

1 International Co Prosecutor on the 3rd of April 2012.

2 It's - it's very much our position that this witness needs to

3 fully understand -- fully understand -- what you've just said,

4 and I think from his answers it's clear that maybe he doesn't.

5 Our position would be that, because he's been given certain

6 assurances by the OCIJ, he's been given certain assurances by the

7 OCP over the course of events, the Chamber really needs to go

8 into this and to clarify it with the witness and to make it

9 crystal clear -- crystal clear -- that the Prosecution's position

10 is: a possibility of a prosecution can never be foreclosed.

11 [09.44.10]

12 Now, under Rule 28 -- and I'm quoting now from Rule 28.3 -- it

13 says that, "where the Co-Investigating Judges or the Chambers

14 determine that a witness should be required to answer a question

15 or questions, they may assure such witness, in possible - if

16 possible in advance - excuse me - that the evidence provided in

17 response to the questions [either] will be kept confidential --

18 from the public, not disclosed to the public, [or] -- and/or --

19 rather -- will not be used either directly or indirectly against

20 that person in any subsequent prosecution by the ECCC".

21 So this Court, the ECCC, is able -- is capable of providing

22 assurances that there will be no prosecutions here. It's our

23 position that it is not capable -- it is not competent to provide

24 assurances that this witness will not be prosecuted by the

25 National Court, and that, of course - that, of course,

18

1 corresponds to the OCP's position. I'll state it again for the
2 record: "there always remains a possibility of a prosecution,
3 however unlikely". So I think it's very important that this
4 witness understand this.

5 [09.45.14]

6 And, pursuant to Rule 28 -- 28.8 -- and I'm quoting again -
7 "where a party is aware that the testimony of any witness may
8 raise issues with respect to self-incrimination, or where the
9 witness him or herself raises the matter, he or she shall request
10 - shall request -- an in camera hearing and advise the
11 Co-Investigating Judges or the Chambers of this".

12 So I'm making that advisement now, pursuant to Rule 28.8. I think
13 this witness-- Because he has expressed concerns in the past
14 about a prosecution, because the OCIJ has made certain
15 assurances, because the OCP have made certain assurances, I think
16 the Chamber needs to, to the extent that it's possible, make
17 certain assurances, and possibly we should perhaps move into that
18 closed session now so that we can undertake that procedure
19 pursuant to Rule 28.8. Thank you.

20 MR. PRESIDENT:

21 The International Co Prosecutor, you may proceed.

22 MR. LYSAK:

23 Mr. President, I'm very troubled that counsel chose to do this in
24 front of the witness, in open session; I think that was a
25 deliberate manoeuver.

1 [09.46.37]

2 The request for a closed session should have come at the very
3 start, if we want to talk about these issues. And if we are going
4 to talk about this matter any further, it should be in closed
5 session.

6 He has taken a statement by one of my colleagues completely out
7 of context. There is absolutely no reason for this - this witness
8 to have any concern about this matter.

9 And for counsel to bring this matter up in this fashion is highly
10 improper.

11 MR. PRESIDENT:

12 The Lead Co-Lawyer for the civil parties, you may proceed.

13 MR. PICH ANG:

14 Good morning, Mr. President. Good morning, Your Honours. And good
15 morning, everyone. The civil party lawyers are very surprised
16 when the defence counsel for Mr. Nuon Chea brought up this
17 particular issue, and particular with this particular witness.

18 As for other witnesses that the Chamber have heard so far, the
19 Defence had never made any such statement.

20 [09.48.00]

21 And it is important that the witness answer the truth, nothing
22 but the truth. And, according to the law applicable before this
23 Chamber, is that there are only two categories of individuals who
24 may be subject to prosecution; namely, those were most
25 responsible and the senior leaders of the Democratic Kampuchea,

20

1 so only selected individuals who are subjected to prosecution
2 within the framework of the applicable law before this Chamber.
3 Therefore, with this particular witness, I am of the opinion that
4 there won't be any questions that may incriminate himself or --
5 and I believe that, in his capacity as a witness, he -- there is
6 no particular concerns for him before this Chamber.

7 So I think that the matter raised by the Defence is not proper.

8 MR. PRESIDENT:

9 The Defence Counsel, you may reply.

10 [09.49.15]

11 MR. IANUZZI:

12 Thank you, Your Honour.

13 First of all, I have revealed nothing -- nothing -- of a
14 confidential nature. I have not spoken of any of this witness'
15 testimony. I have done that deliberately, in fact. That would be
16 the purpose of moving into an in camera proceeding, to discuss
17 this fully and frankly, outside of the view of the public. So,
18 just to be clear, it was a deliberate statement that I made, and
19 it was deliberately limited to avoid stating any of the facts
20 relating to this witness.

21 Secondly, I would just note that a similar discussion was had in
22 the presence of Duch, and those quotations that I read out
23 earlier were given by the International Deputy Co Prosecutor.
24 Nobody raised any concern at that point that Duch heard those
25 statements. I think that's entirely appropriate.

21

1 The third point would be that all the parties have an obligation
2 to raise this issue -- all the parties -- anybody, anyone in this
3 courtroom who "is aware -- and I'm quoting again from Rule 28.8
4 -- that the testimony of any witness may raise issues with
5 respect to self-incrimination". And that's very broad language.

6 [09.50.24]

7 So I think everyone in this room is aware that the testimony of
8 this witness may raise issues with respect to self-incrimination.
9 So perhaps the Prosecution should have raised it; perhaps the
10 civil parties should have raised it; perhaps the Chamber should
11 have raised it itself.

12 And finally, with respect to the last comment by the Co Lawyer
13 for the civil parties, as I said, I'm not speaking about further
14 prosecutions at the ECCC, I'm not talking about jurisdictional
15 elements of this tribunal; I'm talking about this tribunal's
16 ability to provide this witness or any witness with concrete
17 actual legitimate assurances that they will not be prosecuted by
18 the national court system. And as said -- as I've said, as the
19 International Co Prosecutor said -- there always remains that
20 possibility, however unlikely. Thank you.

21 MR. PRESIDENT:

22 The Chamber now hands over to the Prosecution to put questions to
23 the witness.

24 [09.51.31]

25 QUESTIONING BY MR. SENG BUNKHEANG:

1 Thank you, Mr. President. And good morning, Witness. I'm going to
2 put some questions to you.

3 Q. My first question is: When did you join the revolution-

4 MR. IANUZZI:

5 Excuse me?

6 MR. PRESIDENT:

7 (No interpretation)

8 MR. IANUZZI:

9 Could I at least be - could I at least be granted the courtesy of
10 being told that my application was denied? Is that what's
11 happened? The application was denied?

12 [09.52.16]

13 MR. PRESIDENT:

14 According to the language I heard in Khmer, there is no specific
15 proposal in your submission, so in my capacity as the President
16 of the Chamber, I do not really get the proposal you are
17 suggesting or making. You simply used the term "may" or something
18 to that effect. We cannot really get your proposal.

19 MR. IANUZZI:

20 I'm sorry, Your Honour, that's -- that's my fault, then, for not
21 being clear. Let me be very clear.

22 I'm making an application, pursuant to Rule 28.8, that we move
23 into closed session so that the issue of self-incrimination can--

24 (Judges deliberate)

25 [09.54.56]

1 MR. PRESIDENT:

2 The request made by the defence counsel for Nuon Chea is not
3 granted -- the request to the Chamber that we move to the in
4 camera session.

5 Second, the Chamber wishes to remind parties that, whenever they
6 want to make a request to the Chamber that any testimony hearing
7 be conducted in an in camera proceeding, the moving party should
8 indicate that earlier enough, before the witness is brought
9 before the Chamber.

10 In addition, the moving party shall make that request as
11 precisely as possible to avoid any unclarity. Thank you.

12 MR. IANUZZI:

13 Thank you, Your Honour. I just would like to note our exception
14 to that ruling for the record. Thank you.

15 MR. PRESIDENT:

16 Now I hand over to the Prosecution to put the questions to the
17 witness.

18 [09.56.51]

19 BY MR. SENG BUNKHEANG:

20 Thank you, Mr. President.

21 Q. I -- Witness, I will repeat the question: When did you join
22 the revolution?

23 MR. SAUT TOEUNG:

24 A. In 1968.

25 Q. When you first joined the revolution, who inducted you?

1 A. Ing. Ing inducted me.

2 Q. Where did you reside at that time?

3 A. I cannot recall it. It may have been somewhere around Andoung
4 Meas district. I was very young at that time.

5 Q. Ing you mentioned just now, what was his role in the
6 revolution?

7 A. He was in the leadership level; but as to which specific level
8 he was, I am not sure.

9 [09.58.32]

10 Q. What was his particular role, for Ing?

11 A. He was a leader in the Northeast Zone.

12 Q. When you first joined the revolution in 1968, what was your
13 designation?

14 A. Back then I was transferred back and forth from different
15 offices.

16 Q. Was you a member of the Communist Party of Kampuchea or Youth
17 League of the - of the Communist Party of Kampuchea?

18 A. No.

19 Q. So, during the Democratic Kampuchea, were you a member of the
20 Youth League or Communist Party of Kampuchea?

21 A. Back then, yes, I was a member of the Youth League.

22 Q. Do you recollect when the-- (recording malfunction)

23 [10.00.07]

24 MR. PRESIDENT:

25 Could you please hold on? The -- there is some technical glitch.

25

1 We had problem with the rendition. I don't know what happened
2 after the Khmer New Year. Can anyone advise the Chamber on this?
3 National Co Prosecutor, you may now continue.

4 BY MR. SENG BUNKHEANG:

5 Thank you, Mr. President.

6 Q. Witness, do you recollect when exactly you joined the Youth
7 League?

8 MR. SAUT TOEUNG:

9 A. I don't remember. It was in 1972, perhaps.

10 Q. Who was the person who introduced you to the Youth League?

11 A. He was the person named Kou.

12 [10.01.41]

13 Q. When you were in the Youth League, had you ever attended any
14 study sessions or meetings concerning political lines and
15 policies?

16 A. No, I didn't.

17 Q. Have you ever received any Party documents?

18 A. No, I haven't. I received only a small diary, or notebook
19 concerning the education on ethical code of conduct.

20 Q. Have -- did you ever see the "Revolutionary Flags" magazines?

21 A. No, I didn't because I couldn't write or read back then.

22 Q. Could you please describe to the Court concerning your time
23 when you served the revolution in -- 1968 until -- rather, 1975?
24 Where were you? What did you do?

25 A. In 1968, I was in the children unit. Fifteen children were

1 gathered in the mobile unit. We would be moved places. We never
2 stayed in one place for a long time.

3 Q. Were you ever drafted or signed up in the military to fight in
4 the battlefields?

5 A. No, I wasn't. I was so young.

6 [10.04.21]

7 Q. Before the 17th of April 1975, did you ever live in an office
8 named B 20?

9 A. No, I didn't.

10 Q. Do you know B 20?

11 A. No, I don't; I have heard of it.

12 Q. Could you tell us how you heard of B 20?

13 A. People from the transportation unit talked about B 20 because
14 they said that B 20 were tasked with transporting vegetables and
15 livestock.

16 Q. Do you know where B 20 is located?

17 A. No, I don't.

18 Q. Before the Co Investigating Judges, you made statement;
19 document E3/423 or D234/23. On question 137, you stated that you
20 were at B 20. Do you stand by your position?

21 A. I think B 20 is somewhere located on the road to Tuol Sangkae.
22 And since this happened a long time ago, I don't recollect very
23 well.

24 [10.06.51]

25 Q. You mentioned about "Kilo Lek Dop" -- or "Kilo No.10"; where

1 is it?

2 A. It is in Kampong Cham.

3 Q. Do you remember the commune names or villages?

4 A. No, I don't. I'm not interested.

5 Q. Have you ever heard that people in the leadership of the Party
6 ever went to B 20?

7 A. No, I haven't.

8 Q. On the 17th of April 1975, where did you live?

9 A. After I left the children's unit, I moved to the place called
10 -- Kham My (sic).

11 Q. Kham My's location, you said. When did you go there? Did you
12 go there before 17th of April 1975, or after?

13 A. Perhaps in 1975.

14 Q. Before you moved to Mr. Kham My's location, where did you
15 live?

16 [10.09.03]

17 A. I had been the guard -- I had been the guard at the guard unit
18 all along.

19 Q. Can you tell us the name of that guard unit?

20 A. I don't quite recollect it. I guess it's Y-10 Unit.

21 Q. Was you in that unit when you moved to Phnom Penh?

22 A. Yes.

23 Q. When you were in Phnom Penh, where did you stay?

24 A. I stayed at the place where people grew vegetables -- I don't
25 remember the name exactly. Later on, I moved to the K 1 premises.

1 Q. You indicated that, before you moved to Phnom Penh, you had
2 been at the vegetable growing location; was it B 20, or
3 elsewhere?

4 A. It was B 20 location.

5 Q. At B 20, did you ever see any people from the leadership
6 coming to the area?

7 A. I have only seen ordinary people who were building the dam.
8 [10.11.03]

9 Q. Could you tell the Court concerning your roles at B 20?

10 A. I did nothing other than helping to transport vegetables and
11 some ammunitions. Sometimes, I had to help transport rice.

12 Q. Did you have any knowledge of the evacuation of the population
13 from Phnom Penh, back then?

14 A. I don't know. When I was in Phnom Penh, I noted that Phnom
15 Penh was empty already; there were no people on the streets.

16 Q. In the place where you had been staying before you moved to
17 Phnom Penh, did you notice that people were being evacuated to
18 the location?

19 A. I saw people were walking on the roads from Phnom Penh.

20 Q. Do you recollect how were those evacuees treated?

21 A. No, I don't. No.

22 [10.12.49]

23 Q. Did you receive any instructions on how to treat people who
24 evacuated from Phnom Penh in April 1975?

25 A. I was not told or instructed on this.

1 Q. After the fall of Phnom Penh, after the Khmer Rouge took
2 control of Phnom Penh in 1975, where did you stay in Phnom Penh?

3 A. I don't remember exactly when I came to Phnom Penh, but I am
4 sure that it was after the liberation of the city.

5 Q. Could you tell the Court what Phnom Penh was like when you
6 moved in?

7 A. Phnom Penh was occupied by the military, no other people.

8 Q. So there were no people seen on the streets?

9 A. There was very few people seen on the street.

10 Q. Few people, what were they doing?

11 A. I don't know.

12 [10.15.06]

13 Q. From the date when you entered Phnom Penh in 1975, had you
14 remained in the city until the collapse of the regime in 1979?

15 A. I had been in several places. I had moved to different places.

16 Q. You said, when you came to Phnom Penh you worked at the Kham
17 My location. What this Kham My location is?

18 A. It is Y-10 Unit, the guard unit.

19 Q. Do you remember who brought you to Phnom Penh to work there?

20 A. There were two people: Brother Man and Kou.

21 Q. These people accompanied -- or were with you when you were in
22 Phnom Penh. Who accompanied you, other than these people, to
23 Phnom Penh?

24 A. No, only those two people were with me.

25 Q. When you were brought to Phnom Penh, you said you were tasked

30

1 with the assignment at Y-10 Unit. What were you tasked with, or
2 what did you do?

3 [10.17.10]

4 A. I was guarding the location.

5 Q. Were you assigned to provide security or protection to the
6 cadres and other senior people?

7 A. I was tasked with protecting the Y-10 Unit.

8 Q. Had you ever been assigned to guard any senior leaders?

9 A. No, I didn't -- or I was not.

10 Q. Before the Co Investigating Judges, in document D234/23 or
11 E3/443, you indicated that you worked as the guard for Nuon Chea;
12 do you stand by your position?

13 MR. PRESIDENT:

14 Witness, could you please hold on?

15 Counsel for Nuon Chea, you may now proceed.

16 MR. IANUZZI:

17 Thank you, Your Honour. I was not in court for the Duch
18 examination but I have reviewed the transcripts, and it's my
19 understanding that these documents were put on the screen as they
20 were being used. Is that not the practice? And I believe the
21 witness is to be given a hardcopy, if I'm not mistaken. And as my
22 friend, who has just arrived, reminded me, he needs to tell us
23 the ERN numbers.

24 [10.20.17]

25 MR. PRESIDENT:

1 Thank you, Counsel.

2 National Co Prosecutor, you are advised to follow our practice:
3 whenever a document is put to a witness, the ERN number and the
4 code number of the document shall be read out in three languages,
5 and that the hardcopy of the documents should be made available
6 to the witness before examination, and that witness should also
7 be asked whether he could read or not. If not, it would not be
8 useful to have the documents be put up on the screen, since he or
9 she cannot read it.

10 BY MR. SENG BUNKHEANG:

11 Thank you, Mr. President.

12 Q. Mr. Witness, do you read or write?

13 MR. SAUT TOEUNG:

14 A. I have bad eyesight; I'm afraid I cannot read the documents.

15 [10.21.52]

16 MR. SENG BUNKHEANG:

17 Mr. President, since the witness indicated that he cannot read, I
18 am not sure whether it is still useful to have the documents be
19 put up on the screen. Or should I just read out loud to him?

20 MR. PRESIDENT:

21 As indicated, if the witness cannot read, it is not useful to
22 have the documents presented to him in writing; it is indeed not
23 useful to allow a witness who does not read to read any document.
24 But it is still useful to read out the ERN numbers of the
25 relevant documents and, in particular, the identification of the

1 document so that parties in the proceeding are well informed.
2 This has been our set precedent, and that this should be well
3 followed, unless there is any other decision otherwise to improve
4 this situation.

5 [10.23.08]

6 Counsel, you may proceed.

7 MR. IANUZZI:

8 Thank you for that, Your Honour. Do I understand that to mean
9 that the document will then be put up on the screen so that we
10 may all have access to it, as you've just said?

11 And I think the witness has indicated that he has "difficulty"
12 reading. Perhaps, if he had a hard copy in front of him, he could
13 read it. I do recall reading in one of his statements that he is
14 literate in Khmer. So, perhaps, if he had the hard copy in front
15 of him -- maybe, he said, it's a problem with his eyesight, so
16 maybe he's having difficulty seeing the screen -- I don't know.
17 Perhaps he could be asked.

18 MR. PRESIDENT:

19 National Co-Prosecutor, I think you should not really open this
20 Pandora's box; just follow the practice. Put the document up on
21 the screen, it's very simple as that.

22 [10.24.12]

23 Please show the identification of the document, the ERN numbers,
24 and have the documents be put up on the screen so that the
25 parties and the public can read them, or see them.

1 BY MR. SENG BUNKHEANG:

2 Q. Document D3/443 (sic) or D234/23; this document contains the
3 questions and responses in numerical orders.

4 If we look at response on item 21, witness indicated that he
5 represented the guard unit for Mr. Nuon Chea.

6 MR. IANUZZI:

7 Excuse me, Your Honour?

8 [10.25.23]

9 MR. PRESIDENT:

10 You may now have the floor, but please be brief because you have
11 taken the floor very often, and we haven't moved much this
12 morning and we want to ensure that questions are put to the
13 witness. Otherwise, the proceedings are dedicated to objections
14 rather than putting questions.

15 MR. IANUZZI:

16 Thank you, Your Honour. I'll indeed be very brief. I think I
17 briefly need to return to the issue I raised this morning.

18 I think we're moving into an area where this witness may -- and I
19 say "may" -- incriminate himself; he needs to be apprised of his
20 rights.

21 And I'm quoting now from Rule 28.9, which I did not cite earlier
22 this morning, and that rule says:

23 "If an issue of self-incrimination arises in the course of the
24 proceedings, the Co-Investigating Judges or the Chambers - in

25 this case, the Trial Chamber - shall - shall, shall, to emphasize

1 -- unless the witness waives [his] right, suspend the taking of
2 the testimony and provide the witness with a lawyer."

3 [10.26.30]

4 So, further to what I said this morning, it's our position that
5 the witness has not been fully apprised of his rights and that,
6 at this stage, it seems that we may be moving -- may be moving --
7 into an area of self-incrimination.

8 So I would suggest that the witness be fully apprised of the
9 right, including his right to a lawyer, if he so chooses. And
10 that, again, is indeed, Your Honour, an application pursuant to
11 Rule 29.9. Thank you.

12 MR. PRESIDENT:

13 International Co-Prosecutor, you may now proceed.

14 MR. LYSAK:

15 Thank you, Mr. President. We highly object to this interference
16 that is going on by the defence counsel.

17 If they wish to raise these matters, the Court had just indicated
18 earlier it should be done in closed session.

19 [10.27.31]

20 This is a transparent effort to interfere with this witness'
21 testimony; it's outrageous.

22 And my suggestion is that we break and have a hearing -- or a
23 discussion of this matter outside the presence of the witness,
24 because this type of interference simply cannot continue.

25 MR. PRESIDENT:

1 Lead Co-Lawyer for the civil parties, you may now proceed.

2 MS. SIMONNEAU-FORT:

3 Thank you, Mr. President. I find this intervention at this stage
4 unfair, because to give the impression to the witness that he
5 risks being charged is unfair.

6 It is false that we should go into a closed session because the
7 witness runs a risk of incriminating himself. To say this before
8 everyone present here is not fair.

9 I suggest that the Chamber should resolve this issue once and for
10 all by stating to the witness that, according to Rule 28.3, that
11 the witness will not be prosecuted before the ECCC and that he
12 enjoys such guarantees. This would put the matter to rest.

13 [10.29.18]

14 I find the statement by the Defence very unfair and improper.

15 MR. PRESIDENT:

16 Counsel for Mr. Ieng Sary, you may now proceed.

17 MR. KARNAVAS:

18 Good morning, Mr. President. Good morning, Your Honours. And good
19 morning to everyone in and around the courtroom. My apologies for
20 arriving late this morning.

21 Last week, when Duch was testifying, the Prosecution -- Bill
22 Smith was here, but the gentleman that stood up today was also
23 present when they indicated in public that Duch enjoyed the right
24 not to incriminate himself. They didn't ask to go into private
25 session; they didn't -- they initiated that intervention, and in

1 fact they said: However remote prosecution may be, the person
2 enjoys the--

3 [10.30.17]

4 What we hear from the civil party is absolutely incorrect because
5 the rest of the story is that the gentleman could be prosecuted
6 in other courts in Cambodia; maybe not before the ECCC, but
7 nonetheless runs the risk.

8 Now, if it was good enough for Duch, why isn't it good enough for
9 this gentleman? And if we're going to have a transparent
10 proceeding, why not do it transparently?

11 I think the better practice is, in advance, for the parties, if
12 they wish, to state to the Trial Chamber that the -- that the
13 witness may be incriminating himself or herself and for the Trial
14 Chamber to, from the very set -- from the get go, give the
15 warning to the witness. That way, the witness knows well in
16 advance; if they wish to -- to seek legal advice, fine; if not,
17 you know, let the questions begin. But that's the better
18 practice.

19 MR. IANUZZI:

20 Thank you, Your Honour. If I may reply very briefly, of course I
21 support the comments by my colleague, which reflect what I said
22 earlier this morning.

23 I would also say that I reject the assertions by the Prosecution,
24 for the record, that I'm behaving in any inappropriate manner.

25 [10.31.35]

1 However, I fully agree with the Prosecution that we should now
2 move into closed session so that we can discuss this properly,
3 openly, amongst ourselves, and clearly. Thank you.

4 MR. LYSAK:

5 Mr. President, I wasn't suggesting we go into closed session; I
6 was suggesting that we have this discussion outside the presence
7 of the witness.

8 And I do not understand why defence counsel think it is their job
9 to serve as counsel for the witness.

10 When Duch was testifying, he was asserting, himself, his rights
11 in relation to questions regarding M-13.

12 This witness has not asserted his rights. It is the Defence that
13 is attempting to intimidate by raising these issues. That is our
14 concern. And it is our concern that this is not an appropriate
15 issue to be talking in front of the witness. So that's -- that is
16 our position on this.

17 [10.32.37]

18 MR. IANUZZI:

19 Your Honour, I have one new point. I'm not attempting to
20 intimidate anyone; I'm just following the rules -- these are your
21 rules, these are rules of this Court - "where a party is aware",
22 that party "shall" do what I've done. So that's my clear position
23 on this point.

24 And I would appreciate -- I would appreciate not being accused of
25 inappropriate behaviour time and time again, when I'm simply just

1 following the rules.

2 I'm not trying to intimidate anyone; let me make that very clear.

3 MR. PRESIDENT:

4 Is there any representative from any parties who wish to make any
5 further observation on this, you may have the floor.

6 (Judges deliberate)

7 [10.34.54]

8 Since there's no further observation on different parties, the
9 Chamber will have the adjournment for half an hour, and the next
10 session will be resumed by 11 o'clock.

11 Counsel for Ieng Sary, you may now proceed.

12 MR. ANG UDOM:

13 Mr. President and Your Honours, due to my client's health
14 concern, we -- my client has requested that he be excused from
15 this courtroom and be allowed to observe the proceeding from his
16 holding cell for the rest of the day.

17 MR. PRESIDENT:

18 The Chamber has noted the request by Ieng Sary through his
19 counsels. Ieng Sary has requested that he be excused from this
20 courtroom and be allowed to observe the proceeding from his
21 holding cell. The Chamber, therefore, grants such request. Ieng
22 Sary is now allowed to observe the proceeding from his holding
23 cell.

24 And counsels for Ieng Sary is advised to produce the waiver
25 signed or given thumbprint by Mr. Ieng Sary.

1 [10.36.41]

2 An AV booth is now advised to ensure that the video-link is well
3 connected to the holding cell so that the Accused can observe the
4 proceeding.

5 And security personnels are now instructed to bring Ieng Sary to
6 his holding cell so that he can observe the proceeding from his
7 holding cell.

8 And court officers is now instructed to help witness during the
9 break so that he can be taken to his waiting room and have him
10 returned to the courtroom by 11 o'clock.

11 The Court adjourn for 25 minutes, rather.

12 (Court recesses from 1037H to 1110H)

13 MR. PRESIDENT:

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

15 As scheduled, the Chamber is going to hear the testimonies of the
16 witness Saut Toeung. However, due to some technical problem in
17 the proceedings, the Chamber has decided to defer hearing this
18 witness. His testimonies will be heard in the afternoon session
19 instead.

20 And before we proceed, the Chamber would like to make an oral
21 decision on the right to remain silent.

22 [11.12.32]

23 The Trial Chamber notes the motions involving Ieng Sary and Khieu
24 Samphan's right to remain silent - documents E164 and E174. It
25 further notes that Nuon Chea, after having made statements

1 allegedly relevant to the first segment of the trial, has also
2 indicated that he might exercise his right to remain silent.
3 Pursuant to Article 35 new (g) of the ECCC Law, "an accused shall
4 not be compelled to testify against himself or to confess guilt".
5 Therefore, an accused cannot be compelled to answer questions put
6 to him.

7 However, in assessing the guilt or innocence of the Accused in
8 its verdict, the Chamber shall consider all of the evidence that
9 has been put before it and subject to examination, including the
10 testimony of the Accused and manner in which he testifies. In
11 this regard, and where the Accused elects to alternate between
12 silence and giving testimony, this may be noted by the Chamber
13 when assessing his credibility.

14 The relevant international jurisprudence indicates that adverse
15 inference from selective decisions to remain silent may be drawn.
16 In any case, the Chamber shall not base a finding of guilt
17 exclusively on an adverse inference from - drawn from silence.
18 This is the decision on the right to remain silent by the accused
19 persons.

20 [11.15.09]

21 Next, the Chamber will proceed in-camera session. We are not
22 hearing the testimonies of the witness, as the - as the Chamber
23 has indicated; we are now coming to the closing session
24 concerning Internal Rule 28, subrules 8 and 9. The Chamber would
25 like to have all the issues properly resolved before we can

41

1 proceed to hearing the testimony of the witness, so the following
2 session will be in camera, and the in-camera session will last
3 until lunch break.

4 The public and parties are now advised to be informed.

5 Court officer is instructed to draw and close the curtain.

6 And AV booth officers are instructed to ensure that the audio is
7 disconnected from -- to the public gallery -- to the public.

8 And the public is advised to be dismissed from the public
9 gallery, since the Chamber is now having the in-camera session.

10 Security personnels are now instructed to escort -- or to just
11 usher the public to -- outside of the public gallery.

12 (Court adjourns into closed session at 1118H)

13 (Court resumes in open session at 1336H)

14 MR. PRESIDENT:

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

16 We shall now proceed with the hearing of the testimony of Mr.
17 Saut Toeung.

18 Co-Prosecutors will be putting questions to him.

19 Good afternoon, Mr. Saut Toeung. You are now having counsel with
20 you. So you can listen to the questions being put to you by
21 parties and respond to the questions concerning the facts as
22 alleged in this portion of the trial, and tell -- you can tell
23 the Court on the events you witnessed, experienced, seen, for
24 example. And, according to the request by the Chamber, WESU has
25 now provided the Court with the counsel to assist you.

1 Mr. Counsel, what is your name please?

2 MR. LIM BUNHENG:

3 I am Lim Bunheng, Mr. President and Your Honours.

4 [13.39.03]

5 MR. PRESIDENT:

6 Can you give us your code name?

7 MR. LIM BUNHENG:

8 1 -- rather, 689.

9 MR. PRESIDENT:

10 Thank you.

11 During these proceedings, you are representing the witness for
12 the purpose of trying to assist the witness if he may incriminate
13 himself in his responses to the questions. You are not
14 representing him in his capacity as an accused, but as a witness.
15 So you is on standby, or be ready to assist witness regarding
16 questions you feel that are self-incriminating or any assertions
17 or statements that you think are self-incriminating against this
18 witness.

19 Mr. Counsel, do you understand this?

20 [13.40.27]

21 MR. LIM BUNHENG:

22 Yes, I do, Mr. President.

23 MR. PRESIDENT:

24 Thank you.

25 We would like now to hand over to the Co-Prosecutor to proceed

1 with their questions. They may proceed.

2 MR. SENG BUNKHEANG:

3 Thank you, Mr. President. Next, I would like, with your
4 permission, document E3/423 be put up on the screen. We already
5 talked about it this morning.

6 [13.41.08]

7 MR. PRESIDENT:

8 You may proceed.

9 BY MR. SENG BUNKHEANG:

10 Q. Mr. Witness, I would like to proceed with some further
11 questions. Before we left for break, I was mentioning regarding
12 document E3/43 (sic). This document is relevant to the statements
13 you made before the Co-Investigating Judges. Under item number 19
14 of your responses, you said -- I would like to quote your entire
15 statement:

16 "I would like to talk about three points concerning the fact
17 regarding your accompany Mr. Nuon Chea to China, and that you
18 worked as a bodyguard for Mr. Nuon Chea, and that your title as
19 the messenger. And you made this statement just to clear all
20 doubts. May we ask whether that statement was done genuinely?

21 "Response: Yes, it was."

22 [13.42.47]

23 On the same document, under responses -- items 48 and 47, you
24 said: "I was the bodyguard of Nuon Chea. I gave security
25 protection to him days and night."

1 In item number 48, you said you were the bodyguard of Mr. Nuon
2 Chea in 1975 until you went to Peking in 1977; is that the
3 correct assertion?

4 MR. SAUT TOEUNG:

5 A. Yes, it is.

6 Q. I -- were you also a messenger for Nuon Chea?

7 A. I used to take his letters to Ta Duch at Tuol Sleng.

8 Q. As a bodyguard and messenger of Nuon Chea, how long had you
9 been working for him?

10 A. I had been working for him for about three years.

11 Q. How many people were assigned to the Y-10 to work for Nuon
12 Chea?

13 [13.44.50]

14 A. I don't remember the exact number, but on any occasion there
15 could have been about 10 people who would be loaded on the
16 trucks.

17 Q. How many people were the regular bodyguards for Mr. Nuon Chea?

18 A. I don't remember how many because there were quite a few
19 numbers of them and the number of people could vary accordingly.

20 Q. Do you remember who could -- who were the leaders of the
21 group?

22 A. I don't remember. I remember the person named Kheu (phonetic),
23 but I don't remember the other leaders of the other groups; it
24 was a long time ago, I don't recollect it very well. Kham My was
25 also the head of the group.

1 Q. Were you ever a group leader?

2 A. No, I wasn't.

3 Q. Were your group armed?

4 A. Yes, we were.

5 [13.47.00]

6 Q. What kind of weapons were you equipped with?

7 A. AK, CKC, as an example.

8 Q. Do you recall whether Nuon Chea carried any gun when he went
9 somewhere?

10 A. No, he didn't carry any gun. His bodyguards could carry guns.

11 Q. Were other members of Y-10 assigned to work as bodyguards for
12 other people, including Khieu Samphan?

13 A. No, I don't know.

14 Q. Can you tell us where Y-10 was located in Phnom Penh?

15 A. It was adjacent to K-1, the U.S. Embassy.

16 Q. I would like to go back to another question; I seek for
17 clarification: Were you engaged in a fighting with any opposing
18 groups?

19 [13.48.46]

20 A. I remember that I went to the border and I did not engage in
21 any fighting.

22 Q. Do you remember exactly when you went to the border, when you
23 took food to the army?

24 A. It was in 1979, '80 or '81.

25 Q. I'm talking about the year before 1975.

1 A. That was in 1973 or 1974.

2 Q. Do you know what happened to the Lon Nol soldiers who were
3 arrested by the Khmer Rouge soldiers?

4 A. I don't know.

5 Q. Where was your unit located -- in which section, in which
6 zone?

7 A. In Kampong Cham province.

8 Q. Could you please tell us the zone name?

9 [13.50.42]

10 A. I don't know.

11 Q. Do you still recollect who the commander of the division you
12 worked for was?

13 A. There were only Pang -- only Pang, there was only Pang, the
14 commander.

15 Q. Do you know the full name of Pang?

16 A. No, I only knew this person by that name, Pang.

17 Q. Thank you.

18 I would like to go back to Y-10 Unit again. When you worked at
19 Y-10 Unit in Phnom Penh, what was your food ration like? And
20 where did you eat?

21 A. We ate in the military base -- or barrack, and we ate
22 collectively in the -- that place.

23 Q. Do you remember how many people were in Y-10?

24 A. I think there were about 30 people, but I don't remember the
25 exact number.

1 [13.52.49]

2 Q. Do you remember who the leader of Y-10 was?

3 A. Kham My was the chairperson. The deputy chairperson was
4 another person whose name I don't know, and I don't want to
5 speculate.

6 Q. Do you know the person named Samy?

7 A. Yes, I do.

8 Q. What was his role?

9 A. I don't remember.

10 Q. Concerning the report on work activity from Y-10 to upper
11 echelon and from upper echelon to Y-10, where did you receive
12 these orders concerning these tasks?

13 A. I don't know. Normally, orders could have been rendered from
14 the top.

15 Q. Do you know what K-1 or K-3 are?

16 A. K-1 and K-3 were the Angkar's bases, or offices.

17 Q. Where was K-1 located?

18 [13.54.47]

19 A. At the Chaktomuk Theatre location, on the riverfront.

20 Q. Could you tell the Court how K-1 was protected? Were it -- was
21 it surrounded by fence or wall?

22 A. I don't know.

23 Q. What about K-3? Where was it?

24 A. I guess it was close to K-1 - or, rather, Psar Thmei.

25 Q. Could you please tell the Court how security was like at K-3?

1 A. At K-3, people were tasked with protecting the premises day
2 and night.

3 Q. Did you ever see any leaders coming to K-3 or K-1?

4 A. I don't remember, but there could have been the secretaries of
5 sectors who could be visiting the places.

6 [13.56.28]

7 Q. Could you also tell us the names of the individuals you saw
8 coming in and out of the offices?

9 A. These people include Koy Thuon, Ta Kheu (phonetic), and other
10 people; I don't know their names.

11 Q. What about the other leaders of the Party? Do you remember
12 having seen them going there?

13 A. I don't remember.

14 Q. Have you ever seen -- or did you ever see Pol Pot, Nuon Chea,
15 Ieng Sary, Khieu Samphan going there?

16 A. I used to see them.

17 MR. PRESIDENT:

18 (No interpretation)

19 MR. KARNAVAS:

20 Thank you, Mr. President. It's a little bit late, because of the
21 answer.

22 [13.57.35]

23 First, he asked him one question; he got a -- he got a negative.
24 Then he gives him a multiple choice, coaching the witness to the
25 names; it's improper; it's leading.

1 And so I don't -- I suggest that, once he gets an answer and if
2 he doesn't like the answer, he moves on, as opposed to leading
3 the witnesses.

4 He asked about leaders. He said: "I don't know." Then he gives a
5 multiple choice.

6 If the Prosecution is going to be objecting to the Defence
7 leading, then we're going to be objecting to these sort of
8 tactics. We did so before; we will do so again. Thank you.

9 MR. PRESIDENT:

10 Thank you, Counsel.

11 National Co-Prosecutor is now advised to rephrase the questions
12 so that they are proper, and that they are free of objections,
13 and that they are not banned by the law.

14 [13.58.48]

15 Witness is now instructed to pause a little while before he
16 responses to questions. Please wait until the red light on the
17 mic is on. Otherwise, your statement could have been lost.

18 MR. SENG BUNKHEANG:

19 Mr. President, allow me to respond that the witness may not
20 remember the statement he has made before the Co-Investigating
21 Judges -- and I refer to the document E3/103; ERN number in Khmer
22 00204014; English, 00204020; French, 00490624 -- in which he said
23 he was not the bodyguard of these people, but the unit was tasked
24 with giving protection to individuals including Vorn Vet, Khieu
25 Samphan alias Hem, Ieng Sary alias Van, and he said that he also

1 saw Koy Thuon coming to K-1 and K-3.

2 MR. PRESIDENT:

3 Counsel for Ieng Sary, you may now proceed.

4 MR. KARNAVAS:

5 Thank you, Mr. President. Just this morning, I cautioned about
6 the prosecutor doing exactly what they just did, coaching the
7 witness.

8 [14.00.55]

9 Now, if they want to refresh the witness' memory or if they wish
10 to impeach the witness, they have the document; there's a proper
11 technique of doing so. Either they do it correctly, or they allow
12 somebody else to do it who knows how to do it, but this is an
13 improper way of doing things. He has -- he asked a question; he
14 got an answer.

15 Now, if there's something different in one of the statements,
16 they can go to the statement, have the witness look at the
17 statement or read it to the -- to the witness, and allow the
18 witness to provide an explanation as to why he said one thing
19 today and something else on another occasion, keeping in mind, as
20 was noted by the prosecutor, that on previous occasions the
21 gentleman has given contradictory statements. It's a matter of
22 technique.

23 I don't mean to be harsh, but if we're going to do things, well,
24 let's do it right. Otherwise, I will continue to object.

25 [14.01.54]

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1 This was the tactic that was used last week by the Prosecution;
2 this is the tactic that I will continue to use. If we're going to
3 do things right, let's do it right.

4 MR. PRESIDENT:

5 Thank you. The Chamber has already reminded the Prosecution that
6 they should be more cautious in framing the question to be put to
7 the witness.

8 MR. SENG BUNKHEANG:

9 Mr. President, with your leave, I would like to ask that this
10 document be presented to the witness so that he can see it.

11 MR. PRESIDENT:

12 Yes, you may proceed. Can the document be display on the screen
13 as well?

14 MR. SENG BUNKHEANG:

15 Yes, it can be projected.

16 [14.02.58]

17 MR. PRESIDENT:

18 Court officer, please ensure that the document is display on the
19 screen.

20 BY MR. SENG BUNKHEANG:

21 Q. Witness, document E3/103; ERN in Khmer, 00204014; and relevant
22 page, ERN page in English, 00204020; French 00490624. On page 2,
23 in the Khmer document, you told the Office of Co-Investigating
24 Judges that: "...Pol Pot, Nuon Chea, Son Sen alias Khieu, Khieu
25 Samphan alias Hem, Ieng Sary alias Van, and Vorn Vet. All these

1 persons went in and out of K-1 and K-3". And he also saw Koy
2 Thuon going in and out of K-1 and K-3 location; do you still
3 stand by this statement?

4 MR. SAUT TOEUNG:

5 A. Yes, I do.

6 Q. Do you recall who, among the leaders, stay in K-1 and who else
7 stay in K-3?

8 [14.04.58]

9 A. At K-1, Nuon Chea stay over there, but they actually swap
10 places; Nuon Chea and Pol Pot frequently went in and out of these
11 places.

12 Q. How about K-3?

13 A. K-3 was more like a working place where people came in and out
14 as well.

15 Q. Do you know an office K-7?

16 A. Yes, I do.

17 Q. Did you work at K-7?

18 A. No, I didn't. That was the place for receiving equipment.

19 Q. Where was it located?

20 A. It was located somewhere on the riverfront. It was a
21 two-storey building.

22 Q. Can you tell the Court the function of Office K-7?

23 A. Well, K-7 received people sent from the countryside, and those
24 individuals would be turned into additional forces.

25 [14.06.50]

1 Q. So how long did they stay in this office before they were
2 transferred to other offices?

3 A. It varies; sometimes, they stayed there for one or two nights,
4 or some of them may stay up to one month before they were
5 transfer out.

6 Q. Can you tell the Court whether or not you had seen any zone
7 leader or sector leaders who came to Phnom Penh to attend a
8 meeting with other senior leaders in the city?

9 A. Yes, I had. I had seen the sector leaders from the provinces
10 in Phnom Penh.

11 Q. Can you elaborate?

12 A. I'm sorry; I cannot recall it well because I forget most of
13 them.

14 Q. What did they do when they arrive in Phnom Penh?

15 A. They may have come for a meeting, but I do not know the nature
16 of the meeting.

17 Q. Did you guard the meeting compound?

18 A. Yes, I did. The last meeting, I guarded that meeting.

19 Q. Do you recall how often the meeting was convened?

20 [14.08.36]

21 A. It was convened once a month.

22 Q. Where was the meeting held?

23 A. I do not really recall the exact location of the meeting, but
24 I guarded outside the compound.

25 Q. Do you recall which leaders in Phnom Penh attended those

1 meetings?

2 A. I do not recall them.

3 Q. Do you know the nature of the meeting? What was it about?

4 A. No, I didn't. My duty was to guard outside the compound of the
5 meeting venue.

6 Q. Thank you.

7 Concerning your unit, Y-10, did you, yourself, obtain any
8 self-criticism or so?

9 A. Yes, I used to attend the re-education or self-criticism
10 session once a month.

11 [14.10.06]

12 Q. Where was this self-criticism session held?

13 A. Well, it -- the places varied from time to time; sometimes it
14 took place outdoors, sometimes it was taking place indoor.

15 Q. Who led those meetings?

16 A. Kheu (phonetic) and Kham My were the two leaders who normally
17 led the self-criticism sessions.

18 Q. How about those who attended those sessions, do you still
19 recall those who attended those meetings?

20 A. Samy. Samy attended those sessions, and sometimes Pang also
21 attended.

22 Q. How many people attended those self-criticism sessions?

23 A. Well, it varied again; sometimes, 10 people, 5 people, or even
24 more than that at certain times.

25 Q. What was the main purpose of having this self-criticism

1 session?

2 [14.11.43]

3 A. The main objective was to strengthen the spirit of fighting
4 oppressive classes, and national patriotism.

5 Q. Besides attending this sort of meetings, did you ever attend
6 any political training?

7 A. I do not understand what a political training was all about,
8 but it was a general training I attended. They -- they taught us
9 how to behave in the groups, but I did not know whether or not it
10 was political training. Then I attended the self-criticism.

11 Q. What was the self-criticism session like?

12 A. Well, the self-criticism session was meant to re-educate us
13 and re-fashion us, try to educate us to behave properly.

14 Q. Beside those self-criticism session, did you ever attend any
15 political trainings?

16 A. No, I never went to attend any trainings other than the
17 trainings took place in my unit.

18 [14.13.25]

19 Q. Do you recall any cadres from your unit who were arrested and
20 sent away?

21 A. Yes, some of them were taken away, but I did not know who they
22 were and where they were taken to.

23 MR. SENG BUNKHEANG:

24 Mr. President, I do not have any further question, but I would
25 like to hand over to my colleagues.

1 MR. PRESIDENT:

2 Yes. International Co-Prosecutor, you may proceed.

3 QUESTIONING BY MR. LYSAK:

4 Thank you, Mr. President. Good afternoon, Mr. Witness.

5 Q. I want to start by going back -- I had a few follow-up
6 questions on some testimony that you've given to my colleague
7 earlier.

8 [14.14.42]

9 When you were asked what you did when you first joined the
10 revolution, you indicated that you were -- excuse me --
11 transferred back and forth from different offices. Can you tell
12 me what were -- the offices were that you remember that you were
13 transferred back and forth from after you joined the revolution?

14 MR. SAUT TOEUNG:

15 A. Could you please repeat your question? Because I do not quite
16 get the -- the question.

17 Q. Yes, I'd be happy to. You said earlier today that, after you
18 joined the revolution, you were transferred back and forth
19 between different offices. What were those offices?

20 A. Office is the -- actually, the resident office, but I do not
21 really know its function, but it is the resident office. But they
22 are not main offices at all, because main offices are located in
23 Phnom Penh, but those offices were very small and not that
24 important.

25 [14.16.22]

1 Q. Another follow-up question. My colleague asked you about
2 whether you received documents from the Party, and in English the
3 question was translated as "Revolutionary Flag" documents. I want
4 to make sure that I understand the answer correctly.

5 Did you, as a member of the Youth League -- did you ever receive
6 a publication that was called "Revolutionary Youth"?

7 A. Yes, I did receive certain issues, but I was very young and I
8 - I could not read and write very well, so I did not understand
9 much.

10 Q. Okay. I'm not going to ask you any questions about the
11 contents of these, but I would like you to look at a couple of
12 copies of "Revolutionary Youth" that we have, just for you to
13 identify whether or not they look like the "Revolutionary Youth"
14 that you received back -- back in those days.

15 And, Mr. President, the two documents that I would like to
16 provide to the witness are E3/146, which is also in the case file
17 as D175/6.2, and also E3/729. And I'll also provide the old
18 number for that, which is IS 11.3.

19 Just for clarity, Mr. President, the reason: some of these are
20 part of the new E3 numbers that were just recently assigned and
21 because some of them are not yet available in ZyLAB under the E3
22 number. I will continue, for -- for some of these documents, to
23 provide both the E3 number and the previous case file number.

24 [14.18.43]

25 But I would like to show the witness the cover page from those

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1 two documents to ask whether he recognizes them as issues of
2 "Revolutionary Youth".

3 MR. PRESIDENT:

4 Witness, please hold; and the Prosecution, please hold on; there
5 is an objection by the defence counsel for Ieng Sary.

6 You may proceed.

7 MR. KARNAVAS:

8 Thank you, Mr. President. I think the exercise is -- is quite
9 suggestive.

10 First, perhaps, they could ask the witness, since he said that he
11 came across these issues, to describe what the issue would look
12 like, how big -- what sort of format it was, and what have you.
13 But to simply show him something and say: Is this what it looks
14 like-- How do we know that he is really telling us the truth, in
15 light of the various statements that he has given and the
16 contradictions that are within the statements themselves?

17 [14.19.55]

18 So, before showing him any documents -- and I take it the purpose
19 for showing him a document is to authenticate, which I think that
20 is not a problem in this case, anyway; the witness has said he
21 hasn't read them because he could not read very well at the time.
22 But if he has indeed seen them, then he should describe what they
23 look like, if he has an independent memory of that. First, we go
24 that route. If he doesn't, then, if they wish to show him
25 something to refresh his memory, then they can approach it that

1 way as well. But, first, let's hear what the witness has to say
2 from his independent memory, if, indeed, he did see those
3 documents.

4 MR. PRESIDENT:

5 Yes, International Co-Prosecutor, you may respond.

6 MR. LYSAK:

7 Mr. President, Mr. Karnavas is -- can ask the questions that he
8 wishes.

9 [14.20.57]

10 The witness has indicated that he received "Revolutionary Youth";
11 I'm certainly entitled to provide him with documents and ask him
12 whether -- whether he can identify them as "Revolutionary Youth".
13 If Mr. Karnavas really thinks this is a critical point that he
14 wants to cross-examine the witness on, he can do so later.

15 MR. PRESIDENT:

16 Mr. Karnavas, you may reply. You may proceed.

17 MR. KARNAVAS:

18 Mr. President, if you show a document that has the label on it
19 and then say: Well, is this the document that you recall,
20 obviously it's suggestive. And for the Prosecution to say, then I
21 can cure it or challenge it on cross-examination defeats the
22 purpose.

23 [14.21.43]

24 First lay a foundation. He said that he has seen them. Okay,
25 describe it. What did it look like? Was it in a book form? Was it

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1 in a pamphlet form? Was it a magazine? Was it small? Was it
2 large? Was it thick? Was it thin? Describe it. What colour? What
3 was on the cover page? If he doesn't have a recollection of that,
4 then we can proceed.

5 But to show him the cover page and say: Is this it, where, on the
6 title of it, it shows what the document is all about, it is so
7 highly suggestive, it's not even evidence. That's my objection.

8 (Judges deliberate)

9 [14.23.16]

10 MR. PRESIDENT:

11 Objection by the defence counsel for Ieng Sary is not sustained.
12 The International Co-Prosecutor may present the document to the
13 witness and ensure that the document is displayed on the screen.

14 BY MR. LYSAK:

15 Thank you, Mr. President. So we'll first give the witness E3/146.
16 And if we could display the cover page of that on the screen?

17 Q. Mr. Witness, if you could take a look at the document, in
18 particular the cover page, and tell me whether that looks like
19 the publication that you mentioned that you received during the
20 period you were a member of the Youth League?

21 MR. SAUT TOEUNG:

22 A. Yes. The paper - the paper -- the colour of the paper was
23 rather pale yellow in colour.

24 [14.25.18]

25 Q. Were the flags on the cover in colour? And, if so, what colour

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1 were they?

2 A. The flags were in red, with -- with a rice leaf.

3 MR. LYSAK:

4 Mr. President, I'd like to hand a second document, now, to the
5 witness, which is E3/729, also in the case file as IS 11.3.

6 MR. PRESIDENT:

7 Yes, you may proceed.

8 Court officer, please take the document from the prosecutor and
9 present it to the witness. And you may also project this document
10 on the computer screens.

11 BY MR. LYSAK:

12 Q. And my question is the same for the second document: Does this
13 appear -- appear to be the "Revolutionary Youth" publication that
14 you indicated you received during the period you were a member of
15 the Youth League?

16 [14.26.54]

17 MR. SAUT TOEUNG:

18 A. I'm sorry; I do not catch your question. Could you please
19 repeat your question?

20 MR. PRESIDENT:

21 Mr. Prosecutor, please repeat your question because the witness
22 appears not to understand the question.

23 BY MR. LYSAK:

24 Q. My question is: Does this document also appear to be -- do you
25 recognize this as a copy of the "Revolutionary Youth" publication

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1 that you received as a member of the Youth League?

2 MR. SAUT TOEUNG:

3 A. You -- what -- are you talking about the "Revolutionary Youth"
4 magazines in those days? I am -- I'm afraid I do not understand
5 the question. I dare not answer the questions because I do not
6 understand the question. Do you want me to refer to the
7 "Revolutionary Youth" magazines in those old days? Please repeat
8 the question because I would like to have the specific time
9 indication.

10 [14.28.26]

11 MR. PRESIDENT:

12 Please, Mr. Prosecutor, repeat your question and please indicate
13 the time of the publication as well because the witness is -- the
14 witness is insisting that he wants to know the date of the
15 document as well. So, if you can indicate this, it would be very
16 helpful for the witness so that it can refreshes his memory, and
17 his response to that question would be conducive to getting the
18 information. Thank you.

19 MR. LYSAK:

20 Thank you, Mr. President.

21 Q. The second document we gave you is titled as the October 1975
22 "Revolutionary Youth".

23 My question is: Was -- was 1975 part of the time period when you
24 received the "Revolutionary Youth" publication?

25 MR. SAUT TOEUNG:

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1 A. I am struggling to understand this question. It's the same.

2 [14.30.00]

3 Q. Let me ask you a very simple question: What -- what time
4 period was it? What years did you receive the "Revolutionary
5 Youth" publication?

6 A. I received it in 1974. Actually, this magazine was first
7 published in 1974.

8 Q. Did you continue to receive "Revolutionary Youth" in 1975, or
9 was it only 1974 when you received them?

10 A. I started to receive them in 1975 and 1976.

11 Q. So you've already identified one of the documents as appearing
12 to be a "Revolutionary Youth". Is the second document I gave you,
13 from October 1975 -- does the cover page look like the cover page
14 of "Revolutionary Youth" that you received in 1975?

15 A. I don't remember exactly, but there -- there were two colours,
16 red and yellow.

17 Q. Do you remember the number of flags that used to be on the
18 magazines that you received back in 1974 and 1975?

19 A. No, I don't.

20 [14.32.27]

21 Q. And you've said that you -- you were not able to read these
22 publications yourself. Did anyone provide instruction to you
23 about the meaning of these documents?

24 A. We were instructed, or briefed by the leader of our group,
25 including Pang, who was reading them for us, and we were not

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1 legible -- we couldn't read anything back then.

2 Q. And what was Pang's position?

3 A. Pang was in charge overly at K-1 Office.

4 Q. Where did these meetings take place, where Pang instructed you
5 about "Revolutionary Youth"?

6 A. At K-7 and Y-10.

7 Q. Thank you.

8 I also want to ask you a few more questions about your work as a
9 soldier and the period prior to April 1975.

10 [14.34.35]

11 And I would like to refer you to a prior statement of yours in
12 E3/423, and it is question A51. And, Mr. President, if we could
13 put that on the screen? I think the witness already has a copy of
14 that statement.

15 MR. PRESIDENT:

16 You may proceed.

17 Court assistant is now instructed to put up the document on the
18 screen.

19 BY MR. LYSAK:

20 Q. Mr. Saut Toeung, in this statement that you gave to the
21 Co-Investigating Judges, you indicated that you were trained as a
22 bodyguard -- quote: "...when I became a soldier fighting against
23 Lon Nol's soldiers."

24 What did you -- what did you mean when you said you were "a
25 soldier fighting against Lon Nol's soldiers"? Did you engage in

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1 any combat against them, or were you just trained to fight
2 against the Lon Nol army?

3 MR. SAUT TOEUNG:

4 A. I did not receive any military training. Those soldiers could
5 have been trained, but I was -- I didn't receive such training; I
6 was only tasked with providing protection to people concerned.

7 [14.36.42]

8 Q. If you could look at the very next question and answer in this
9 document, which is A52, the question was -- quote: "During the
10 training to be soldier, who was the trainer?"

11 Your answer -- quote: "The trainer was named Phen, who was from
12 Hanoi."

13 Could you describe for the -- for the Chamber what -- what
14 training - what training it was that you received from Phen?

15 A. I did not join the training session, but Phen was giving
16 military training sessions to soldiers on how to be engaged in
17 combat.

18 Q. When was it that you were present for these training sessions?

19 A. No, I didn't attend any of the sessions.

20 Q. When did these training sessions take place?

21 A. They would normally take place in the dry season, so far as I
22 recollect.

23 [14.38.41]

24 MR. LYSAK:

25 Mr. President, if this is a convenient place to take our break, I

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1 can stop at this point and resume after the break.

2 MR. PRESIDENT:

3 We were about to move a little bit further. However, since you
4 already notified us that it would be appropriate time for the
5 adjournment, then it is indeed appropriate time for the
6 adjournment. We will adjourn briefly.

7 And that witness is now -- court officer and security guards are
8 instructed to take the witness to his room.

9 And the Court adjourns until 3 o'clock.

10 (Court recesses from 1439H to 1500H)

11 MR. PRESIDENT:

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

13 I note the Lead Co-Lawyer for the Civil Party is on her feet. You
14 may proceed.

15 MS. SIMONNEAU-FORT:

16 Thank you, Mr. President. I have just read mail by -- Ms. Susan
17 Lamb sent to us, and she says that, regarding civil parties and
18 the Co-Prosecutors, we have a day and a half to examine this
19 witness and that we have to share that day and a half.

20 So, since we are two different parties, I don't think we should
21 have to share time.

22 [15.02.12]

23 And I think that it would be proper if we were informed
24 sufficiently in advance in the future and before the beginning of
25 the examination, because it is very difficult for us, civil

1 parties, to adapt ourselves without realizing -- or knowing how
2 much time the Co-Prosecutors have. And we run the risk of
3 depriving us -- depriving ourselves of the little time left. We
4 have already spent three hours and we still do not know how much
5 time we need.

6 I, therefore, respectfully submit to the Chamber that we should
7 be informed well in advance of the time we will have, and we will
8 indicate how much time we need. Thank you.

9 MR. PRESIDENT:

10 I now hand over to the International Co-Prosecutor to continue
11 his line of questioning.

12 BY MR. LYSAK:

13 Thank you, Mr. President.

14 Q. Mr. Saut Toeung, I'd like to ask you now some questions about
15 your role as Nuon Chea's messenger and bodyguard.

16 [15.03.45]

17 Can you provide a general description to the Court of the work
18 you did as Nuon Chea's messenger and bodyguard?

19 MR. SAUT TOEUNG:

20 A. My guard duty was to provide security guards surrounding the
21 compounds where Mr. Nuon Chea worked.

22 Q. Did you accompany Nuon Chea on trips to the provinces?

23 A. Yes, I did.

24 Q. How often did Nuon Chea travel to the provinces?

25 A. It's rather frequent; once every two or three months.

1 Q. And did he continue to travel to the provinces the entire
2 period you worked for him?

3 A. No, it was only once in a while.

4 [15.05.42]

5 Q. Did he travel throughout the whole country and visit all
6 provinces?

7 A. He visited Battambang, Kampong Chhnang, Kampong Speu, the East
8 Zone.

9 Q. And how many people went on these trips to the provinces? How
10 many other people were there in addition to you and Nuon Chea?

11 A. Sometimes there were 10 people, and sometimes there were more
12 than that.

13 Q. Were you a driver, l or was there a different person who was
14 the driver for these trips?

15 A. There was a different driver.

16 Q. Did you travel in the same car as Nuon Chea?

17 A. No, I drove on the bodyguard's convoy, or car.

18 Q. Who -- was there anyone in the car with Nuon Chea, other than
19 his driver?

20 A. No, he was in the car alone, together with his driver.

21 [15.07.43]

22 Q. Who was the driver who worked for Nuon Chea when you went on
23 these trips to the provinces?

24 A. Back then, Yang was his driver, Sot was also his driver, Thung
25 was also his driver; so three of them were the drivers.

1 Q. And did you go with Nuon Chea every time he travelled to the
2 provinces, or were there times when he travelled without you?

3 A. No, I was not with him on every trip; we had other peoples who
4 took the rotate assignment.

5 Q. Can you tell us, what did Nuon Chea do when he went on these
6 trips to the provinces?

7 A. He went to the province to preside over the meeting or to
8 provide training to other cadres.

9 [15.09.21]

10 Q. What type of meetings did he preside over?

11 A. They were training course for the heads of cooperatives, for
12 example on how to cultivate rice.

13 Q. Did Nuon Chea meet with leaders from the regions when he
14 travelled to the provinces?

15 A. Yes, he did.

16 Q. Who were the leaders from the regions that you remember Nuon
17 Chea meeting with on these trips?

18 A. To my recollection, they were So Phim, Ta Nhim, Ta Pal, Ta
19 Touch, and others, Kheu (phonetic), Ta Mok -- he frequently met
20 Ta Mok.

21 Q. When he went to the provinces, did Nuon Chea ever visit dams
22 or other worksites?

23 A. Yes, he visited very frequently.

24 [15.11.29]

25 Q. And do you remember any of the areas where Nuon Chea went to

1 visit a dam or canal sites?

2 A. To my recollection, he visited the 1st January Dam and other
3 dams in Koh Kong and Pursat provinces, and a few other places of
4 which I cannot recall.

5 Q. The 1st January Dam that you just referred to, where was that
6 located?

7 A. It was maybe in Kampong Chhnang, I do not remember it well.

8 Q. Do you remember whether Nuon Chea visited a dam that was on
9 the Chinit River, near the border of Kampong Thom and Kampong
10 Cham?

11 A. Yes, he visited that dam as well.

12 Q. Do you remember how many times he visited that dam?

13 A. I do not remember well, but he may have visited it twice or
14 so.

15 [15.13.18]

16 Q. What did Nuon Chea do when he went to visit dams -- those
17 dams?

18 A. He visited the status of the dam's construction as well as the
19 rice cultivation and the performance of the cooperatives.

20 Q. Did he meet with the leaders who were responsible for the
21 construction of the dams in those regions?

22 A. Yes, he met with them.

23 Q. When-- Excuse me. When you travelled with Nuon Chea to the
24 provinces, did he ever go to any pagodas?

25 A. No, he never visited a pagoda because there was no monks,

1 nobody's monks in those pagodas.

2 Q. Did he ever go to any pagodas while he was in Phnom Penh?

3 A. No, he never visited pagodas, even in Phnom Penh, because
4 there was no monk in the pagoda. What is the point of going
5 there?

6 [15.14.59]

7 Q. Did you ever hear Nuon Chea talk about Buddhism?

8 A. No, I had never heard.

9 Q. During the time you worked for him, did you ever see him
10 participate in any Buddhist ceremonies?

11 A. No, I didn't see any.

12 Q. I want to go back, now, and ask you about some of the leaders
13 from the provinces that Nuon Chea met with.

14 Did Nuon Chea travel to Takeo -- or did you travel with Nuon Chea
15 to Takeo province?

16 A. Yes, I did. I went there with him once.

17 Q. And who would Nuon Chea meet with when he went to Takeo?

18 A. He met with Ta Mok.

19 [15.16.22]

20 Q. Where was it that Nuon Chea would meet with Ta Mok? Was it in
21 Takeo provincial town or was it in some other location?

22 A. He would meet with him at his house.

23 Q. Do you remember where Ta Mok's house was located?

24 A. I do not recollect, but his house was further up the
25 provincial town, and probably it was on the left hand side of the

1 town.

2 MR. PRESIDENT:

3 Witness, you are instructed to pause a bit before you respond to
4 the question. You should wait until your mic is on. When you see
5 the light is on, then you start -- should start answering the
6 question. Otherwise, your voice will not get through the system.
7 Prosecutor, you may continue.

8 BY MR. LYSAK:

9 Thank you, Mr. President.

10 [15.17.45]

11 Q. The -- when Nuon Chea went to meet with Ta Mok, was it just
12 the two of them who met, or were there other persons who also
13 attended those meetings?

14 MR. SAUT TOEUNG:

15 A. I did not know because I was always guarding outside.

16 Q. Did Nuon Chea ever talk to you about Ta Mok?

17 A. No, never did he talk to me about Ta Mok.

18 Q. Did you ever see Ta Mok come to Phnom Penh for meetings with
19 Nuon Chea or other leaders of the Party in Phnom Penh?

20 [15.18.42]

21 A. Yes, I saw him coming to meet with Ta Mok and particularly to
22 attend training course.

23 Q. How often did you see Ta Mok in Phnom Penh?

24 A. Once every one or two months. It was rather frequent.

25 Q. And where in Phnom Penh did you see Ta Mok when he came to

1 visit?

2 A. He would come to K-1.

3 Q. You also mentioned that Nuon Chea went on trips to the East
4 Zone. Who did he meet with when he went to the East Zone?

5 A. He met with Ta So Phim.

6 Q. How often did Nuon Chea travel to the East Zone?

7 A. It was not that frequent, maybe once every two or three
8 months.

9 Q. Where would he meet with So Phim when he went to the East
10 Zone?

11 A. At So Phim's house.

12 [15.20.53]

13 Q. And do you remember where So Phim's house was located?

14 A. I do not remember.

15 Q. When Nuon Chea went for these meetings with Ta Mok and So
16 Phim, how long would he meet with them? How long did the meetings
17 last?

18 A. The meeting would last for one or two days.

19 Q. When he went to these meetings, did you see whether he brought
20 any documents with him?

21 A. I don't know about this. I don't know what was discussed in
22 the meeting.

23 Q. Did you ever see Nuon Chea leave any of those meetings with
24 documents that he brought back to Phnom Penh?

25 A. I do not know; he may have had his bag, but I don't know.

1 [15.22.33]

2 Q. Do you remember whether Nuon Chea made any trips to the East
3 Zone in 1978?

4 A. I don't know; I forget.

5 Q. Do you remember whether there was a period of time when he
6 stopped travelling to the East Zone to meet with So Phim?

7 A. I cannot recollect.

8 Q. You also mentioned that Nuon Chea would travel to Battambang.

9 Who would he meet with when he travelled to Battambang?

10 A. He met with Ta Nhim, who was the chairman of the zone.

11 Q. And how often did Nuon Chea go to Battambang province?

12 A. It was not frequent, probably once every three or four months.

13 Q. Where is it that Nuon Chea would meet with Ta Nhim?

14 A. Back then, they met somewhere in a pagoda, but I cannot
15 recollect the name of that pagoda.

16 [15.24.46]

17 Q. Where was this pagoda located?

18 A. It was along the road leading to Angkor -- no, it was along
19 the road leading to Seam Reap province.

20 Q. Was it near Battambang provincial town?

21 A. Yes, it was near the provincial town.

22 Q. And what was this pagoda used for? Were there any monks there?

23 A. No, it were -- that pagoda was vacant, was--

24 Q. Could you tell what the pagoda was being used for?

25 A. That was an abandoned pagoda.

1 Q. Do you remember the name of the pagoda?

2 A. No, I cannot recollect the name of that pagoda.

3 Q. Did Nuon Chea ever go to Banteay Meanchey province?

4 [15.26.34]

5 A. No, he didn't go to that province.

6 Q. And did you ever see Ta Nhim come to Phnom Penh for meetings
7 with Nuon Chea or other Party leaders of Phnom Penh?

8 A. Yes, they would -- he would come to Phnom Penh on a regular
9 basis. Normally, it was during the Pchum Ben time.

10 Q. And when he would regularly come to Phnom Penh during Pchum
11 Ben time, how long would he be in Phnom Penh for?

12 A. It varied; sometimes he stayed in Phnom Penh for 10 days, and
13 sometimes it -- he stayed for 15 days.

14 Q. And where is it in Phnom Penh that you would see Ta Nhim when
15 he came to visit?

16 A. He would go to K-1.

17 Q. Would he stay at K-1 for the entire 10 or 15 days that he
18 visited?

19 A. Yes, he would stay there until he returned.

20 [15.28.34]

21 Q. And how about So Phim? Did you see him come to Phnom Penh for
22 meetings with Nuon Chea and the other Party leaders?

23 A. Yes, it was their routine. They would -- he would come to K-1
24 to attend meetings there.

25 Q. How often did So Phim come to K-1 for meetings?

1 A. I cannot recollect it well, but it may have been once every
2 two or three months.

3 Q. One of the other areas that you mentioned Nuon Chea would
4 visit was Kampong Chhnang. Who would he meet with when he went to
5 Kampong Chhnang?

6 A. He would only go to the rice field where people farmed rice.

7 Q. Did you ever go with Nuon Chea to the airport construction
8 site in Kampong Chhnang?

9 A. No, I didn't.

10 Q. And did you go on trips with Nuon Chea to Kampong Speu?

11 [15.30.37]

12 A. Yes, I did.

13 Q. Who would he meet with when he went to Kampong Speu?

14 A. He would meet Ta Pal.

15 Q. Who was Ta Pal?

16 A. Ta Pal was the secretary of a sector.

17 Q. Did you ever see Nuon Chea meet with a person named Chou Chet
18 when he went to Kampong Speu?

19 A. No.

20 Q. Where in Kampong Speu would Nuon Chea meet with Ta Pal?

21 A. They met at the Chamkar Mon mansion.

22 Q. Could you explain for us where the Chamkar Mon mansion was
23 located?

24 A. It could have been in Kampong Speu province, adjacent to the
25 main road.

1 Q. May I ask you to clarify? Did you mean Chbar Mon?

2 [15.33.03]

3 A. I think that was Chamkar Mon, because Chbar Mon is in Phnom
4 Penh instead.

5 Q. When Nuon Chea would go to Kampong Speu or other zones, do you
6 remember whether he ever attended zone congresses or zone
7 conferences where other cadres from the region were present?

8 A. I don't think I have a fresh recollection of this because I
9 was on duty at the exterior side of the place.

10 Q. And when Nuon Chea -- on his trips to Kampong Speu, do you
11 ever remember him going to meetings that were held at a coconut
12 plantation?

13 A. Yes.

14 Q. How often did he go to -- how many times did he go to meetings
15 at that coconut plantation?

16 [15.34.45]

17 A. Though I don't remember the exact frequency of his visit to
18 the place, but I think it could have been two to three times a
19 year.

20 Q. And where was that coconut plantation located? Can you tell us
21 the location of it?

22 A. I don't remember, but the coconut trees were planted
23 surrounding the mansion.

24 Q. Was this the same mansion where he met with Ta Pal?

25 A. That mansion was a part of the war spoil -- or assets obtained

1 from the former Lol Nol soldiers.

2 Q. And are you able to tell us who -- who all participated in the
3 meetings that were held at the coconut plantation?

4 A. I don't remember them all because there were some low level
5 cadres who also attended the meetings there.

6 Q. Do you remember whether Nuon Chea would give speeches at those
7 meetings?

8 A. No, I don't know about this.

9 [15.37.24]

10 Q. Did Nuon Chea -- did you ever go with Nuon Chea to Kampong
11 Tralach Leu district and Kampong Chhnang?

12 A. No, I didn't. I never know this district.

13 Q. Did you ever go to Peam commune with him?

14 A. No, I didn't.

15 Q. Did Ta Pal also come to Phnom Penh for meetings with Nuon Chea
16 and other Party leaders?

17 A. Yes, he did.

18 Q. How often did you see Ta Pal come to Phnom Penh?

19 A. I don't remember quite well; but I remember having seen him in
20 Phnom Penh two to three times.

21 [15.39.02]

22 Q. I've asked you already about some trips to dam sites; but did
23 you go on trips with Nuon Chea to Kampong Cham, where he met with
24 leaders from that region?

25 A. No, I didn't.

1 Q. What about Kratie province? Did you ever go to Nuon Chea – go
2 with Nuon Chea to Kratie province?

3 A. Not either.

4 Q. Did you ever go with him to Mondulkiri or Rattanakiri?

5 A. He never went there.

6 Q. What about Siem Reap province? Did he ever go there?

7 A. No, he didn't. Perhaps he could have gone there on his own,
8 without my knowledge.

9 Q. During the period you worked for Nuon Chea did you ever hear
10 him talk about the Vietnamese?

11 A. No. But I once heard he was talking about the Vietnamese
12 invasion at the East Zone.

13 [15.41.23]

14 Q. Where was it that you heard him talking about the Vietnamese
15 invasion?

16 A. This information could be heard all across the country through
17 radio broadcast.

18 Q. I just want to make sure I understand. Are you saying you
19 heard Nuon Chea talk about the Vietnamese invasion on a radio
20 broadcast? Is that right?

21 A. Yes, I did.

22 Q. And do you remember what year that was?

23 A. It was in '75, '76, and '77.

24 Q. Did you hear Nuon Chea on the radio on other occasions, or
25 just that one time?

80

1 A. I only heard this information through the radio broadcast.

2 Q. Where is it that you would hear radio broadcasts during the
3 Democratic Kampuchea period? Did you have to go to a certain
4 location in order to hear radio broadcasts?

5 [15.43.42]

6 MR. IANUZZI:

7 Objection, Your Honour

8 MR. PRESIDENT:

9 Witness, could you please hold on for a moment?

10 Counsel for Nuon Chea, you may now proceed.

11 MR. IANUZZI:

12 Your Honour, I heard the witness say that he only heard that one
13 time -- the radio broadcast that one time, and counsel is now
14 suggesting that he heard radio broadcasts over a period of time
15 or over a course of time.

16 Perhaps the question could be rephrased.

17 [15.44.15]

18 MR. LYSAK:

19 Mr. President, I wasn't talking about radio broadcasts of Nuon
20 Chea; he's already talked about that. I'm asking him a general
21 question about where one would hear radio broadcasts during the
22 Democratic Kampuchea regime.

23 MR. IANUZZI:

24 Well, in that case, it's fine.

25 MR. PRESIDENT:

81

1 Witness may now respond to the question by the prosecutor.

2 (Short pause)

3 [15.45.00]

4 Co Prosecutor, you may repeat the question, as witness appears to
5 have forgotten what he was asked.

6 BY MR. LYSAK:

7 Q. Yes. My question is: Where -- where is it that you would
8 listen to radio broadcasts during the Democratic Kampuchea
9 regime?

10 MR. SAUT TOEUNG:

11 A. We could listen to these radio broadcasts through radio by our
12 colleagues who had a radio; and we listened to the broadcasts all
13 together.

14 Q. Were there any locations where there were speakers so that
15 people could come and listen to radio broadcasts?

16 A. No, there weren't.

17 Q. Did you ever travel with Nuon Chea outside Cambodia?

18 [15.46.45]

19 A. Yes, I did. We travelled to China.

20 Q. How many times did you travel outside the country with Nuon
21 Chea? Was it just that one trip, or were there more than one
22 trip?

23 A. (No interpretation)

24 THE INTERPRETER (KHMER TO ENGLISH):

25 The interpreter could not really hear the final statement by the

1 witness.

2 BY MR. LYSAK:

3 Q. Let me re ask the question, Mr. President: Did you go with
4 Nuon Chea on just one trip, or were there more than one trip
5 outside of Cambodia?

6 MR. SAUT TOEUNG:

7 A. I went there on one occasion only.

8 [15.47.59]

9 Q. And was that trip only to China, or did you also go to any
10 other countries on that same trip?

11 A. We travelled all the way to Korea.

12 Q. And when you say "Korea", are you referring to North Korea or
13 South Korea?

14 A. North Korea.

15 Q. How long was this trip that you took with Nuon Chea to China
16 and North Korea?

17 A. It was a one week trip.

18 Q. Was it one week total or was it one week in each country?

19 A. One week for each country.

20 Q. How many other bodyguards came with you on this trip to China
21 and North Korea?

22 A. There was three bodyguards, including me, myself, and I don't
23 remember the names of the other one; I remember Sot, but not the
24 other person.

25 Q. How did you travel from Cambodia to China and North Korea?

1 [15.50.16]

2 A. We went by Boeing aircraft.

3 Q. Who did the airplane belong to? Was it an airplane of the
4 Democratic Kampuchea regime?

5 A. It belonged to China.

6 Q. Was this trip the first time you had travelled outside of
7 Cambodia?

8 A. Yes, it was. I never went there before.

9 Q. Was it the first time you had flown on an airplane?

10 A. Yes, it was.

11 Q. Do you remember how many people were part of the delegation
12 that went on this trip? Was it an -- was the airplane full of
13 people?

14 A. The airplane was full of people. There were other passengers,
15 including foreign nationals whom I don't remember the names.

16 [15.52.22]

17 Q. Do you recall the names of any of the other people who
18 represented Democratic Kampuchea on this trip?

19 A. There were two people, a man and a woman, who were the
20 secretary of sectors, who went there with us.

21 Q. Do you remember what part of the country these sector
22 secretaries were from?

23 A. No, I cannot recall.

24 Q. When you left for this trip, did you depart from the
25 Pochentong Airport?

1 A. Yes, I did.

2 Q. Do you remember whether there was a group of leaders who came
3 to the airport to send off the delegation that was going to
4 China?

5 A. I don't remember having seen any of them.

6 [15.54.24]

7 MR. LYSAK:

8 Mr. President, to help refresh the recollection of the witness,
9 at this time, I would like to show him a document, which is
10 E3/76, previously in the case file as D262.45. And the portion of
11 this document that I would like to ask the witness about is at
12 Khmer ERN 00701871 through 701872, English ERN 00170340, and
13 French ERN 00701861. And it is a September 2nd, 1978, Phnom Penh
14 Domestic Service report that is entitled "Nuon Chea-led
15 Delegation Departs for PRC 2 September".

16 If I can give a hardcopy of the documents to the witness? And can
17 we show that on the screen also?

18 MR. PRESIDENT:

19 You may proceed.

20 Court officer is now instructed to take the document from the
21 prosecutor and hand it over to the witness.

22 [15.56.50]

23 BY MR. LYSAK:

24 Q. Mr. Saut Toeung, are you able to read the first page of that
25 document, or would you like me to read it into the record for

1 you?

2 MR. SAUT TOEUNG:

3 A. It is better you read it for me, please.

4 Q. The text of this report from the 2nd of September 1978 states
5 as follows - quote:

6 "On 2 September at 1300 a Kampuchean People's Representative
7 Assembly delegation led by Comrade Nuon Chea, deputy secretary of
8 the KCP Central Committee and chairman of the Kampuchean People's
9 Representative Assembly Standing Committee, left Phnom Penh by
10 air for an official friendship visit to the PRC at the invitation
11 of the PRC's National People's Congress.

12 [15.58.02]

13 "Comrade Chairman of the State Presidium Khieu Samphan; Comrade
14 Deputy Prime Minister for Foreign Affairs Ieng Sary; Comrade
15 Deputy Prime Minister for Economic Affairs Vorn Vet; Comrade
16 Public Health Minister Thiounn Thioeunn; Comrade Minister for
17 Social Affairs Ieng Thirith; Comrade Minister for Propaganda,
18 Education and Culture Yun Yat; and many other cadres from various
19 ministries and departments were on hand to send off and to extend
20 best wishes to Comrade Chairman Nuon Chea and his delegation for
21 a successful visit."

22 Q. My first question for you is: Does this refresh your
23 recollection as to the timing of your trip with Nuon Chea to
24 China? Did you leave for that trip on the 2nd of September 1978?

25 A. Yes, I did.

1 Q. And do you recall the list of people that I read being present
2 at the airport to send off the delegation?

3 [15.59.41]

4 A. No, I do not recollect these names.

5 Q. During the period that you worked for Nuon Chea, how often did
6 you see Ieng Sary or Khieu Samphan?

7 A. They would come every now and then.

8 Q. Where is it that they would come where you would see them?

9 A. K 1.

10 Q. Now, let me ask you a few more questions about your trip to
11 China and North Korea.

12 Where was the first -- do you remember the first location that
13 you visited after you departed Cambodia on the 2nd of September
14 1978?

15 A. I remember landing in Beijing; and a short while later, he was
16 visiting the rural areas.

17 Q. When you landed at the airport in Beijing, were you met --
18 were you met by a group of Chinese leaders?

19 A. Yes, we were.

20 [16.02.08]

21 Q. And in addition to visiting the countryside, what else did
22 Nuon Chea do during his visit to Beijing, or Peking?

23 A. He went to the steel factory, and the factory producing pipes,
24 and the factory producing juice, fruit juice.

25 Q. Did you visit the tomb of Mao Zedong?

1 A. Yes.

2 Q. Did the leaders of China host banquets for Nuon Chea while you
3 were there?

4 A. Yes, they did.

5 Q. Were you present at those banquets?

6 A. Yes, I was.

7 [16.03.41]

8 Q. And do you recall any of the locations where these banquets
9 were held in your trip -- during your trip to China?

10 A. I don't remember those locations.

11 Q. Do you recall a welcome banquet that was hosted at the Great
12 Hall of the People the day after you arrived in Beijing?

13 MR. IANUZZI:

14 Your Honour, I'm sorry to interject, but I just wonder--

15 MR. PRESIDENT:

16 Witness, could you hold on?

17 Counsel for Nuon Chea, you may now proceed.

18 [16.04.27]

19 MR. IANUZZI:

20 As I was saying, I'm sorry to interject, but I wonder if we're
21 straying outside the area of communication structures of DK,
22 going into Chinese banquets, visits to Mao Zedong's tomb, etc.,
23 etc. Perhaps we could come back to the area of focus for this
24 week's questioning.

25 MR. LYSAK:

1 Mr. President, if I may respond, the Nuon Chea defence team, so
2 far, has not been the type who would agree to facts.

3 I am eliciting some of the details of this trip, details that may
4 also be confirmed by reviewing some of the media reports so that,
5 should the Nuon Chea team seek to challenge the testimony of this
6 witness, it is very clear that the information he is providing is
7 correct. So that is the reason I am asking some of the questions.

8 [16.05.30]

9 In addition, the activities of Nuon Chea and who he met with
10 during his trip to China also reflect his role and
11 responsibilities, which is part of the case.

12 MR. IANUZZI:

13 I don't dispute that -- the last point. However, it's not
14 relevant to the segment of this trial, which is communication
15 structure.

16 In any event, I don't think it's necessary to go through every
17 single thing that this witness may or may not have given prior
18 testimony on simply to establish that he's being consistent. We
19 do need to stay within the limits of relevance -- I think we do
20 need to stay within the limits of relevance to a certain extent.

21 I just wonder how much longer this is going to go on.

22 MR. LYSAK:

23 If I may say one more thing, I think counsel is under a mistaken
24 impression that this is -- this questioning is limited to the
25 communication structure.

1 [16.06.31]

2 When we are questioning witnesses, we are entitled to question
3 them on the entire scope of Case 002/01, which includes the roles
4 of the Accused. And one of the roles of the Accused here is Nuon
5 Chea's role as a representative of Democratic Kampuchea and on an
6 official trip to China.

7 MR. PRESIDENT:

8 Objection by the defence counsel for Nuon Chea on the last
9 question is sustained, so the witness is directed not to respond
10 to the last question posed by the Prosecution.

11 The time is now appropriate for the day adjournment, but before
12 the adjournment, the Chamber wishes to get the impression from
13 the Prosecution as to how much time do you need to put questions
14 to this particular witness, so that the Chamber has the basis to
15 decide as to what time to be allocated to the civil party
16 lawyers. And we will decide on that time allocation based on that
17 indication.

18 [16.07.59]

19 MR. LYSAK:

20 Thank you, Mr. President. Assuming that -- because there was very
21 little questioning of the witness this morning -- I think we
22 counted probably that there was only a total of 15 minutes -- I
23 think we will be able to work within the time limits that have
24 been established. I expect that I will be able to finish by noon,
25 tomorrow, which would be -- mean that the Prosecution would use

1 just a little bit more than one day. And so, assuming that our
2 day and a half doesn't include the entire morning today, where
3 very little time was used questioning the witness, I think we
4 will be able to finish within the time that's been - that's been
5 assigned. But I would expect I would - I would be finished
6 certainly by lunch, tomorrow.

7 MR. PRESIDENT:

8 How about the Lead Co-Lawyer for the civil parties? How much time
9 do you envisage that you would need to put questions to this
10 witness?

11 [16.09.37]

12 MS. SIMONNEAU-FORT:

13 We believe we will need a minimum of two hours, or perhaps three.

14 MR. PRESIDENT:

15 How about the defence teams, starting from the defence team for
16 Nuon Chea?

17 MR. IANUZZI:

18 Thank you, Your Honour. We imagine we'd need about half a day
19 between Major Son Arun and myself.

20 MR. PRESIDENT:

21 How about the defence team for Ieng Sary?

22 MR. ANG UDOM:

23 Mr. President, we will need around one hour or a little over one
24 hour.

25 [16.10.32]

1 MR. PRESIDENT:

2 Thank you, very much for your indication.

3 So the last team -- last defence team for Khieu Samphan, could
4 you please indicate the times you may need?

5 MR. KONG SAM ONN:

6 Mr. President, thank you. We need around one hour or less than
7 one hour.

8 MR. PRESIDENT:

9 Thank you very much, all parties, for your indication of the
10 times that you need to put questions to the witness.

11 The time is now appropriate to adjourn for the day, and the
12 Chamber will adjourn.

13 And the examination of this witness will continue tomorrow and,
14 if necessary, we will extend it to Friday in order to conclude
15 the hearing of this witness.

16 [16.11.26]

17 Mr. Saut Toeung, please be informed that the Chamber invites you
18 to come again tomorrow morning.

19 And at the same time, the duty counsel is also invited to attend
20 the hearing tomorrow, during the hearing of the testimony of this
21 witness.

22 Court officer is instructed to assist this witness to work with
23 the WESU in order to facilitate his transport and accommodation
24 and make sure that this witness is brought before us before 9
25 o'clock in the morning, tomorrow.

1 And security guards are instructed to bring the Accused to the
2 detention centre and bring them back to this courtroom before 9.

3 The Court is adjourned.

4 (Court adjourns at 1614H)

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