



*Ieng Sary, Pol Pot, and Son Sen (left to right) appear together in an undated photograph. Son Sen's brother, Ny Kan, testified before the ECCC on Tuesday. (Source: Documentation Center of Cambodia)*

### **A Day of “Chaotic Situations”: Witness Ny Kan Continues His Testimony Before The ECCC**

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Proceedings resumed at the Extraordinary Chambers in the Courts of Cambodia (ECCC) with the continuation of testimony by witness Ny Kan on Tuesday, May 29, 2012, in Case 002 against accused Nuon Chea, Ieng Sary, and Khieu Samphan. The court bustled with even more activity than the previous day, as three buses of high school students marched into the public gallery shortly before 9:00am. A number of villagers were also present; sitting in the front row of the gallery, they appeared ready and eager for proceedings to begin.

The judges entered the Chamber a few minutes after 9:00 a.m. Before granting International Co-Prosecutor Vincent de Wilde permission to continue the examination of witness Ny Kan, Trial Chamber President Nil Nonn instructed a court officer to report on accused Ieng Sary. Announcing all parties to be present except Ieng Sary, the court officer informed the court that Ieng Sary had again waived his right to be present in the Chamber and had requested permission to follow the day's proceedings remotely from his holding cell. Recognizing Ieng Sary's difficulty sitting in court for long periods of time, President Nonn granted the accused permission to remain in his holding cell. He also informed Ieng Sary's counsel that the accused would be able to assist them remotely. President Nonn then handed the floor to Mr. de Wilde.

#### ***Prosecution Continues Its Examination of Ny Kan***

Before resuming his examination, Mr. de Wilde informed the Court that the prosecution would conclude its questioning by afternoon adjournment, after which the civil parties would begin examining the witness.

Turning to the witness, Prosecutor de Wilde first inquired whether Chang An, whom the witness had stated was the deputy of Sector 32, was the same Chang An who later became a minister of Democratic Kampuchea (“DK”). Mr. Kan replied that he did not believe them to be the same person.

Moving on, Prosecutor de Wilde asked if the Western Zone ever held annual or bi-annual zone meetings in order to bring together party cadres from the different sectors. Mr. Kan could not recall precisely, but he did say there were “zone assemblies.” In addition to sector level cadres, he continued, the zone assemblies also included cadres from commune branches; these assemblies generally lasted three days. Mr. Kan could not say how often he attended such assemblies, but he remembered attending one called an “open assembly.” When asked who headed these assemblies, he stated that secretaries of the zone generally chaired them.

When asked if any leading members of the Communist Party of Kampuchea (“CPK”) ever came to speak at the assemblies, Mr. Kan was able to recall one occasion where he saw “many people from the upper echelon including the accused Nuon Chea.” He was unable to recall precisely when the assembly took place but said it likely occurred in late 1975. Mr. de Wilde asked if the witness ever saw other party leaders besides Nuon Chea at assemblies. Mr. Kan said he had not.

When asked to describe the subject matter of these large “open assemblies,” the witness replied, “The only thing I remember clearly was when the war was over. Everyone joined hands to realign the economy and implement the self-reliant policy – the self-mastery I talked about yesterday.” Asked specifically about discussion of enemies or traitors at the assemblies, Mr. Kan said he “heard about the people who would obstruct the fight – the cause of our fight, but I cannot be more specific than that.” However, the witness stated he never heard Nuon Chea speak of such matters.

#### ***Attempts to Refresh Witness’s Memory Prove Relatively Unproductive***

Mr. de Wilde changed tactics in his examination and requested permission by the Court to present the witness two issues of *Revolutionary Flag* from the years 1976 and 1977.

Receiving permission from President Nonn, Mr. de Wilde showed the witness a copy of a 1977 issue of *Revolutionary Flag* discussing a Western Zone assembly of the same year. After giving the witness a few moments to look over the document, he asked Mr. Kan if the witness had ever seen that particular issue. Mr. Kan responded that he had not and that only portions of *Revolutionary Flag* were extracted to publicize and distribute among lower-level cadres for propaganda purposes.

When Prosecutor de Wilde attempted to put another page of the 1977 issue before the witness, Michael Karnavas, co-lawyer of accused Ieng Sary, objected, arguing that the witness had already made it clear he had not seen the document. In response, President Nonn instructed the court officer to remove the document from the witness.

Switching subjects, Prosecutor de Wilde inquired whether the witness had ever heard – or heard of – senior party leaders discussing Sector 15 corruption or stating there was “nothing left but

rotting, decomposing flesh” that had been “dealt with and removed.” Mr. Kan responded coolly, informing the prosecutor that he had never heard anything of the sort and adding that it was the senior leader’s responsibility to find corruption among the party.



Trying another route, Prosecutor de Wilde asked the witness if he ever heard discussion of the Western Zone purge of zone and district leaders. Mr. Kan replied that he had heard of these things through “gossip.” However, Mr. Kan continued, by the time he heard of these events, he had already been transferred out of the Western Zone to the Ministry of Foreign Affairs. He believed this was around late 1977 or early 1978.

### ***Ny Kan Discusses His Role In The Ministry of Foreign Affairs***

Prosecutor de Wilde focused a large part of the remainder of his examination on the witness’s time in protocol unit of the Ministry of Foreign Affairs (“Ministry”), the position he assumed after being transferred from the West Zone and kept until the Vietnamese entered Phnom Penh in the beginning of 1979.

When asked how long he worked at the Ministry, however, Mr. Kan said he believed it was only around three months. Reviving his standard explanation for his uncertainty from yesterday’s proceedings, Mr. Kan said, “The situation was very chaotic.” Continuing in this vein, he stated, “The new war had erupted.... Forces had been gathered and people did not dare ask anybody about anything.”

Mr. de Wilde turned the witness’s attention to the reason behind Mr. Kan’s transfer out of Sector 32 to Western Zone. When asked if he ever heard about people who “disappeared” from Sector 32, Mr. Kan replied that he did not know about “disappeared people” but had heard that when people were removed, they had been transferred to another place. He said he never saw the disappeared – or transferred – people from Sector 32 again. However, he stated once again, “the situation was very chaotic.”

Prosecutor de Wilde proceeded to ask the witness if he knew men by the names of Seth, Keo, and Sim. The witness said he did not know anyone by the name of Seth or Sim but did know a man named Keo. He stated he knew Keo from the war and that Keo was in charge of providing food supply. Mr. Kan, however, did not know what happened to this man. Realizing the Chamber might be confused about how these men were connected to the witness, Mr. de Wilde informed the Court that they were referenced in a report as individuals transferred to S-21 out of the Western Zone around the same time the witness stated he was transferred to the Ministry of Foreign Affairs.

Moving on, Prosecutor de Wilde asked the witness if he knew of any allegations that might have been leveled against him that would have given party leaders a reason to order his transfer. Mr. Kan asserted that he had no reason to believe the upper echelon would have had any doubts

about his loyalty. However, if they did, the witness stated, he was not in a position where he would have known about it.

Mr. de Wilde asked the witness who had the authority to order the transfers. Mr. Kan responded, “The zone committee was vested with the authority to remove someone.” He confirmed that his zone committee ordered his transfer from the Western Zone to the Ministry. Regarding the reasons underlying his transfer, Mr. Kan believed it was because he was literate and was conversant in numbers. The Zone Committee, he continued, felt his abilities would be better optimized in the Ministry than in the Propaganda Committee in the Western Zone. He knew of no other reason for his transfer.

***Co-Lawyer for Ieng Sary Objects to Prosecution’s Use of Quotes Attributed To His Client***

The prosecutor continued his examination, requesting permission from the Court to read to the witness a statement made by Ieng Sary in a 1976 interview with Steve Heder. Mr. Karnavas interjected before President Nonn was able to respond to the Prosecutor’s request, stating, “I would not be objecting under normal circumstances – in an adversarial proceeding.” However, Mr. Karnavas explained, given the Court’s previous ruling against the use of statements by third parties who have not appeared in court as a witness, he felt the judges should also make a ruling in this circumstance. If the judges held the use of such a statement to be permissible, he argued, all statements from documents submitted into evidence should then be open for use in the examination of a witness.

In response, Mr. de Wilde informed the Court that the document’s submission was proper and that the witness should have an “opportunity to react to such a statement.”

The audience looked on quietly, absorbed with the scene unfolding behind the glass. After huddling with his fellow judges, President Nonn announced simply, “The objection is not sustained.”

Gesturing with his hands in an apparent expression of disapproval, Mr. Karnavas stood and addressed the Court again. Looking directly at President Nonn, Mr. Karnavas stated, “I did not object. I asked for a ruling.” Although he himself had used the word “objection” in his initial statement on the issue, he contended to the judges now that characterizing his previous statements as an objection “gives the impression to the public that we [Ieng Sary’s defense] have something to fear.”

Ending the discussion, President Nonn loudly and authoritatively informed Mr. Karnavas that the situation at issue was different than the situation upon which the Court had previously ruled. If Ieng Sary wished to object to the statements put forward by the prosecution, President Nonn continued definitively, he could do so. President Nonn then granted the prosecutor permission to proceed.

Quoting from the 1976 interview between Ieng Sary and Steve Heder, Mr. de Wilde read an excerpt in which Ieng Sary discussed Mr. Kan’s removal from Sector 32. According to the excerpt, Ieng Sary stated that the witness was removed from Sector 32 to the Ministry due to

allegations that he was connected to the CIA; all party members alleged to be affiliated with the CIA but not yet accused of a crime were sent to the Ministry, he allegedly explained.

Following the statement, Mr. de Wilde asked the witness if Ieng Sary or Mr. Kan's brother, Son Sen, ever told him the "real reason" behind his transfer to the Ministry. Mr. Kan, surprisingly unfazed by the statement presented before him, simply repeated the assertion that he was aware of only one reason for his transfer – the fact that he was literate. Regarding the CIA allegations, Mr. Kan asserted that he had never heard of them until the prosecutor had read from the transcript. However, the witness reiterated that the secrecy surrounding discussions among the party leadership meant he would not have been aware of such allegations even if their existence were true.

Apparently realizing there was little to gain from this line of questioning, Mr. de Wilde moved on to inquire who decided what role the witness would play in the Ministry. Mr. Kan responded that the Chairman of the Ministry was in charge of such decisions. As part of the "Protocol Department" of the Ministry, the witness explained, he was responsible for accompanying foreign visitors to locations such as Angkor Wat. When asked if he was the "director" of that department, Mr. Kan said, "There was no formal appointment at that time."

In another attempt to refresh the witness's memory, Mr. de Wilde received the Court's permission to read another passage from Ieng Sary's 1976 interview with Steve Heder, in which Ieng Sary is quoted as telling Mr. Heder that he appointed Mr. Kan as Director of Protocol within the Ministry.

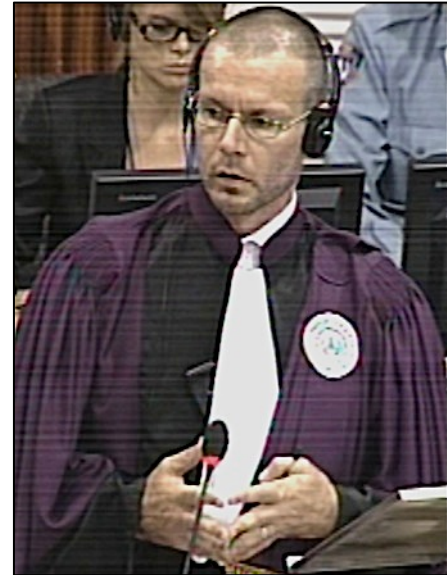
Appearing slightly confused, Mr. Kan responded that he believed the Director had left the Ministry before he arrived. Though he may have acted like a "director," he said there was never any formal appointment.

### ***"I'm Not Talking About Planting Vegetables"***

The prosecutor continued asking the witness about his role in the Ministry. Asking what other duties he performed besides those concerning the Department of Protocol, the Prosecutor clarified himself before the witness could answer. "I'm not talking about planting vegetables," he stated, "I'm talking about duties connected with children." Mr. Kan responded that he had taught some children English during his free time. When asked how many children he taught, Mr. Kan unresponsively repeated what had become a common theme of his testimony: "During times of war, things are chaotic."

Hoping to find better success with a different topic, Mr. de Wilde asked the witness about the hierarchical structure of the Ministry. Mr. Kan said his immediate superior was the Chief of the Protocol Department, a man called Chiem, though he did not know the identity of Chiem's superior. When asked if he knew Chiem before being transferred to the Ministry, the witness replied, "Mr. Chiem was an upper echelon person. So as a person who worked at the base, I would never meet him." Regarding Chiem's responsibilities within the Ministry, Mr. Kan stated that Chiem was "overly in charge" of assigning tasks and delivering food to people in the department.

Prosecutor de Wilde went on to ask if the witness always “respected orders.” Mr. Kan replied, “Yes, I did. We had to respect all the instructions rendered.” Mr. Kan was then asked if Chiem also respected his orders or if he heard Ieng Sary discuss his opinion on the matter. Before the witness could respond, Mr. Karnavas stood to address the Court once again, this time with a clear objection. Stating that the question was leading, Mr. Karnavas said, “I do believe he is trying to put words into the Minister’s [Ieng Sary’s] mouth.”



President Nonn instructed Mr. de Wilde to reword the question. In light of the witness’s response, Mr. Karnavas’s objection appeared to have been unnecessary. Far from putting words into anyone’s mouth, Mr. Kan repeated his pattern of vague responses, stating, “We all had to abide by orders. We all were in the same situation.”

### ***“The Name Game”***

Mr. de Wilde proceeded to ask the witness about the duties of a number of other members of the Ministry. The first person, a man named Suong Sikea,<sup>1</sup> alias Kong, the witness did not know. The second individual, a French woman named Laurence Pique, alias Phal, Mr. Kan could also not recall. He did state, however, that he remembered a French woman who worked within the Ministry who married a Cambodian man by the name of Khon.

Moving down the list, the prosecutor asked about a man named Choeun Brasedh. Mr. Kan said Mr. Brasedh worked as an interpreter within the Ministry but that he only saw this man at “important events.” Whether he knew a man named Aok Sokun, the witness said he knew a person by the alias Kun who was an interpreter for French visitors. The last name mentioned was Long Norin, alias Rith, whom the witness recognized by his war name, but he could not provide additional details.

Moving on, Mr. de Wilde asked a series of questions concerning the witness’s role as the part of the protocol department in the Ministry. Mr. Kan explained that the Department of Protocol was divided into sections, each of which were assigned different tasks in receiving foreign leaders. “Important people of the sections,” he stated, “would be assigned to receive the important delegations.”

The prosecutor then referred to a Phnom Penh radio broadcast discussing the April 22, 1978, visit of Leonard Bernstein from the U.S. Marxist-Leninist Communist Party who was said to have been received at the airport by the Ministry’s Head of Protocol. Despite the detail, Mr. Kan was unable to remember such an event. “There were several American visitors,” he asserted, “but I don’t remember those names.”

Mr. de Wilde inquired who else would have picked Mr. Bernstein up from the airport, if not him. Mr. Kan said it would have most likely been “the people who took turns receiving visitors.”

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<sup>1</sup> Names in this section are spelled phonetically according to ECCC live interpretation in English.

These people, Mr. Kan clarified, “were senior, had a good knowledge of the world, and could speak a foreign language. A person like me from a rural background would not be interested. Again, I was an ordinary person.” Asked if Ieng Sary was one of these senior officials who received foreign visitors, Mr. Kan responded, “According to the hierarchy, if they were senior people [the visitors], then senior members would receive them.” Mr. Kan could not recall how many times Ieng Sary had received foreign visitors.

### ***Ny Kan’s Contact With Senior Party Leaders***

After a brief morning adjournment, Mr. de Wilde continued questioning the witness about his duties in the Department of Protocol in the Ministry of Foreign Affairs.

Before responding to additional questions, the witness addressed the Court, stating:

I would like to clarify the term ‘director of protocol.’ In reality, back then I was in charge of only one section within the Protocol Department and there were people above me at that department. If the term ‘director’ is being used as someone who oversaw people, that was not my responsibility..., and I don’t want people to be misled.

In response to the prosecutor’s initial question – how often he came into contact with the party leaders – Mr. Kan claimed he did not see senior leaders often because he met only “lower level visitors.” When asked if he knew other senior leaders besides Ieng Sary and Son Sen, the witness responded that he “naturally knew of the leadership structure” and met these senior level officials at various banquets. Referring specifically to the accused, Prosecutor de Wilde asked Mr. Kan if he knew their party titles during the time. He said he did, explaining that he learned their titles during open meetings. However, he continued, he rarely met these officials because “we had to work within the hierarchical structure.”

Mr. de Wilde then requested the witness to state the exact titles of these leaders. Instructed by President Nonn to be more specific, the Prosecutor first started with Pol Pot. The witness stated he was told Pol Pot was the most senior leader but was not aware of what his title would have been. Apart from Pol Pot, Mr. Kan continued, he only knew the other leaders as “upper uncles.” In the end, he contended he was not aware of their specific titles.

Asked about the composition of the Central Committee, Mr. Kan explained that the term “Central Committee” was rarely used. He often heard, however, of the term “office 87.” Regarding the location of meetings of upper level cadres, Mr. Kan did not know.

### ***Prosecutor Focuses on Visits by Foreign Dignitaries to Democratic Kampuchea***

Questioning then turned to the time Mr. Kan accompanied a Belgian delegation visiting Cambodia. “I accompanied three Belgians, male and female, on two trucks, one for cadre services and the other for the accompanying delegation.” When asked where he took this delegation and other delegations, the witness stated that the prime location was Angkor Wat. Whether he accompanied visitors to other locations, Mr. Kan said they usually stopped for meals in Kampong Thom and then proceeded all the way to Siem Reap to visit Angkor Wat.



Mr. de Wilde proceeded to read from a document describing a tour for a Belgian delegation that stopped at factories and dams before being taken to Angkor Wat. Mr. Kan replied that he personally was assigned to take visitors to Siem Reap. However, he continued, other persons within the department were assigned to take visitors to other locations.

Referring to Japanese radio broadcasts from the October 13,14, and 15, 1978, which mentioned the witness's name a number of times, the prosecutor asked the witness if he remembered accompanying a Japanese delegation during his time in the Ministry of Foreign Affairs. Before granting permission to the prosecutor to read portions of the radio transcripts to the witness, President Nonn asked Mr. de Wilde to provide further details on the document. Mr. de Wilde gave the court the document numbers for Khmer, French, and English. Michiel Pestman, co-lawyer for Nuon Chea, requested that the Court project the particular passage for the Chamber's ease and convenience. After acquiescing to defense counsel's suggestion, President Nonn gave Mr. de Wilde permission to continue.

After a portion of the radio transcript was read, Mr. Kan said he could not recall any details regarding the Japanese delegation's visit to Cambodia in 1978. He did say he recalled being instructed to inform the guests of the party's "victory."

Mr. de Wilde then read another portion of the same transcript to the witness, quoting the following:

Ny Kan, the foreign affairs ministry official that accompanied us on our tour, said that most people left without resistance and were allowed to return to their former villages. He also told us of the forced removal and redistribution of the less cooperative capitalist classes.... He also told us that all the people in Cambodia, include the Chinese Cambodians, were being treated equally... [and that] in the new Cambodia, the privileges of certain classes were no longer valid.

Asked what he had meant by "redistribution," the witness stated he had discussed the concept during the previous day's proceedings. The "redistribution," he reminded the prosecutor, concerned the rural people who shared their food with the new evacuees from the city.

Continuing to another part of the transcript, Mr. de Wilde inquired what the witness meant when he told the Japanese people that the privileged people from the cities had "difficulty adjusting" to rural life. "I think it is not difficult to respond," he asserted, "People who lived in the cities were not the same as those who lived in the rural areas. They were used to their lifestyle in the city, and for that reason it would be difficult to adjust.... In the city they lived in houses that belonged to them. In the rural areas, they had to settle into new homes."

Asked to elaborate on the living conditions after the evacuations, Mr. Kan stated, "I understood that the livelihood of people after the war was not good.... Production was minimal and yet there were many mouths to feed." Mr. de Wilde then asked the witness if he ever reported these observations to his superiors, specifically the fact that the "base people" didn't have enough to eat. Mr. Kan said he raised the issue "once in a while... according to the situation when it was conducive to do so."



Mr. de Wilde moved on to questions on the witness's accompaniment of Yugoslav visitors when he worked for the Ministry of Foreign Affairs. After receiving confirmation from the witness that he had accompanied Yugoslav visitors, the prosecutor received permission from President Nonn to present the witness with two telegrams from March 1978. Giving the witness a few moments to read the telegrams, Mr. de Wilde noted that the witness had told the court his alias was "Kan," which is the same name as the author of the telegrams, and he asked Mr. Kan if he remembered writing them. After reading the telegrams, Mr. Kan said he did not believe he wrote them. Mr. de Wilde followed up by asking the witness if he was aware of another individual named Kan who might have written about visiting Yugoslav journalists. While the witness conceded that he did not, he asserted that the telegrams' contents, such as the discussion of events occurring in Thailand, were beyond his knowledge.

Unable to extract much more from the witness, Mr. de Wilde presented Mr. Kan with another telegram. The telegram, sent to Mr. Kan's brother Son Chem, described the accompaniment of Yugoslav reporters to a dam where there were 20,000 workers. Mr. de Wilde requested that the witness discuss the general content of reports similar to the one just presented to him. Mr. Kan responded, "The essence of the report was the welfare of the visiting guests and my pure impression and observation of the visit."

#### ***Defense Counsel Calls de Wilde's Examination Technique "Sleazy"***

Shortly before the afternoon break, the discussion inside the Chamber became heated. Prosecutor de Wilde received permission to place another telegram before the witness, a telegram sent from the Ministry of Foreign Affairs and delivered to "office 87." The author of the telegram, however, was not identified to be the witness.

After Mr. Kan explained that "office 870 referred to the office of the upper echelon, but I normally call it 'office 87,'" Mr. Karnavas stood and requested the attention of the Court. He proceeded adamantly, stating, "I can see how the prosecution wishes to engage in speculation with this particular witness. He needs to lay a foundation, he knows that.... To try to engage the witness in simple speculation is improper, and the gentleman should know this by now."



In response, President Nonn instructed Mr. de Wilde to rephrase his question. The prosecutor asked the witness if telegrams sent from the Ministry of Foreign Affairs meant to go through Office 870.

Before the witness had an opportunity to respond, Mr. Karnavas placed another objection, restating his previous critique that the Prosecutor "needs to lay a foundation." Taking control of the floor and running with it, Mr. Karnavas continued to deliver a passionate critique of Mr. de Wilde's examination, at one point calling the Prosecutor's technique "rather sleazy." Describing the prosecutor's placing information before a witness before laying a foundation as "sneaky," Mr. Karnavas said such a

practice would promote speculation by permitting a party to question a witness on any document before discerning whether the witness was familiar with its content.

President Nonn, looking a bit confused, instructed Mr. de Wilde simply to “be brief” and “more specific.” Turning back to the defense, President Nonn told Mr. Karnavas, “You should not advise other parties to frame their questions.” It appeared President Nonn interpreted Mr. Karnavas’s objection as merely an argument over technique. Nevertheless, Mr. Karnavas stated, “When it comes to technique, someone of his [Mr. de Wilde’s] experience and his caliber should know how to comport himself. He has to lay a foundation.”

President Nonn, still puzzled, responded almost comically, “We do not get the main points of your objection.”

Apparently exasperated by this point, Mr. Karnavas made one final attempt to explain his concern to the Court. “You must lay a foundation,” Mr. Karnavas repeated, “Otherwise we can present to any witness any information and try to get them to validate it.”

The explanation seemingly did not clear up the situation, however, as President Nonn ended the discussion by simply advising the prosecutor to change his question. Mr. de Wilde responded briefly, “I will not dwell on this issue, Mr. President. I do believe I have laid a foundation by indicating the witness’s name as the signature.”

#### ***Witness Vaguely Remembers Foreign Journalists’ Visit But Cannot Recall Details***

The prosecutor resumed questioning the witness about various groups of foreigners who had visited Cambodia during his time working for the foreign ministry. In a fashion that resembled throwing spaghetti on a wall to see what sticks, Mr. de Wilde probed the witness’s memory for any recollection of a group of journalists who visited in December 1978. Mr. Kan said he could not remember any visiting journalists.

Mr. de Wilde requested permission to place yet another document before the witness – a telegram concerning the journalists’ visit to Cambodia in December 1978. Receiving permission, he asked the witness to look over the document to see if it refreshed his memory and then tell the Court if he remembered accompanying the journalists during their visit.

After a few moments, Mr. Kan responded:

I already indicated that my memory does not serve me very well because it was such a long time ago. Ta Mok was the one who took notes. He understood languages as well as the subject of the debate. I don’t recollect everything, but since you already presented the document to me along with the names of the individuals, I do believe that these people could have been... As far as I remember, having seen this document, Ta Mok and I jointly reported on the event.... I just don’t remember the details.

Taking this admission as confirmation of co-authorship, Mr. de Wilde proceeded to question the witness on specific details in the document. As Mr. Kan was not able to offer any more clarification, the prosecutor concluded his examination of the witness.

Before adjourning for the afternoon break, Mr. Pestman, made the usual request that his client be granted permission to follow proceedings from his holding cell for the remainder of the day. President Nonn granted permission as expected, given the accused submit a written waiver of his right to be present at Court.

### ***Counsel for Civil Parties Begins Their Examination of Witness Ny Kan***

After the recess, National Civil Party Co-Lawyer Lor Chunthy began examination on behalf of the civil parties by asking the witness a series of questions about his background. Mr. Kan followed by repeating essentially the same information he had given the Court the previous day.

Regarding the 1970 appeal by the Communist Party of Kampuchea (CPK) asking people to join the resistance movement, Mr. Kan stated, “I decided to join the resistance or the struggle because I noticed the general aspect of the country that all people of all walks of life were convinced by the King to fight the imperialists to promote living standards of the people.”

After confirming that it was Mr. Kan’s “conscience” that motivated him to join the movement, Mr. Chunthy asked the witness for his “impression” of the movement at that time. Mr. Kan replied, “The situation kept evolving. I did not really envisage situations of the future.”

Changing topics, Mr. Chunthy inquired as to why Mr. Kan and his brother, Son Sen, had different surnames. The witness informed the Court that his brother chose his own surname, but he himself chose to keep the name of their father.



Mr. Chunthy moved on to the witness’s involvement with the Committee of Propaganda. Mr. Kan explained, “The [propaganda] policy emanated from the idea of having the monarchy as the key person behind this.... People from all walks of life had to obey the king; they loved the king. So this idea of love for the king was integrated in our propaganda to convince the people.” Mr. Kan could not provide anything more specific on the original source of the policies used in party propaganda.

Asked if he observed any changes in the Western zone between 1975 and 1977, before he was transferred to the Ministry of Foreign Affairs, Mr. Kan replied that he heard news that some Western Zone cadres, including the zone secretary, were “removed” after he was transferred to the Ministry of Foreign Affairs. This information, however, was unofficial – he heard such news “through the grape vine.”

In response to yet another question on his role at the Ministry of Foreign Affairs, Mr. Kan stated, “I was assigned a small office in which I was put in charge of protocol.” As he had done previously that morning, Mr. Kan reiterated that the term “director” was an overstatement of the role he played within the Ministry.

President Nonn interrupted the witness, thanking him for clarifying but reminding him that he had made the clarification earlier that morning. President Nonn also instructed the counsel to refrain from questions that would encourage the witness to engage in speculation.

Moving to the witness’s role accompanying visitors on their trips, specifically to Angkor Wat, Mr. Chunthy asked the witness if he was required to inform others that foreigners would be visiting. Mr. Kan replied that he was not. The route of travel during these visits, Mr. Kan explained, was one that did not bring the foreigners in contact with many local people. He did note, however, that the few people he did spot during these trips appeared to be malnourished.

As to whether he ever attended meetings within the Ministry of Foreign Affairs, Mr. Kan replied, “There would generally be a common meeting that each personnel was expected to attend. They also had smaller work meetings, where individuals discussed their tasks more specifically.” At no meetings, he continued, were there ever over fifty people. During his time attending these meetings, however, he never noticed that anyone had disappeared.

Mr. Chunthy proceeded to read an alleged quote from the witness, stating, “Certain number of party members destroyed party lines and turned to leftism in order to undermine the forces of the party from the lower level.” Anta Guisse, Khieu Samphan’s co-lawyer, objected that the civil party counsel was quoting from an unknown document. President Nonn thanked Ms. Guisse for her observation and reminded all counsel to provide the Court with the identity of the document before quoting from it.

Before Mr. Chunthy was able to resume his questioning, however, Ang Udom, national counsel for Ieng Sary, raised two additional objections. Mr. Udom observed that Mr. Chunthy had not projected the document on the screen for the benefit of the other parties and that the document under discussion was authored by a potential witness, whose identity Mr. Udom requested not be disclosed.

Not understanding the reason for his objection, President Nonn asked for elaboration from Mr. Udom. Before he could do so, Ms. Guisse objected again but on another point. She stated that Mr. Chunthy had said the document was an interview with Nik An but the now projected document appeared actually to be an interview with someone else.

After a few minutes conversing with his fellow judges, President Nonn reminded counsel to be careful when using names of third parties who may be called to witness before the court. He then gave the floor to Mr. Chunthy to continue questioning.

Mr. Chunthy continued his examination, jumping from one topic to another in a haphazard fashion, with no apparent organization. Referring to the witness’s earlier statement that he taught English to children at the Foreign Affairs Ministry during his free time, Mr. Chunthy asked if his

teaching also included “ideological training.” Mr. Kan responded, “I taught the children math and how to read and write. I did not teach them ideological training.” That task, he stated, was assigned to others.

Moving on, Mr. Chunthy asked the witness how often he had met Ieng Sary. Mr. Kan replied that he did not meet Ieng Sary often, mostly during banquets for foreign delegations.

When asked to describe the management system at the Ministry, the witness contended, “I think your question draws requires me to speculate. As a person of the lower level, I was not knowledgeable of the communication structure of the upper levels.” This response ended Mr. Chunthy’s examination.

### ***Attempts to Refresh Ny Kan’s Memory Continued***

After a short break, President Nonn handed the floor to any additional civil party co-lawyers who wished to present questions to the witness.

International Civil Party Co-Lawyer Barnabe Nekuie began questioning the witness, asking him to recall the Japanese delegation he had discussed with the prosecutor earlier that morning. Although he recalled the Japanese delegation, Mr. Kan could not recall whether 1978 was the year he accompanied them.

Mr. Nekuie moved on to inquire whether Mr. Kan remembered hearing of allegations against Cambodia for genocide around the time war began with the Vietnamese. Mr. Kan replied, “As a person in charge of protocol, I do not know anything about that. But the persons in charge of information and propaganda at the ministry would have had knowledge of this.”

Mr. Nekuie then presented a document concerning the Japanese delegation that had visited Cambodia in the end of 1978. He read a statement from the document that allegedly came from within the Ministry describing Vietnamese propaganda and stated that the Cambodian government was “massacring the people.” Mr. Kan said that he did not have the knowledge to comment on whether that was an accurate and objective statement.



Mr. Nekuie then quoted from the same report a statement characterizing the Vietnamese propaganda that the Cambodian people were starving and did not have enough to eat as completely false. The report then referred to thousands of cattle present in the country that the people could easily kill for food if they were hungry. When asked if this information was an accurate reflection of the Ministry’s position, Mr. Kan stated that he talked to officials who had seen that cattle and concluded, “It is true.”

Mr. Kan conceded that he had stated a number of times in his testimony that he noticed people were hungry. His previous answer, he explained, was

simply an explanation of the Ministry's opinion on the subject, not his "personal impression." His personal impression, he continued, was that "people did not have enough food to eat."

In order to make sure he entirely understood the witness's point, Mr. Nekuie placed a transcript of an interview conducted with the witness in 2007 before the Court. Mr. Nekuie read an excerpt of the transcript where Mr. Kan had noted hungry people in every location he visited during his time with the Ministry. The witness replied, "The statement is the truth."

Reading from another document, Mr. Nekuie described a banquet given for the Japanese Delegation in 1978, at which Ieng Sary supposedly treated them with fine bottles of wine that he described as "the spoils of war" and where other officials attended wearing luxury "Swiss watches" and "fine American clothes." Mr. Kan replied that not everyone had such material items. When asked if he remembered the banquet at all, the witness responded that he did not.

Recognizing these events happened a long time ago, Mr. Nekuie asked the witness to "try and stretch your memory a little bit," inquiring whether Mr. Kan could remember where the Japanese delegation stayed during their visit. Mr. Kan could not provide a name but remembered that they stayed at the biggest hotel in Siem Reap.

Before the counsel could quote yet another passage from the document, President Nonn informed Mr. Nekuie that the identification number he had given to the Court did not match the document he was discussing. Quickly becoming confused, Mr. Nekuie soon realized he had mistakenly given the Court the wrong document number. After providing the parties with the correct number for the document he wished to discuss, Mr. Nekuie continued.

After a section of the document was read that described the luxurious accommodations provided for the Japanese delegation, Mr. Kan stated he believed they were housed at a "bungalow." A "bungalow," Mr. Kan explained, "was considered one of the finest hotels of Siem Reap" at the time.

***"Perhaps The Gentleman Should Try to Rephrase or Give Up"***

Mr. Nekuie read another passage from same document that allegedly provided Ieng Sary's description of the Phnom Penh evacuation and the living conditions of the people to the Japanese delegation. Mr. Nekuie asked Mr. Kan if the information Ieng Sary provided to the Japanese delegation was the same as the information he had been given.

Mr. Karnavas interjected, "If you look at the document, this is what a reporter claims this is what Mr. Ieng Sary said. Perhaps the question should be rephrased to reflect that. This is hearsay information."

Mr. Nekuie, not wishing to dwell upon the issue and waste time, told President Nonn he would rephrase the question. Nevertheless, Mr. Kan responded, "It was dialogue between Mr. Ieng Sary and the Japanese delegation. I cannot recall the content of their discussion. I cannot do it."

As Mr. Nekuie struggled in a similar fashion throughout the rest of his questioning on this matter, Mr. Karnavas eventually objected a second time, telling the Court he was concerned

whether the witness fully understood the questions he was being asked to answer. He argued that attempting to extract certain sections of a document quoting Ieng Sary but written by someone else and attempting to ask the witness to extrapolate from it was “utterly improper.” Mr. Karnavas suggested, “Perhaps the gentleman should try to rephrase or give up.”

Mr. Nekuie, again not wishing to waste time, moved on to a different topic, asking whether the “traditional remedies” used on the people in Sector 32 were adequate. After fumbling with his answer for a moment, the witness replied, “No, it was not enough.”

Although other members of the Chamber appeared ready to adjourn for the day, President Nonn allowed Mr. Nekuie to continue his questioning past 4:00 p.m. as Mr. Nekuie had informed the Court that he only had a few more questions.

The counsel proceeded by reading a quote allegedly made by Nuon Chea, stating, “A number of cooperatives are still in the hands of other classes. Other classes are against the revolution. We must bring together poor peasants and all over farmers so they can take over the other cooperatives and smash the other classes.” Mr. Nekuie then asked Mr. Kan if he had “a memory of Mr. Nuon Chea raising the issue of social classes in your zone.” The witness replied with another common theme of his testimony: “I do not recollect it.” He added that such statements would not have been heard outside the cadres of the upper echelon.

For his final question, Mr. Nekuie inquired whether the witness knew a person in Sector 32 known as “Ham.” Mr. Kan replied, “No.” He stated he knew a man named Pan Sarun who was involved in Sector 32 but said “there was no person by the name of Ham in Sector 32.”

With the conclusion of the civil parties’ examination, President Nonn adjourned the Court until Wednesday, May 30, 2012, when the Court will continue hearing testimony from witness Ny Kan.