



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

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង  
Trial Chamber  
Chambre de première instance

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
ថ្ងៃ ខែ ឆ្នាំ (Date): 13-Feb-2012, 15:15  
CMS/CFO: Sann Rada

TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

6 February 2012

Trial Day 27

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

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KHIEU Samphan

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**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ABDULHAK	English
MR. ANG UDOM	Khmer
MR. KARNAVAS	English
JUDGE LAVERGNE	French
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PAUW	English
MR. PESTMAN	English
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MR. YOUK CHHANG	Khmer

1

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

2 (Court opens at 0901H)

3 MR. PRESIDENT:

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

5 According to our schedule, during today's session the Chamber  
6 continues hearing the testimonies of witness Chhang Youk, the  
7 director of the Documentation Center of Cambodia.

8 The Chamber will continue hearing the handling of documents at  
9 DC-Cam and relevant issues concerning the document storing and  
10 compilation and collection, and since other party already put  
11 question to the witness, it is now Nuon Chea's defence team who  
12 will be handed over the floor to put question for the whole  
13 morning to this witness.

14 [09.04.07]

15 And we will hear testimony of Ieng Sary's counsel after the  
16 questions by counsel for Nuon Chea.

17 Court officer is now instructed to call the witness.

18 (Mr. Youk Chhang is taken to the dock)

19 [09.05.18]

20 Good morning, Mr. Chhang Youk. Today, the Chamber continues  
21 hearing your testimonies concerning several other issues with  
22 regard to the cataloguing of documents, compilation, and  
23 documentation of the documents at DC-Cam.

24 And we left off with counsel for Nuon Chea, who was supposed to  
25 put questions to you for period of the whole day, and they had

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1 already used half of their time, so they will be now handed over  
2 the floor to proceed with their remaining questions to you  
3 concerning the issues as the Chamber has already indicated.

4 [09.06.28]

5 So the floor is now handed over to Nuon Chea's counsel.

6 MR. PAUW:

7 Thank you, Mr. President. Good morning, Your Honours. Good  
8 morning, everyone in and around the courtroom. A little point of  
9 clarification on the timing of today, because I have been  
10 informed by my colleague for the Ieng Sary defence team that he  
11 intends to not be putting any questions to the witness.

12 And, considering that the three defence teams were allotted a  
13 total time of two days, we would like--

14 Oh! There's no translation, I am informed.

15 [09.07.26]

16 Am I being translated right now?

17 MR. PRESIDENT:

18 Counsel is now asked to repeat the statement because part of your  
19 statement was not communicated because the mic was not activated  
20 back then. Please repeat them.

21 MR. PAUW:

22 Thank you, Mr. President. The main message I was trying to convey  
23 was that the Ieng Sary defence team has indicated to our team  
24 that it will not be asking any questions in this  
25 cross-examination.

3

1 And my question is, since the three defence teams were allotted a  
2 total time of two days, whether our team would be allowed to use  
3 either the entirety of the time that was given to the Ieng Sary  
4 defence team, or a certain portion of it, because, considering  
5 the amount of questions we still have, the morning would be short  
6 -- too short to ask all our questions.

7 MR. PRESIDENT:

8 May we know from counsels for Ieng Sary-- Could you also confirm  
9 whether this is correct, that you will not be putting questions  
10 to the witness?

11 MR. KARNAVAS:

12 Good morning, Mr. President. Good morning, Your Honours. And good  
13 morning to everyone in and around the courtroom. In light of the  
14 questions that have been posed thus far and the answers that Mr.  
15 Youk Chhang has provided, and given the limited nature for which  
16 he is here to give evidence, and, of course, in light of your  
17 decision concerning the admissibility of evidence, where we  
18 believe you've indicated that there is a rebuttable presumption  
19 that all documents looked at and relied upon by the  
20 Co-Investigative Judges are prima facie reliable and authentic,  
21 though the parties are free to challenge documents on a  
22 case-by-case basis and the Court would entertain such challenges  
23 if they so occur, in light of all of this, we feel that there is  
24 no need to pose any further questions to Mr. Youk Chhang.

25 [09.09.55]

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1 No profit is to be gained by simply asking questions that have  
2 already been asked, where sufficient answers have been provided.  
3 So, on behalf of the Ieng Sary defence, Mr. Ang Udom and I wish  
4 to thank the gentleman for coming here to give his evidence, and  
5 we wish to thank the Trial Chamber for affording us this  
6 opportunity and graciously allowing us sufficient time to  
7 question Mr. Youk Chhang under these circumstances. Thank you.

8 (Judges deliberate)

9 [09.11.27]

10 MR. PRESIDENT:

11 Counsels for Nuon Chea, the Chamber has noted your request. The  
12 Chamber will not rule on it at this time, but we indeed have  
13 taken note of the request.

14 We would like now to proceed to the questions that counsel would  
15 wish to put to this witness, as scheduled, first.

16 QUESTIONING BY MR. PAUW RESUMES:

17 Thank you, Mr. President, I will proceed, then.

18 Good morning Mr. Youk Chhang. Welcome back.

19 My first question will relate to a manual that I -- we found on  
20 the DC-Cam website.

21 Q. You have spoken about the manual for entering information as  
22 to documents at DC-Cam, and we think we've found this manual on  
23 the website. And we would like you to confirm that this is indeed  
24 the manual that DC-Cam uses when entering information as to the  
25 -- as to information regarding documents that you have found.

5

1 So, with the permission of the President, I would like to show  
2 this manual that we found on DC-Cam's website and have the  
3 witness confirm that it is indeed a manual used by DC-Cam.

4 [09.13.12]

5 And we can immediately scroll to page 10. And there, we see the  
6 following title-- There it is, yes. So we see the title, it's the  
7 "Cambodian Genocide Databases -- Input Manual for CBIB". Is this  
8 indeed the manual you use for entering information at DC-Cam?

9 I missed the answer to this question. Could you repeat it, Mr.  
10 Youk Chhang?

11 MR. YOUK CHHANG:

12 A. Indeed, I had not responded yet. It is indeed the manual we  
13 use. It is called CBIB.

14 Q. Okay. We can put it on the screen once more.

15 So I can ask you another question regarding this document? So, if  
16 you -- I'm not sure if the witness actually sees this document at  
17 this point in time. Yes, there it reappears.

18 If we scroll to page 13, we see in the red box a -- information  
19 regarding a certain Note 317, and it's called the "source and  
20 provenance note" and according to the description, it is used to  
21 "record information on the sources of the item and the former and  
22 current owner or owners".

23 Am I correct in assuming that this would be the box in which you  
24 enter information with regard to the provenance of a document and  
25 earlier custodians?



6

1 A. As you note, in the example, 317 in brackets, this document is  
2 from Tuol Sleng, in box number 2.

3 Q. Sorry, I think my question has been misunderstood.

4 [09.15.50]

5 My question was the following: Am I correct in assuming, when I  
6 look at this description of box 317, that this would be the box  
7 in which you enter the information regarding documents that you  
8 receive at DC-Cam? And then I'm speaking about information  
9 regarding the provenance of a document and earlier custodians of  
10 a document.

11 A. This document contains, in a box called "box number 2 from  
12 Tuol Sleng", 317 refers to the document named "Ros Sokha  
13 (phonetic), December 1980". It is as an example for the inputter  
14 to understand the content of this particular portion.

15 Q. Thank you, Mr. Youk Chhang. I understand that, for example,  
16 the box number 2 information on Ros Sokha is used as an example  
17 for the inputter.

18 [09.17.08]

19 So let me rephrase the question: Am I correct that, when DC-Cam  
20 receives documents and you enter information with regard to this  
21 document, the inputter will, at a certain point, have to enter  
22 information in this box number 317 regarding the provenance of a  
23 document and regarding the earlier custodian of a document?

24 A. Yes, it is correct.

25 Q. So, for all the documents that are in the DC-Cam database,

7

1 will this box 317 have been filled out with the relevant  
2 information that you possess?

3 A. In each document, we have various different forms. For  
4 example, staff at DC-Cam is required to input all relevant  
5 fields, and if the document contains box number 2, these relevant  
6 document has to be put in box number 2.

7 [09.18.41]

8 Box number 2 is more a consolidated document that has not yet  
9 been separated, and they classify them under "D" heading. So, at  
10 the beginning, you know that these documents come in one box.  
11 Later on, after it is input, then the document will have new  
12 name, like TSL001, and so on and so forth.

13 So far as I remember, this numbering was introduced in 19 -- in  
14 -- they were used in inputting data into the database, and the  
15 documents were photocopied, were developed into the microfilms,  
16 registered or kept in the cabinets, and this is the very outset  
17 of how the information could be input into the database.

18 Q. Thank you, Mr. Youk Chhang. I'm not going to pretend that I  
19 understand everything you just told me. It's very technical and  
20 very detailed, and I'm sure it is very complicated.

21 [09.20.11]

22 So I'm going to try to ask you a more simple question: For every  
23 document that comes into DC-Cam, do you write down information  
24 with regard to the source of the document and former or current  
25 owners of these documents? It's a yes or no question.

8

1 A. Yes. I stated last week, every document that comes to CD-Cam  
2 will go through several planning issues. For example, when a  
3 photo given by Mr. Khieu Kola, I would ask the person the  
4 question where these photo could have been taken from, and --  
5 documents could be in different forms. However, we make notes of  
6 how documents obtained -- for example, we may ask the owner of  
7 the document to leave us with their addresses or telephone number  
8 or email contact so that we can refer to them.

9 [09.21.45]

10 In some cases, we receive a lot of document from the Ministry of  
11 Interior, huge amounts of documents received, so we need to put  
12 the documents all together, and I believe that I have already  
13 made it clear to the Co-Investigating Judges concerning how the  
14 documents are collected. We already indicated clearly we do our  
15 best to locate -- to find the real source of information as much  
16 as possible.

17 Q. Thank you. And, indeed, that had been clear from your  
18 testimony last week.

19 And my question today is: The information that you have regarding  
20 the source of the documents and regarding former and current  
21 owners-- Do you, when you enter that information in the  
22 database-- Is this note 317, is that the actual place in your  
23 database that you store this information?

24 A. I think so, but I am not the person who is doing this on a  
25 daily basis. If documents from the Ministry of Interior, then it

9

1 is in the field of provenance where this database could refer to.

2 Q. So you say it's not you who deals with this on a daily basis.

3 Who should we ask if we want to know what is entered in this note  
4 317?

5 A. I think, perhaps, there's some misunderstanding.

6 [09.23.44]

7 I read every document, but this input of data into the database  
8 is very technical issues, and it Mr. Vanthan Peou Dara who is in  
9 charge of doing so. I am reading all documents. If you are now  
10 referring to any particular documents -- for example, documents  
11 from the Ministry of Interior -- I really can produce some notes  
12 I kept concerning how these documents could be obtained. But,  
13 when it comes to technical issue with regard to inputting data  
14 into the database, I may refer you to our staff member, including  
15 Mr. Vanthan Peou Dara.

16 Because documents, after having been scanned, made into  
17 microfilm, would be handed to Mr. Vanthan Peou Dara, who will  
18 input them into the database. So the provenance of the document  
19 would indeed be input in that field as well.

20 Q. Thank you, Mr. Youk Chhang. And I will refrain from asking too  
21 technical questions, considering that, apparently, your deputy is  
22 in charge of this particular entering of data. But I think you  
23 could answer the following question.

24 [09.25.15]

25 The OCP has provided the parties with a list of all the documents

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1 that it relies on, which have been provided by DC-Cam. And my  
2 question to you is: Would it be possible for you to provide us  
3 with the information that is stored in this box 317 for each of  
4 those documents?

5 I would assume it's a very straightforward IT application, which  
6 would allow you to share this information with the parties  
7 present here today.

8 A. Are you asking whether I can provide you with the sources of  
9 information I provided to the Co-Prosecutors? If so, I can do  
10 that. I have a copy of such a list of documents that I provided  
11 to people.

12 Q. No, Mr. Youk Chhang. To be clear, I'm not asking you about a  
13 general overview of sources that you have used; I'm asking  
14 whether it's possible for you, for each document that the  
15 Prosecution relies on, whether you can provide us the information  
16 that is contained in this box 317 regarding the source of the  
17 item and the former and current owners of the document.

18 A. I think I have a general list rather than the more specific  
19 one, for example the list of documents from the Ministry of  
20 Interior.

21 [09.27.19]

22 Q. Okay. Maybe you're not the right person to ask this question  
23 because of your-- I wouldn't say "lack of technical knowledge on  
24 this issue", but apparently your deputy knows more about this.  
25 But do you think it is possible to extract from your database the

11

1 information contained in this box 317 regarding the source of the  
2 document and possible former or current owners?

3 A. I think it is possible because, when documents are brought in  
4 by individuals, then we classify them as the sources of the  
5 document -- individuals -- and documents that come in with owner  
6 as an institution, then we would classify so.

7 [09.28.24]

8 But in some cases, the document had to be put in a batch, a large  
9 batch, for example, because some owners would not want their  
10 identity identified.

11 Q. Okay. Thank you. I think that clarifies this issue.

12 I would like to look on the same page of the same manual, and  
13 then, if we can show it on the screen, it is the box 316 -- I'm  
14 not sure if the witness already sees it on his screen, it's the  
15 box in blue. Now, I'll read it for the people who cannot clearly  
16 see it. It is "The note relating to the copy being catalogued",  
17 and there's a number of subfields that can be used. And one is  
18 "typescripts", one is "handwritten", one is "typescript  
19 photocopy", the other is "handwritten photocopy", "duplicated",  
20 or "prints".

21 [09.29.29]

22 And my question to you is: Am I correct in assuming that this is  
23 how you classify whether a document you have at DC-Cam is an  
24 original DK-era document or not?

25 A. I think it is correct, because here the term, which is rather

12

1 general in this field, we try to input as much as information as  
2 possible. And this document has been obtained from the United  
3 Nations. And we have the field, for example, for inputting the  
4 letters, and in this bibliography-- And we are trying to insert  
5 as much as -- information as possible, as indicated.

6 Q. Thank you. And then, I will ask you the same question. The OCP  
7 has provided us with a list of documents that it relies on, that  
8 have been provided by the DC-Cam.

9 Would it be possible for DC-Cam to provide us with the  
10 information that you have entered in this box 316 with regard to  
11 whether a document is an original, or a photocopy, or even  
12 something else?

13 A. Normally, the letters we obtain from the Office of  
14 Co-Investigating Judges, it would contain list of documents, and  
15 we would ask them whether they put the documents in the scanned  
16 form or photocopied ones. And we just respond to the -- whatever  
17 request they made.

18 [09.31.50]

19 But the method in making such a request, at some point, were  
20 general. And we received the list. For example, they would like  
21 40 items to be provided, then I would hand it -- I would hand the  
22 list to Mr. Vanthan Peou Dara to answer to the request.

23 Q. There seems to be some confusion, possibly due to the  
24 translation, but I'm not asking about the transfer between DC-Cam  
25 and the ECCC; I'm asking you for the information that you have

13

1 stored at DC-Cam regarding the documents that you have in your  
2 possession at DC-Cam. Apparently, in this box 316, you store the  
3 information with regard to whether this document is an original,  
4 according to you, or a photocopy, or in other -- any other way  
5 duplicated.

6 [09.32.48]

7 My question is, to you: Can you provide us with an overview for  
8 documents as to what information is contained in this box 316?

9 A. Are you asking it from me now? But if you are requesting it  
10 now, I can of course give it to you.

11 Q. No, Mr. Youk Chhang. I apologize. I do not expect you to hand  
12 it over on the spot, but in general my question is: Is DC-Cam  
13 capable of providing us with that information in due course -- in  
14 due time?

15 A. For example, in subscript "T", it may be a transcript of an  
16 interview, and it may be in the David Hawk collection, because  
17 David Hawk conducted interviews. And as for "handwritten  
18 documents", we referred to the documents written by hand, for  
19 example David -- sorry - Heder, Steve Heder had some interview in  
20 handwriting. And for "transcript" and "photocopy", we have other  
21 scholars who provided copies to me, and then they actually make  
22 some handwritten annotation, or notes on that and duplicate it.  
23 There may be multiple copies of the document. And as for "print",  
24 it refers to the documents. For example, documents -- the  
25 magazines available during the Democratic Kampuchea may take



14

1 different forms, for example Democratic -- Democratic Kampuchea  
2 magazines and the -- other than the "Revolutionary Flags" of this  
3 regime.

4 [09.34.58]

5 Q. Exactly. So, that sort of information, you have recorded that  
6 type of information in your database; that is correct, right? Per  
7 document that you collected.

8 A. Yes, we store those documents because our staff have to follow  
9 such procedures in order to record information relevant to the  
10 document.

11 Q. So would I be correct in assuming that you could provide us  
12 with that information should the Trial Chamber request you to  
13 provide that information?

14 A. Of course, we can hand over it to you upon request.

15 Q. Thank you.

16 Also on your websites, we found a protocol for the circumstance  
17 in which someone wants to have forensic testing done on any of  
18 your documents.

19 I will not show you the document, at this moment because it is  
20 not really relevant, but my question is: Are you familiar with  
21 the protocol that DC-Cam follows when someone wants to have  
22 forensic testing done on any of your documents?

23 [09.36.41]

24 A. Last week, I told the Chamber already about that.

25 In 2005, I went to New York. I met with Mr. Sean Visoth, Michelle

15

1 Lee, and other administrative staff of the Court. We wanted to  
2 have an agreement, a memorandum of agreement, for example,  
3 concerning the request for the checking of the provenance or the  
4 source of documents. And I have sent letters to Tony, and Knut,  
5 and others several times, and I think that the Office of  
6 Administration, here, have not taken this issue seriously. And  
7 we, actually, at the DC-Cam, want to have a procedure by which we  
8 all follow in terms of the verification of the documents against  
9 the sources.

10 [09.37.34]

11 So, if there is a necessity here, then we will have to re-arrange  
12 this procedure again so that we can have all the necessary step  
13 for you to check against the original documents if that is  
14 warranted.

15 Q. This is an interesting issue, and maybe I'll follow up on your  
16 answer later, but my question related to something else. The  
17 question relates to forensic testing in general.

18 If an outside expert, for example, comes to DC-Cam and would like  
19 to have one of your documents tested by forensic means, for  
20 example to establish whether it comes actually from the '75 to  
21 '79 time period, are you familiar with your own approach to  
22 requests like that?

23 [09.38.43]

24 A. I informed you earlier that we had never conducted any  
25 scientific forensics. We rely on the staff who have had extensive

16

1 experience, working along with the national institution, for  
2 example the National Archives of Cambodia. So, in recognizing  
3 those documents, whether or not they are contemporaneous document  
4 from the DC-Cam, we rely on the date, the author as well as the  
5 paper presentation. So these are the combination of factors that  
6 we can come to the conclusion whether those documents were the  
7 contemporaneous documents from the Democratic Kampuchea period.  
8 Secondly, I would like to make it clear that, at DC-Cam, we do  
9 not have the forensic expertise, or machine, or equipment, for  
10 example, in order to actually conduct or carry out these  
11 scientific forensics.

12 [09.39.53]

13 Q. Thank you, Mr. Youk Chhang. And I was hesitant to interrupt  
14 you, even though you were not quite answering my question -- and  
15 I'm looking at the Trial Chamber -- also because I'm letting you  
16 speak, hoping that we can actually use a bit more time than just  
17 this morning. I hate to interrupt you and I do not want to come  
18 across as impolite, but I will follow up on this forensic issue  
19 for a little bit.

20 Can you tell us how often someone from outside DC-Cam, for  
21 example an outside expert or an outside historian, has asked  
22 DC-Cam to be allowed to do forensic testing on any of your  
23 documents?

24 A. So far, there has been one, a Mr. Touch Bora, from Australia.  
25 He is a friend of mine and he has ask me how we can actually be

1 sure that those documents were from the Democratic Kampuchea  
2 period. Mr. Touch Bora, from Australia.

3 Q. And did he, in fact, have forensic tests conducted on any of  
4 those documents?

5 A. He made a request to me but he has failed to follow up with  
6 that. But he is the only person who has asked me about the  
7 possibility of having forensic testing.

8 [09.41.41]

9 Q. Do you, as Director of DC-Cam, do you know of any -- do you  
10 know the names of any forensic specialist that could authenticate  
11 documents that you have in your possession?

12 A. You're talking about the paper forensic or the content or  
13 substance forensic?

14 Q. I'm talking about physical forensics, indeed, the paper on --  
15 for example, on which the documents have been written.

16 A. We have so far relied on the National Archives, who has  
17 actually had their own expertise for more than 30 years.

18 Q. Okay.

19 I will move on to a few more specific documents. Although I know  
20 that we are not here to speak about specific documents, I want to  
21 discuss a few, just to highlight some issues, and I -- they will  
22 become clear as I ask the questions.

23 And my colleague, Mr. Son Arun, has spoken about the "Black Book"  
24 in the hearing of your deputy.

25 And my question to you, Mr. Youk Chhang: As far as you are aware,

18

1 is there an original "Black Book" that has been left over from  
2 the DK era?

3 [09.43.25]

4 A. I talk with Mr. Arun during our break because I believe that  
5 he was interested in this "Black Paper".

6 And my deputy was actually confused; he thought that it was about  
7 the history of Democratic Kampuchea book.

8 No, the "Black Paper" you are referring to was the one that was  
9 translated, so it is a translated version. It was published in  
10 1978, in New York of the United States. The original text of this  
11 "Black Paper" was in French, and I think you can go to Gunnar  
12 Bergström<V>, who is one of the activists supporting the  
13 Democratic Kampuchea, and he was based in Sweden, or you can ask  
14 Laura Summers<V>, who is a professor of Hull University, in  
15 England.

16 And there is another document which is in French version; it is  
17 an original document, and we have in our possession as well.

18 And these originals have differing forms from the copied ones.

19 And to my recollection, there is a map at the back cover of the  
20 book; it was the map of Cambodia during 1972–1973, and the  
21 Ministry of Information used these maps in order to show about  
22 the areas under their control before 1975.

23 [09.44.52]

24 So, if you want the original copy in French, we can make copy for  
25 you and we can hand it over to you any time you like, but, if you

19

1 want the originals also-- And this book was also available in  
2 Swedish as well, and in other foreign languages other than French  
3 and English.

4 Q. So I understand you correctly when you say that the original  
5 version was in -- was in French; that's your answer?

6 A. Yes, that's correct, it was in French.

7 [09.45.24]

8 Q. And can you tell me where, as far as you are aware, the  
9 original French version of this document -- of this one  
10 particular document -- can be found? You answered just now, but I  
11 want to be clear about it.

12 A. I have one, actually, in my possession. If you want, I can get  
13 a copy for you. And Mr. Gunnar Bergström is also -- has also --  
14 also has one.

15 Q. And where's this second one located, that you just mentioned?

16 A. Sorry, I have been a bit too fast. I have one copy, the  
17 original in French, at the Documentation Center of Cambodia.

18 Another one with Mr. Gunnar Bergström; he is one of the  
19 Democratic Kampuchea activists. He came to Cambodia in August  
20 1978.

21 And another source that you can actually seek this document is  
22 from Madam Laura Summers, from Hull University.

23 Q. Thank you, Mr. Youk Chhang. My-

24 A. (No interpretation)

25 [09.46.44]

1 Q. Sorry. I will -- I will ask the following question. You've  
2 given us your statement about the location of the original  
3 version of this document.

4 And my question to you is: Since when do you know where this  
5 original document is located?

6 A. Well, I think I should take back a bit. Actually, the foreign  
7 names was quite difficult, actually, for the interpreter to  
8 translate, I have to admit that, because, sometime, certain names  
9 have the Spanish origin, and I know that the interpreter have  
10 worked very hard on that, and I also ask for your understanding  
11 on that, that foreign names are difficult to understand.

12 [09.47.45]

13 Well, I actually had a colleague, Sann Kalyan<V>. We worked  
14 together, went to Sweden, and we went to Mr. Gunnar Bergström,  
15 and he actually agreed to give us all documents. He asked us to  
16 even, you know, empty his stock concerning those documents and he  
17 asked us, too, to collect all the documents. And he actually told  
18 us, when we were on the -- on the train, concerning the  
19 provenance of each documents.

20 So I learn about the original document, of this particular  
21 document, sometime in 2005, when I went to visit Sweden. And  
22 later on, those documents were flown by an airplane to --  
23 airplane to Cambodia. And there were copies of those originals as  
24 well.

25 And the one you have in English is the copy one, and, of course,

21

1 the original is in French. And sometime people consider the  
2 English version was the original, but actually, no, they were the  
3 copy. And those -- this particular document has the serial number  
4 of D40000 something. So, of course, French is the original, but,  
5 since you have read it in English language, that's why you got  
6 this text book in English.

7 Q. So your statement here, today, is that you know about the  
8 location of the French original version of the "Black Book", or  
9 the "Black Paper" since 2005; is that your answer?

10 [09.49.28]

11 A. I do not remember the year exactly. Maud Enquist (phonetic) is  
12 another name; he has passed away and he has been a known activist  
13 as well of the Democratic Kampuchea. He wrote a book about who  
14 was Pol Pot, and he actually gave a book to me. And he wrote an  
15 article published in "Phnom Penh Post", as to why Cambodians were  
16 executed. But I do not remember exactly when I went there; it may  
17 be in 2004 or 2005.

18 Q. Mr. Youk Chhang, after Mr. Dara was questioned here, in this  
19 courtroom, have you inquired as to -- with people outside DC-Cam  
20 as to the possible location of the original "Black Paper"?

21 A. As I said, this book contains in the list. However, since it  
22 is in French as the original copy, it was -- it was not a point  
23 of attention for other readers because many people were  
24 interested in reading the English version. But if you search  
25 through our document list, it may be in the serial number between



1 -- around D40 -- 40000 something.

2 [09.50.59]

3 Q. Thank you, Mr. Youk Chhang, but that was not my question. My  
4 question is: After Mr. Dara was questioned here, in this  
5 courtroom, also regarding the "Black Paper", have you inquired  
6 with people outside DC-Cam as to where the original "Black Paper"  
7 might be located?

8 A. Sorry, I'm not quite clear. But I think I should open a small  
9 bracket.

10 When he was talking about the "Black Paper", he actually referred  
11 to the "History of Democratic Kampuchea", which was printed in  
12 black cover as well.

13 But I would like to seek clarification, if you're asking me about  
14 whether or not I have asked anyone about the possible original  
15 source of this "Black Paper".

16 Q. Exactly, and that would have been -- or that's my question:  
17 Would you have done that after Dara's testimony here, in Court?

18 [09.52.18]

19 A. Nobody has asked, nobody has asked about the original of the  
20 "Black Paper". And actually, the content of this book was also  
21 published in the magazine "Searching for the Truth", as well as  
22 the DC-Cam, in Khmer.

23 Q. Thank you, Mr. Youk Chhang, but again, that's not an answer to  
24 my question.

25 After Mr. Dara's testimony, did you approach anyone from outside

1 DC-Cam to find out more about the current location of the  
2 original "Black Paper", or "Black Book", or whatever -- whatever  
3 name it goes by? The one that you discussed during your  
4 testimony, last week, I think the French name of this document is  
5 "Le Dossier Noir".

6 A. I did not ask anyone because I have one in my possession,  
7 already, at the DC-Cam, and I told Mr. Arun earlier on that, if  
8 he wanted a copy, then I can get a copy for him. I have one with  
9 me now, and of course this -- this particular book has a map at  
10 the back -- on the back cover.

11 [09.53.48]

12 Q. Mr. Chhang, did you send any emails regarding the "Black  
13 Paper", after Mr. Dara's testimony relating to the location of  
14 the original document?

15 A. I asked Mr. Gunnar Bergström and Laura Summers whether or not  
16 they still have in their possession the originals of this  
17 document.

18 Q. And what exactly did you ask them?

19 A. I can actually forward the email exchange with them, because I  
20 asked them whether or not they know the location, the current  
21 location of the original of the "Black Paper", because Mr. Son  
22 Arun asked me. And I asked them whether or not they know the  
23 document. And I have one copy -- I have one with me as well. But,  
24 if you want to see the email exchange, then I can of course  
25 forward you a copy. But I simply ask Laura and -- and others to

24

1 tell me exactly where they are, if they have any knowledge of the  
2 current location of this original.

3 [19.55.18]

4 Q. So let me get this straight: Even though you, yourself, have  
5 an original French copy of the "Black Paper", you still sent an  
6 email to the two individuals you just mentioned to find out  
7 whether they possessed an original version of the "Black Paper";  
8 is that how I should understand your answer?

9 A. Yes. Yes, that's correct.

10 Q. Why could you not just go to your own files and provide us or  
11 Mr. Son Arun with a copy of this original "Black Paper"?

12 A. As a matter of fact, I have told Mr. Son Arun already that the  
13 original of the -- this paper is available here, but this  
14 original, I receive it from Mr. Gunnar Bergström, and I asked him  
15 whether or not he remember that he gave -- he gave it to me back  
16 then. So, in case we want to track down the chain of custody of  
17 this document, then I can check with him that he remember that he  
18 had given that paper - "Black Paper" to me.

19 [09.56.47]

20 And again, this -- this document is available in our document  
21 list. And this is to, I think, assist me in explaining to you the  
22 possible question concerning the chain of custody, because I have  
23 to double check with the person who actually handed the original  
24 over to me back then, whether or not he remember giving it to me.  
25 So there was another one who actually had the original, as well,

1 but he has already passed away.

2 Q. So why did you inquire with Professor Laura Summers?

3 A. Laura and I are close friends, and we-- I, myself, have  
4 translated Om Hem -- Uncle Hem's book, as well. And Laura  
5 actually shared with me a lot of things. For example, anything to  
6 do with the European aspect of this, I would seek her advice. Of  
7 course, she is an American origin, but she has resided in Europe.

8 Q. Thank you for that, but that was not my question. My question  
9 was: Why would you ask Professor Laura Summers as to where an  
10 original version of the "Black Dossier", or the "Black Paper"  
11 would be -- could be located?

12 [09.58.27]

13 A. I can go to my email again. I asked her whether or not she  
14 knows the current location of the "Black Paper" and whether she  
15 remembers about this "Black Paper". I can actually refer to my  
16 email concerning the question I asked her.

17 Q. And then my question would be: Why did you ask her that  
18 question?

19 A. In order to confirm the authenticity of the document,  
20 particularly the person who first gave this book to me. So that  
21 is to avoid any suspicion concerning the original handling of the  
22 document.

23 Professor Laura Summers was the person who actually had extensive  
24 knowledge about -- about this, and she has been in Europe for  
25 quite a long time, so she knows where the document goes. So it's

26

1 -- it's (unintelligible).

2 [09.59.39]

3 Q. I will leave this point be for now, but I reserve the right to  
4 come back to it at a later stage.

5 I would like to now move to the magazine called "Democratic  
6 Kampuchea" which is in your -- in DC-Cam's possession; am I  
7 correct?

8 Can you tell us something about the provenance of the "Democratic  
9 Kampuchea" magazine that is available at DC-Cam?

10 Let me make it more simple: Are these original "Democratic  
11 Kampuchea" magazines or are they copies?

12 A. We have both copies, the originals and the copied ones. But  
13 originally they were not called magazines, and we do not really  
14 want to feed these words, to -- to offense Uncle Nuon. Indeed, we  
15 used the term "magazine" at our place. And we have these  
16 bulletins published during those times. And we learned that  
17 people -- the supporters of the regime published several of these  
18 bulletins, and we obtained both the originals and the copied  
19 ones.

20 Q. Is it correct, Mr. Youk Chhang, that you obtained several of  
21 -- several microfilms of Kampuchea -- "Democratic Kampuchea"  
22 magazine from Europe? Do you remember this?

23 [10.01.33]

24 A. Yes. I think that, perhaps, I need to seek clarification on  
25 this question, whether you ask what this film come into -- like

1 the roll or -- or in what form.

2 Q. I'll rephrase the question: Did you receive photocopies or  
3 microfilms of the "Democratic Kampuchea" magazine from a source  
4 in Europe?

5 A. I received some copied documents from Mr. Gunnar Bergström,  
6 from Lund University, and the original documents from France,  
7 through civil parties and other people.

8 [10.02.41]

9 Q. So you mention the -- that Mr. Bergström provided you with  
10 those documents, and then the original documents came from  
11 France.

12 Were there any other people that provided you with these  
13 "Democratic Kampuchea" magazines?

14 A. I don't remember their names, but there are other people who  
15 provided us with these documents. He is a person who worked at  
16 the "New York Times"; maybe Rosanna Cross (phonetic), who also  
17 provided me with document concerning the magazine of the DK.

18 And we obtained some other documents from individuals whose name  
19 I don't remember. I like reading magazines and I -- that's why I  
20 really want them to be collected.

21 Q. Okay. Thank you. At the Investigating Judges, you have made a  
22 statement, and you have stated that, on some original Democratic  
23 Kampuchea era documents, we find annotations in Vietnamese.

24 Can you tell us on what type of documents we find these  
25 Vietnamese annotations?

28

1 Just for the sake of clarification, I'm moving on to a different  
2 topic than the one I was discussing with "Democratic Kampuchea",  
3 so that everyone is clear on this.

4 A. So far as I remember, these documents -- these annotations  
5 were made on the cover of the document.

6 [10.04.48]

7 Q. And what sort of documents are we talking about?

8 A. According to Mr. Ben Kiernan's consideration, it belonged to  
9 the Santebal, as I indicated.

10 Q. You've also stated at the Investigating Judges -- or during  
11 your interview with the Investigating Judges, that, in 1979, the  
12 Vietnamese controlled Phnom Penh, and that there were Vietnamese  
13 experts in all the ministries, including experts that did  
14 documentation work, and that the Vietnamese had access to all  
15 places in Phnom Penh, and that they collected documents and  
16 started doing documentation.

17 Can you give me an estimate of for how many years did Vietnamese  
18 have this effective control over the DK-era documents. Are we  
19 speaking about one year, two years, three years, longer?

20 A. I'm not sure I remember the exact number of years, but when I  
21 obtained the document, I was trying to ask for the source of the  
22 document because I noted the Vietnamese annotation. People at the  
23 Ministry of Interior indicated that, back then, there were  
24 Vietnamese experts, and one person was asked to collect  
25 documents, and I was locating that person until -- all the way to

1 Hanoi, but he already was deceased, and I could not verify this  
2 information.

3 [10.06.46]

4 I don't know how many years the Vietnamese experts were in Phnom  
5 Penh. You may refer to the Ministry of Interior at the archives  
6 section, and I remember that another expert -- or two experts are  
7 still alive, but perhaps they are in Australia now.

8 We-- Back then, when the Vietnamese were in Phnom Penh, we worked  
9 together, people worked together with Vietnamese on  
10 documentation. And again, although I am trying to locate the  
11 person who would be the expert on this, I learned that he passed  
12 away.

13 [10.07.37]

14 Q. Thank you. And you've stated you do not know the exact number  
15 of years that the Vietnamese had this total control over the  
16 documents that were available in Phnom Penh. But, considering  
17 this control, this effective control over the DK-era documents by  
18 the Vietnamese, do you think it's possible that Vietnamese  
19 officials destroyed or perhaps removed evidence and documents  
20 that would implicate Vietnam in certain atrocities that were  
21 committed on Cambodian soil?

22 MR. ABDULHAK:

23 Your Honours, we would to object to this question.

24 It calls for the witness to speculate and it goes into an area as  
25 to which he's indicated he has no personal knowledge.



30

1 MR. PRESIDENT:

2 Objection is sustained.

3 Witness is instructed not to respond to this question.

4 BY MR. PAUW:

5 Thank you, Mr. President. I will move on.

6 And I will speak a little bit about the trial -- the 1979 trial  
7 of Pol Pot and Mr. Ieng Sary.

8 [10.09.15]

9 Q. Is it true, to your knowledge, that a lot of documents were  
10 collected at S-21 in the run-up and preparation for the 1979  
11 trial?

12 MR. YOUK CHHANG:

13 A. I was looking for the documents, and later on I learned that  
14 these documents were sent from Ministry of Information, when Mr.  
15 Keo Chanda was the head. And the documents were placed in 40  
16 boxes. And I also noted other documents, including orders,  
17 warrants, and a book published on the Democratic Kampuchea. This  
18 book was handed to my niece when I came to Cambodia first time.  
19 And you can also find this information published by John -- John  
20 Quigley<V>, and, indeed, it is also available at the DC-Cam.

21 [10.10.36]

22 Q. It does not exactly answer my question, but I will rephrase  
23 the question in a more general sense: Do you know -- do you know  
24 -- how documents that were used for the 1979 trial were collected  
25 by the Vietnamese?

31

1 A. No, I don't; I was not in Cambodia during those years.

2 Q. The 1979 trial is generally considered to have been a sham  
3 trial which was only aimed at proving the pre-established guilt  
4 of the Accused, and only inculpatory evidence was shown.

5 Do you think it's possible that exculpatory evidence may have  
6 been destroyed by the organizers of the tribunal or perhaps  
7 removed to Vietnam?

8 MR. ABDULHAK:

9 Your Honours, two objections: first, my learned friend is  
10 testifying, I'm afraid, and then, again, veering into an area  
11 that's clearly beyond the witness's personal knowledge.

12 [10.11.52]

13 MR. PAUW:

14 I will clearly accept any ruling by your Chamber on this matter,  
15 but I don't think it's really fair to describe my portrayal of  
16 the 1979 trial as a sham trial to amount to "testifying". If that  
17 is the position of the OCP, I think the room for speaking in this  
18 courtroom would be very limited indeed. So I stand by my  
19 description of the 1979 trial as a sham trial.

20 Other than that, if you think the witness should not answer this  
21 particular question, I of course abide by your ruling.

22 MR. PRESIDENT:

23 Objection is sustained. Witness is instructed not to respond to  
24 this question. Counsel is now advised not to pose any question  
25 soliciting speculation or personal conclusion from the witness.

32

1 The Chamber has ruled on this time and again, and we hope that  
2 the professional, highly-qualified counsel would never resort to  
3 putting such questions again during the Court proceedings from  
4 now on until its completion.

5 [10.13.28]

6 MR. PAUW:

7 Thank you, Mr. President. I will strive to do so, naturally.

8 BY MY PAUW:

9 Q. To your knowledge, Mr. Youk Chhang, is it true that Helen  
10 Jarvis went to Vietnam to look for documents that -- the  
11 suspicion was, at least -- had been carried away by the  
12 Vietnamese after their invasion of Cambodia?

13 MR. YOUK CHHANG:

14 A. If the Chamber wishes me to respond on behalf of Dr. Helen  
15 Jarvis, I may wish to do so.

16 MR. PRESIDENT:

17 The question is more about whether you know or you don't know.  
18 Indeed, you are not supposed to talk on behalf of the other  
19 person, so you may respond to the question as yes or no.

20 MR. YOUK CHHANG:

21 Indeed, I know that she went there.

22 BY MR. PAUW:

23 Q. Do you know what the results of this mission were? Did she  
24 come back with any documents? And if so, which documents?

25 MR. YOUK CHHANG:

1 A. I was not expecting that she would be qualified in collecting  
2 documentation -- documents, and we have conflict personalities, I  
3 may have to say, but I feel that she has gathered some documents  
4 from Vietnam.

5 [10.15.17]

6 Q. Just to be clear, I'm asking about your personal knowledge

7 Do you know whether she gathered some documents in Vietnam?

8 A. I know that she went there, but whether she has gathered  
9 documents from there is beyond my knowledge.

10 Q. Was she there on a mission for DC-Cam, to your knowledge, or  
11 did she go there on a private visit?

12 A. Ms. Helen Jarvis had different roles, and Mr. Ben Kiernan  
13 asked her to prepare this manual. And she normally liked  
14 collecting information or documents wherever she could find,  
15 although her role was as a consultant concerning how data should  
16 be input in the database. She -- with her role as the consultant,  
17 she performed other roles instead. Perhaps she went to Vietnam as  
18 -- in her capacity as our staff, I don't know, but she was a  
19 consultant on database inputting.

20 [10.17.16]

21 Q. To your knowledge, did she go one time to Vietnam, or multiple  
22 times, to collect DK-era documents? To be clear -- sorry.

23 A. I don't remember whether she went there to collect documents,  
24 but she went there several times.

25 Q. Did you ever ask her whether she found any DK-era documents in

1 Vietnam?

2 A. I didn't ask her, but she answered to me what kind of  
3 documents she collected back from Vietnam.

4 Q. So can you tell me what sort of documents she collected back  
5 from Vietnam?

6 A. I think there were printed documents in the forms of books and  
7 the books are in our library, the books that she brought to us.

8 [10.18.41]

9 Q. Did she only bring back printed documents such as books or did  
10 she also bring back other documentary evidence?

11 A. In short, I say -- I can say that she did not bring us any  
12 documents in Khmer language. There were printed documents in  
13 Vietnamese in the form of brochure. Again, she never located any  
14 Khmer Rouge or DK-related regime document in Khmer and provided  
15 to me even a single page in that form, no.

16 Q. Okay. Thank you, Mr. Youk Chhang, for that answer.

17 I may follow up on that at a later stage, but for now, you have  
18 stated that over time DC-Cam has been provided with records of  
19 the trial proceedings of the 1979 trial, also excerpts of certain  
20 CPK -- CPK documents, and certain witness statements, among other  
21 things, relating to the 1979 trial.

22 Do you know who guarded these documents immediately after the  
23 trial proceedings in 1979?

24 [10.20.37]

25 A. I think you may have been mistaken; I said that I got a nephew

35

1 in Cambodia. He heard about his uncle -- about me collecting  
2 documents about the Khmer Rouge. Then, he approached me with a  
3 document of the DK, in particular the document with reference to  
4 the Tribunal back in 1979.

5 [10.21.15]

6 I also searched for document and I approached Madam Lim Ky, and  
7 then I met another person who referred me to the Tribunal-related  
8 documents. The documents had been collected and kept under the  
9 Ministry of Propaganda supervised by Mr. Keo Chanda, and the  
10 documents are still there. So I can say that, apart from the book  
11 or the document that given to me by my niece -- I correct, not  
12 nephew -- I had no other collection of the documents from the  
13 Tribunal back in 1979.

14 Q. I just want to be clear on this. I'm just not sure if I  
15 understood the answer correctly, but are you telling me that you  
16 were provided with certain documents relating to the 1979 trial  
17 by or through the involvement of your niece?

18 A. Yes, my niece gave me a book. The book was actually available  
19 at the market, and there's still about a hundred copies at the  
20 National Archives. This book is the compilation of how the 1979  
21 Tribunal arranged and I, at a later date from that piece of  
22 information, tried to locate further information.

23 [10.23.18]

24 Q. Mr. Youk Chhang, you have co-authored an article. And it's  
25 been discussed in testimony several times and it is called. The

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1 article's title is "Documenting the Crimes of Democratic  
2 Kampuchea" and you wrote it -- you co-wrote it with John  
3 Ciorciari. It's true that you co-authored this, this article;  
4 right?

5 A. It is true, we co-authored, but I was playing small role in  
6 that, because the term "author" - Mr. John and preposition "with"  
7 has been used, not "and". So I hope it is clear.

8 May I add a few more points, please?

9 Q. I will move also looking at the clock and my question. I will  
10 not show you the actual page, but I will just read it to you; it  
11 can be found on page 231 of this article. And on this page, you  
12 state that the principle shortcoming of the 1979 trial document  
13 is -- and I quote -- "the appearance of political bias"<V>.

14 Can you explain what is meant by this observation that the  
15 principle shortcoming of the 1979 trial document is "the  
16 appearance of political bias"?

17 [10.25.20]

18 A. I do not attempt to ask for the production of the document to  
19 me, but this document was published for the public purpose. And I  
20 -- when I worked for the UN, in 1992-1993, for the election, I  
21 noted that several documents were destroyed. In Stung Treng, some  
22 documents were plunged into the Mekong River to destroy, and  
23 during the Democratic Kampuchea regime, several other documents  
24 were destroyed. And for me, we -- I feel that it was politically  
25 motivated. The reason why documents were destroyed could have

1 been linked to political gain or political benefit, and as in  
2 Stung Treng, documents were destroyed by plunging into the  
3 riverbed of the Mekong River.

4 [10.27.03]

5 I normally feel that a piece of document is worth like an old  
6 stone of the Angkor -- Angkorian regime, so I would like them to  
7 be well kept.

8 And, for the reasons that documents had been destroyed, I can  
9 conclude that they could have been done on political ground.

10 And, with regard to the document that you are now referring to, I  
11 did not co-author the article; I was interviewed by the author  
12 and I was the person who provided him with the document -- with  
13 the statement. It was not an article for a normal newspaper. This  
14 interview was written for a scholar research paper.

15 Q. Do you agree with the contents of this specific article on  
16 which your name appears?

17 A. As I stated, I agree and that the article was written by John,  
18 and I was the person who provided him with extra information.

19 [10.28.50]

20 Q. Is it true that you distributed this particular article a mere  
21 two or three weeks ago? I believe it was during the week of the  
22 -- Mr. Dara's testimony.

23 A. This article was published or written in 2004. I don't know  
24 why everyone has been taken by surprise because the article was  
25 published long before the establishment of this Court, and I



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1 asked that the Co-Prosecutors buy the paper, but they said that  
2 they could not afford to buy it. So I made copies for Michele  
3 Lee, and the book, indeed, was available long ago in 2004.

4 Q. Thank you, Mr. Youk Chhang. Yes, we are not surprised by the  
5 article.

6 My question was: Did you redistribute this article in the last  
7 month by sending it to recipients of your email list?

8 A. I sent emails every day. Perhaps the recipients including Mr.  
9 Michael Karnavas, Andrew Cayley, and other people concerned. I  
10 just wish to ensure that any piece of information I sent out is  
11 to ensure whether there is justice here at this Court. And people  
12 who have received my email are people in the list of my  
13 recipients were off of more than 4,000 people.

14 [10.31.04]

15 MR. PRESIDENT:

16 Thank you, Witness and Counsel.

17 Since it is now appropriate time for adjournment, we will take  
18 the adjournment until 10.50.

19 Court officer is now instructed to assist the witness during the  
20 adjournment and have him returned to the courtroom before we  
21 resume the next session.

22 Mr. Ang Udom, you may proceed.

23 MR. ANG UDOM:

24 Thank you, Mr. President. Good morning, Your Honours.

25 Due to health reason of my client, Mr. Ieng Sary, has back pain

1 and he asked that he be excused from this courtroom the whole day  
2 and that he can be allowed to observe the proceedings from the  
3 holding cell.

4 [10.32.12]

5 MR. PRESIDENT:

6 We note the request by Mr. Ieng Sary through his counsel that he  
7 would be asking to be excused from participating in this  
8 courtroom and that he would follow the proceeding from the  
9 holding cell, through remote participation, due to his health  
10 condition.

11 The Chamber hereby grants the request and allows Ieng Sary to  
12 observe the proceeding remotely from the holding cell.

13 However, the Chamber would ask that counsels for Ieng Sary  
14 produce the waiver signed by Ieng Sary or given thumbprint by the  
15 accused person.

16 AV officers are now instructed to ensure that the holding cell is  
17 linked to the audiovisual equipment so that the accused person  
18 can observe the proceeding from that holding cell.

19 Security personnels are now instructed to take the accused person  
20 to that holding cell.

21 The Court is adjourned.

22 (Court recesses from 1033H to 1051H)

23 MR. PRESIDENT:

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

25 Before we hand over the floor to Nuon Chea defence counsel to put

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1 further question to the witness, the Chamber wishes to tell the  
2 witness that, if you refer to the Accused, you should address him  
3 by his name. You should not use his alias -- that is -- that  
4 should be the ways the witness should address so that it is clear  
5 for the record. For example, Khieu Samphan, or Nuon Chea, or Ieng  
6 Sary, who are the Accused here, they should be addressed by their  
7 names.

8 So, now, I hand over to the counsel for Nuon Chea to put further  
9 question to the witness.

10 You may proceed.

11 MR. PAUW:

12 Thank you, Mr. President, Mr. Youk Chhang. Before I ask my  
13 questions -- I know that I have raised this issue at the  
14 beginning of my questioning, but I'm looking at the clock, and it  
15 would greatly assist me in my preparation for the following hour  
16 if you could give me any indication as to whether I would have  
17 more time this afternoon. Otherwise, I will have to really  
18 compress my questioning, and that might not be the most efficient  
19 way to proceed if I then, indeed, get afforded more time in the  
20 afternoon. So is there any further indication you could give me,  
21 Your Honours?

22 [10.54.30]

23 MR. PRESIDENT:

24 To make it clear regarding the time available for the counsel for  
25 Nuon Chea, the Chamber decides that one half session in this

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1 afternoon will be given to the counsel for Nuon Chea to put  
2 questions this afternoon. So your question time will be finished  
3 by 2.40, this afternoon.

4 BY MR. PAUW:

5 Thank you, Mr. President. That is very helpful.

6 Q. So, Mr. Youk Chhang, we -- before the break, we were  
7 discussing your email list, and you indicated that you send out  
8 emails -- many emails to many people. And we know this, we've all  
9 received your email communications.

10 But my actual question was: Did you recently resend the article  
11 which you co-wrote with Mr. John Ciorciari, documenting the  
12 crimes of Democratic Kampuchea?

13 [10.55.53]

14 MR. YOUK CHHANG:

15 A. Yes, I did.

16 Q. So I will assume that you still stand by its contents. And in  
17 this article it is noted that one of the principle shortcomings  
18 of the 1979 trial documents is -- and I quote -- "the appearance  
19 of political bias".

20 And I, again, would like you to explain what is meant by this  
21 "appearance of political bias". And why does it render these  
22 documents--

23 Or now let me ask you another question: Why is that a principle  
24 shortcoming of the 1979 trial documents?

25 A. As I said earlier, we introduced an expert from the United

1 Nation, in 1998, to visit the documents at the Tuol Sleng Museum,  
2 and we-- The Accused were not present at that time. So, at that  
3 time, we saw that it was more than necessary to have an  
4 independent tribunal - the Tribunal have before us now, and we  
5 believe that there will be other information that may be of use  
6 as well. That's why I introduced him to the place.

7 [10.57.35]

8 Q. You mentioned in your answer earlier, before the break, that  
9 certain documents had been destroyed by throwing them in the  
10 water.

11 Can you tell us who destroyed documents by throwing them in the  
12 water?

13 A. For documents thrown away into the water, you may enquire the  
14 officer of the Ministry of Propaganda and Information, in Stung  
15 Treng province.

16 At that time, I thought that more than 100,000 people wanted a  
17 tribunal. So, at that time, we met with them and we ask where the  
18 documents had been. And then, at that time, they -- I told them  
19 that tens of thousands of people have sent information to  
20 Ministry of Propagandas and Culture to establish a tribunal, and  
21 they told me that those documents had already been thrown into  
22 waters. And I had the name list of people who were actually  
23 responsible for taking care of those documents, and I believe  
24 that those officers are still working in that place now. And I  
25 have the name list of them in my center.

1 [10.59.02]

2 Q. So, Mr. Youk Chhang, I assume you would be willing to provide  
3 the Court with this list of names, should Trial Chamber request  
4 you to do so?

5 A. Stung Treng province has in their position the name list of  
6 people who have actually filed a complaint in 1982 or '83. And in  
7 that document, there were names of people who had prepare  
8 documents and those whom I ask them about the document that had  
9 been thrown into the river.

10 Q. You just mentioned that you, yourself, possess a list of names  
11 of people that were involved in handling those documents, or is  
12 that--

13 I hear -- I see you shaking your head; that's not a correct  
14 rendering of your words?

15 A. The list was not prepared by us; it was prepared already by  
16 people at Stung Treng. And we located the list and we were trying  
17 to verify it. So, to be clear, the list was prepared by the  
18 Department of Propaganda and Culture of the province, and we  
19 asked question to people who took hold of the list, the list of  
20 people who filed their complaints in 1983 or 1982, and they told  
21 us that the documents had already been thrown into the Mekong  
22 River.

23 [11.00.48]

24 Q. Exactly. And this list is now in your possession, and you  
25 could give that list to the Tribunal if the Trial Chamber

1 requests you to hand over that list?

2 A. Yes, indeed.

3 Q. Thank you.

4 Another question relating to a confession that was found at S-21

5 and it is the -- a confession of a certain Ros Nhim<V>, and

6 apparently his aliases were Nhim Ros or Moul Sambath<V>.

7 First of all, do you recognize this name even if I pronounce it

8 in the way that I do?

9 [11.01.45]

10 A. Yes, I do remember this person's name.

11 Q. To your knowledge how many versions of his confession exists

12 at Tuol Sleng prison?

13 A. I don't know for sure, but I am sure that there will be such a

14 confessions. And you can also refer to our database to see how

15 many pages this confession contains.

16 Q. Do you know -- and it may very be that you do not know, but do

17 you know whether the confessions that are available at S-21 --

18 are they all the confessions that he has delivered, or might

19 there be confessions missing? I'm asking for your personal

20 knowledge.

21 A. I have been trying to locate all the confessions because I

22 know that there were more than 10,000 prisoners. Guard gave us

23 interviews told us that everyone who entered S-21 had to have

24 their photo taken and biography written. So I also found out that

25 there is another list kept by Lach Vorleak Kalyan<V>, and to see

1 whether any other individuals could have borrowed the confessions  
2 -- or books and, if so, could we locate those borrowers so that  
3 the documents be returned to the S-21 and can be verified.

4 Until this day, I can say that we cannot gather all the  
5 confessions. We have roughly -- over 4,000 confessions, and I am  
6 sure that we can locate further confessions if we're aiming to  
7 get more.

8 Q. Thank you. And, in your quest for finding more confessions,  
9 have you ever specifically looked for more confessions as  
10 delivered by Mr. Ros Nhim?

11 [11.04.47]

12 A. I'm not sure if the documents are from Tuol Sleng. They're -  
13 this document could be available in microfilm, and there is no  
14 reason that they must be transfer to be stored at the DC-Cam. And  
15 - I feel that there is a copy of Ros Nhim's confession in our  
16 office.

17 Q. My question was: Have you ever looked for other confessions  
18 that may or may not have been made by Mr. Ros Nhim?

19 A. I'm not sure on this.

20 Q. Thank you.

21 I will briefly move on to a next topic that we also discussed  
22 with your deputy, and that is the archive of King-Father<V>  
23 Norodom Sihanouk. And your deputy has testified that this archive  
24 apparently existed in online form for a short period of time.  
25 Do you know where the hard copy archive of the King-Father



1 Norodom Sihanouk is located?

2 [11.06.39]

3 A. I think I need to talk in details a little bit on this. We got  
4 the archives of the King that was online temporarily. We printed  
5 the documents from the website. Later on, the King -- the former  
6 King made the decision that those documents had to be kept in  
7 Belgium, and people asked why the documents could not be stored  
8 at DC-Cam. We received images and documents through Mr. Julio  
9 Jeldres<V>, the person who writes the former King's biographies;  
10 he is now in Monash University<V>, Australia.

11 Q. Just making sure I understand you correctly; are you telling  
12 us that the actual hard copy archive of King-Father Norodom  
13 Sihanouk is located in Belgium?

14 A. I remember that it was in the Far East (sic) University, in  
15 Belgium, and there was a debate also why the documents could not  
16 be stored in Cambodia; instead, they is stored in Belgium. I  
17 think it's a long story.

18 Q. Do you know if this archive is now accessible to outside  
19 researchers?

20 A. Since it is the Far East Institution, it is for the research  
21 purpose, perhaps the documents could be accessible online; we  
22 should try.

23 Q. Have you tried to access to King-Father Norodom Sihanouk's  
24 archive in Belgium?

25 A. Are you referring to the current situation? If currently, no.

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1 Q. And when the collection was available online, did you make  
2 printouts of all the documents that had been posted online by the  
3 person in charge of that particular website?

4 A. Could you please simplify your question and make it shorter to  
5 be precise?

6 Q. You've stated that the archive of the King-Father has been  
7 posted online for a short time, and you've also stated that you  
8 made printouts of several of the documents that were available  
9 online.

10 My question is: Did you make printouts of all the documents that  
11 were available online?

12 A. No. At that -- at one moment, we -- I tried to copy the whole  
13 website, and I also learned that the King would like to have it  
14 sold to other institution. I tried to copy the whole website, but  
15 the internet was very slow, it was not successful. We only  
16 obtained some documents that could be printed out back then, not  
17 the whole document.

18 Q. Thank you.

19 We'll leave this topic for what it is, and I would like to  
20 briefly come back to something you stated this morning, because I  
21 was unclear about one -- regarding one particular issue. It came  
22 up when we spoke about forensic testing of documents, and you  
23 described a conversation you had had with representatives of this  
24 tribunal, in 2005, regarding the possible authentication of  
25 documents. And you seem to say -- and I don't want to put words

1 in your mouth, but you seem to say that the Court representatives  
2 seemed not very keen to establish proper procedures to have these  
3 documents authenticated.

4 [11.11.54]

5 Can you tell us a bit more about those talks you had with the  
6 Court representatives?

7 A. Normally, I never had oral conversation with a oral  
8 conversation with a -- people at the Court; I normally  
9 communicated through writings. I also did so with the Royal  
10 Government of Cambodia. I stated clearly that it is really  
11 important that there should be mechanism to ensure the  
12 authenticity of documents because the purpose of having the  
13 documents is to ensure that it will be properly used.

14 And these communications or correspondences that I sent to people  
15 have been well kept at my place. I have received -- I talk -- I  
16 wrote to the Office of Co-Investigating Judges and the Office of  
17 Co-Prosecutors, and we told them that documents would be given to  
18 them. But so far there has not been -- there have not been any  
19 memorandums sign jointly.

20 And when Ms. Michelle Lee and Mr. Sean Visoth were still in  
21 office, I talked to them and asked them whether we can -- could  
22 establish any procedure to ensure the authenticity of the  
23 documents. And I was a little bit angry or disappointed, back  
24 then, because people whom I contacted did not even respond to me  
25 whether we should have such mechanism in place - because I was

1 trying my best to ensure that we got the proper mechanism in  
2 place. I was trying to contact the Office of Administration in  
3 particular. I didn't even talk to Office of Co-Prosecutors  
4 directly, in the first place. We never received any comments from  
5 the Office of Administration, but, indeed, we received only one  
6 response from the Office of Administration, thanking us for  
7 providing the Court - or Office of Administration with roughly  
8 500,000 pages of document.

9 [11.14.33]

10 And at our place, any piece of document to be copied needs to be  
11 calculated the cost -- need to be calculated locally and we  
12 wanted a process, in particular an agreement with the Court. For  
13 example, if defence counsels wish to verify the document or  
14 challenge any authenticity of the document, then we could have  
15 the agreement in place, but so far we have never had such paper  
16 signed.

17 Q. Thank you, Mr. Youk Chhang. That is clear.

18 I would like to ask a few questions as to what you do with  
19 documents once you have received them. And you've already stated  
20 last week that DC-Cam does not assess whether a document contains  
21 inculpatory information, and I would like to explore this a  
22 little bit further.

23 And I would like to first start by showing the cover page for the  
24 book "Seven Candidates for Prosecution", and it's E -- document  
25 E3/48, and it's ERN -- English ERN 00393471 until 3641, and

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1 French ERN 00729651 until 9662; and the Khmer ERN 00742603 until  
2 2623. Can we--

3 MR. PRESIDENT:

4 Counsel, could you repeat the question? Because you were too fast  
5 when reading out the ERN numbers. Please be slower for good  
6 record.

7 MR. PAUW:

8 My apologies, Your Honour. I have not actually asked the  
9 question, but I would like to have the cover page for this book,  
10 "The Seven Candidates for Prosecution", shown on the screen so  
11 the -- so that the witness can testify as to whether this is  
12 indeed a DC-Cam publication. So, with your permission, if it's  
13 necessary, I can repeat the ERN numbers, and I will speak more  
14 slowly.

15 MR. YOUK CHHANG:

16 A. As counsel notes, this document has been republished by a  
17 university in the United States, and we got a page called  
18 disclaimer; it was the research done by Mr. Steve Heder and  
19 another author. And because we would like to publish this  
20 document again that we ask them to do so and normally we use the  
21 term "disclaimer", and for this reason, it is the authors who  
22 shall be referred to. And these documents are relevant to the --  
23 to the -- telegrams, rather.

24 [11.18.50]

25 Q. Thank you, Mr. Youk Chhang. And it's true that this book

1 contains a disclaimer basically saying that "the views expressed  
2 in this book are the views of the authors" -- in this case, Mr.  
3 Stephen Heder and Mr. Brian D. Tittmore<V>.

4 I just point out to you that this book can be found on the DC-Cam  
5 website, and it's listed under "Publications". So you have been  
6 involved in the publication of this book, as, indeed, the title  
7 page shows.

8 But I would actually-- I'm not that interested in the book  
9 itself, but I'm interested in the foreword. If we can scroll to  
10 the foreword to the second edition, which can be found on ERN  
11 00393483?

12 [11.19.52]

13 I can tell you that's-- Well, maybe it's for your -- for your  
14 overview, it's best if we scroll to the bottom of the second  
15 page, and there we see the -- see who wrote this foreword. It  
16 would be Mr. Youk Chhang, Director of DC-Cam, and Sir John D.  
17 Ciorciari, DC-Cam Legal Advisor.

18 So, if we scroll back to the first page of the foreword and look  
19 at the first paragraph of this foreword, you state that the  
20 Accountability Project is - "now represents one of the core  
21 activities of the Center"<V>.

22 And in the second paragraph, you state that the Accountability  
23 Project "has two major goals". And the first goal, according to  
24 this foreword, "is to produce information that can serve as  
25 potential evidence in the prospective criminal trials of certain

1 former CPK officials"<V>.

2 And the third paragraph -- I will quote -- you will -- you state  
3 that "the Accountability Project has two major parts. The first,  
4 which is related to the publication of this report, involves  
5 analysis of documentary evidence."<V>

6 And I just note for the record that, according to this foreword,  
7 you -- or DC-Cam analyzes evidence, and this analysis leads to or  
8 it's related to this report, which is called "Seven Candidates  
9 for Prosecution".

10 [11.21.45]

11 Can you tell us in what way you analyze documentary evidence, as  
12 you state in this foreword to this book?

13 A. As I indicated with the relevant disclaimer, it is Steve Heder  
14 and the other co-author who are responsible for the content of  
15 the article.

16 And as a person -- evidence in this text, I may say that law does  
17 not monopoly "evidence". And Steve Heder used documents that  
18 relevant to the interviews, telegrams, and confessions.

19 And if you look at the first paragraph and the second paragraph  
20 about a cancellation, the part which you skipped -- you didn't  
21 read it out -- if you look at section 2, I remember very clearly  
22 that we discuss with John that our position was a national  
23 reconciliation. So you may refer to that text again.

24 [11.23.28]

25 Q. Mr. Youk Chhang, I do not dispute that one of the goals of

1 DC-Cam is national reconciliation. I just note that, according to  
2 your own foreword, the first goal of the Accountability Project  
3 "is to produce information that can serve as potential  
4 evidence" <V> and the second goal "is to foster  
5 reconciliation" <V>. I'm not saying that there is a certain level  
6 of hierarchy here, I'm just noting that you note -- you comment  
7 on the producing of potential evidence as your first goal.  
8 Secondly, I agree with you that there is a disclaimer in this  
9 book and that it is the views of Mr. Steve Heder and Mr. Brian  
10 Tittlemore that are reflected in this book. I'm not asking you  
11 about this. I am looking at the third paragraph, and there it  
12 states that "the Accountability Project has two major parts". The  
13 first involves analysis of documentary evidence. It is not Steve  
14 Heder analyzing, it is not Brian Tittlemore analyzing; this is  
15 people at the Accountability Project analyzing documentary  
16 evidence.

17 [11.24.42]

18 What type of analysis do you perform regarding this evidence?

19 A. I think this section may be relevant to the translation of the  
20 telegrams, because we would like to have telegrams printed and we  
21 asked for funds to print -- to translate all the telegrams into  
22 English. But the situation was not favourable and the documents  
23 could not be printed, and during the course of translation of the  
24 telegrams, we made request to the Court. We asked our former  
25 staff, Mr. Sour Bunsou <V>, to write a brief summary of the



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1 telegrams, and all the documents that had been summarized would  
2 need to be sent to the Court to expedite the proceedings. And I  
3 believe that these portions may be relevant to the telegrams that  
4 are translated, I guess.

5 Q. So your answer is that the analysis that is done as part of  
6 the Accountability Project relates to the translation of  
7 telegrams; that is your answer?

8 A. (No interpretation)

9 MR. PRESIDENT:

10 Witness, could you please wait?

11 International Co-Prosecutor, you may now proceed.

12 MR. ABDULHAK:

13 Thank you, Mr. President. We were reluctant to intervene for a  
14 while, there, but we do object now because I think my friend is  
15 returning to a topic which was examined last week, on the 2nd of  
16 February, and it relates to DC-Cam's objectives and scepticism, I  
17 think, which my friend might hold in relation to their work and  
18 their outlook in relation to the tribunal. And I think Your  
19 Honours ruled that you understood the position that the Defence  
20 was taking but that you had heard enough and were directing my  
21 friend to move on. I think we're back to that same ground.  
22 And I - we refrained from objecting, but I think my friend is  
23 continuing that line of questioning, and I think Your Honours  
24 should direct him to move on.

25 [11.27.29]

1 MR. PAUW:

2 Mr. President, if I may respond, I am not, at this point, asking  
3 about possible bias on the side of DC-Cam or reflecting my  
4 scepticism as to their motives; I am specifically asking about  
5 the way that DC-Cam processes its evidence, how does it organize  
6 it, and -- I will get to that point -- how is the information  
7 then transferred to third parties, more specifically the ECCC. So  
8 I'm not asking about possible ulterior motives that DC-Cam might  
9 have, I'm asking about actual work that is being done in DC-Cam,  
10 when dealing with these documents.

11 And we are dealing with the processing and transfer of documents,  
12 during this morning's session, so I would like the witness to  
13 answer this question.

14 (Judges deliberate)

15 [11.29.58]

16 MR. PRESIDENT:

17 International Co-Prosecutors' objection is sustained because it  
18 was properly reasoned.

19 The witness is instructed not to respond to that particular  
20 question.

21 And counsel is advised to proceed with other questions instead.

22 BY MR. PAUW:

23 Thank you, Mr. President.

24 Q. I will move on then to a third line in that same paragraph. If  
25 it can be shown to the witness? And it is -- the line reads:

1 "Since 2001, members of the DC-Cam staff have worked to compile  
2 documentary collections related to each of ten former CPK  
3 officials."<V>

4 Can you give us the names of these 10 former CPK officials, or is  
5 that confidential information?

6 MR. YOUK CHHANG:

7 A. As I said earlier, there are two lists. One was established by  
8 Ben Kiernan, it was published by "Genocide and Democracy in  
9 Cambodia". Actually, he named 20 CPK officials. And there is  
10 another list, the biographies of the former CPK leaders, and  
11 there were more than 20 such biographies. And if you look at page  
12 14 - 13 and 14 of this book, you will see all the names of those  
13 individual CPK officials which I indicated last week.

14 [11.31.50]

15 Q. So I was not asking about Ben Kiernan -- Kiernan's list, but I  
16 was asking about the 10 former CPK officials that staff at DC-Cam  
17 has compiled documentary evidence on.

18 I repeat my question: Can you give us the names of those 10  
19 former CPK officials?

20 A. I remember only five -- at least, at least five of them, but I  
21 don't remember others, but you can refer to that document. Those  
22 five has the precise position, namely: Mr. Nuon Chea, who is a  
23 member of the Standing Committee; Ieng Sary; Khieu Samphan; Ieng  
24 Thirith. There are information about them, about the position  
25 they held, and there are also certain information that may be

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1 helpful for them as well. And there are also information about  
2 their biographies as well, starting from their historical  
3 activation until their later life as well.

4 So, of course, those five individuals were in the name list as  
5 well.

6 [11.33.08]

7 Q. Mr. Chhang, I did not doubt that those five individuals would  
8 be named, but can you or can you not give us the names of the  
9 five other--

10 MR. PRESIDENT:

11 The Prosecutor, you may proceed.

12 MR. ABDULHAK:

13 Your Honours, objection as to relevance.

14 We just see no relevance to this line of questioning, whatsoever.

15 MR. PAUW:

16 Mr. President, it's simply a question as to, again, how DC-Cam  
17 organizes its work and how it organizes documents in certain  
18 specific filings. It's -- we are here to explore how DC-Cam  
19 processes evidence, how it handles evidence. I refrain from using  
20 the word "analyze" because I'm not allowed to speak about this.  
21 But this is a very straightforward question. Apparently, DC-Cam  
22 organizes its evidence according to certain individual persons.  
23 And I do not see why this question would be problematic in any  
24 way.

25 [11.34.20]

1 (Judges deliberate)

2 MR. PRESIDENT:

3 The objection by the International Co-prosecutor is sustained  
4 because this question is not relevant to the subject matter of  
5 the discussion now.

6 So the witness is directed not to answer this question.

7 BY MR. PAUW:

8 Okay. Then I- Thank you, Mr. President. I will refrain from  
9 questions that relate to the analysis of evidence by DC-Cam or  
10 the way that DC-Cam organizes its evidence, and I will move on to  
11 yet another topic, which is, again, a publication by DC-Cam that  
12 can be found on the website. And the title of this publication is  
13 something that was prepared by DC-Cam for the purpose of  
14 outreach, and it is called "Genocide -- Who Are the Senior Khmer  
15 Rouge Leaders to Be Judged? -- The Importance of Case 2". And if  
16 we can show that on the screen?

17 [11.36.15]

18 And if we can scroll to the first page to see who the authors of  
19 this publication are, it is- And it's hard to read. Is it  
20 possible to-That's better. So the authors are Jaya  
21 Ramji-Nogales<V> and Anne Heindel.

22 Can you first tell who these individuals are?

23 MR. YOUK CHHANG:

24 A. I actually like the format of this book.

25 Jaya Ramji is a consultant, and Anne Heindel is also our

1 consultant whom we have engaged in order to provide some  
2 consultancy on the issue relating to the ECCC.

3 Q. Thank you. And if we then scroll to the first page of this  
4 publication, we see another foreword, and it is written, this  
5 time, just by you, Mr. Youk Chhang. If you can show the first  
6 paragraph of that foreword on the screen? Maybe try to make it  
7 legible.

8 And I will just read from this paragraph. You speak about Nuon  
9 Chea, Ieng Sary, Ieng Thirith, and Khieu Samphan, and you state:  
10 "These leaders have not admitted any responsibility for the  
11 crimes of that period but instead blame the lower cadre and  
12 others. Their trial offers an important chance to show that the  
13 DK regime made decisions that caused the deaths of nearly 2  
14 million Cambodians."<V>

15 And, in the second paragraph, you write:

16 "There is a lot of information that can be used in court to show  
17 that these leaders are guilty, including many documents that  
18 describe what they did and witnesses who can come to court and  
19 talk about what the leaders did."<V>

20 [11.38.56]

21 When I read this, it sounds like you have already reached an  
22 answer on an issue to which this Court still needs to provide a  
23 decision, and that is that the leaders were responsible for what  
24 happens in the country and are in fact guilty. And, to me, it's  
25 also clear that one can only come to such a conclusion after the

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1 analysis of the evidence. Do you understand that I got that  
2 impression?

3 MR. ABDULHAK:

4 Your Honours, we'll object to that question.

5 Again, I think my friend is returning to the opinions held by the  
6 witness, and Your Honours have ruled that those issues bear no  
7 relevance to the topic of these proceedings. So the question is  
8 irrelevant, in our view.

9 MR. PAUW:

10 Mr. President, if I - if I may briefly, this is -- this goes  
11 directly to the heart of the matter, and that is the personal  
12 opinion of Mr. Youk Chhang, who is, let's say, the most important  
13 gatekeeper of all the evidence, or the majority of the evidence  
14 that is available in this case. If these are in fact the  
15 convictions of Mr. Youk Chhang, it is relevant for us to know.

16 [11.40.07]

17 As I stated last week or two weeks ago, we do not hold Mr. Youk  
18 Chhang at fault for having those convictions, but it needs to be  
19 established in Court that he has them, that he has been dealing  
20 with these issues with a certain biased -- and I mean that in a  
21 neutral sense of the word, but that he has been dealing with  
22 these issues with a biased view of the matter, and that is that  
23 senior leaders are guilty and that the documentary evidence  
24 actually establishes that.

25 And, again, I am trying to establish what Mr. Youk Chhang's

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1 personal opinion on these matters is, because it is clear that he  
2 takes these opinions with him when he goes to work as Director of  
3 DC-Cam.

4 So, again, I would like Mr. Youk Chhang to simply comment on  
5 these words that he, himself, wrote. He is the best person to  
6 provide us clarification on this issue.

7 (Judges deliberate)

8 [11.41.50]

9 MR. PRESIDENT:

10 The objection by the Prosecution is fairly substantiated, so the  
11 objection is sustained.

12 So the witness need not answer the last question.

13 And, again, the same matter arises. We have advised the parties  
14 already in terms of question - of this line of questioning, and  
15 this was actually directed by Judge Cartwright on Thursday, last  
16 week.

17 BY MR. PAUW:

18 Thank you, Mr. President.

19 Q. I will move onto a further topic then, and that is the  
20 following: Your deputy, Mr. Dara, has told us that DC-Cam has  
21 been free to look for information anywhere in Cambodia; do you  
22 agree with that assessment?

23 MR. YOUK CHHANG:

24 A. I agree with this statement but I have to be precise that  
25 certain areas where we went to visit encounter some difficulty as



1 well. For example, there are different working procedures at  
2 different institutions, so, by getting to that institution, we  
3 have to follow certain processes and procedures. That's why we  
4 address those problems from time to time.

5 [11.43.51]

6 Q. Okay. Mr. Dara has also spoken about the archives of the CPP,  
7 and I believe he indicated that you are free to do research in  
8 the archives of the CPP; is that correct?

9 MR. ABDULHAK:

10 Your Honours, if I may, again, I think my friend is fishing in  
11 the dark.

12 These matters may be of interest for the sake of newspapers and  
13 external observers but they bear no relevance to the documents  
14 that are before Your Honours.

15 The purpose of this hearing is to deal with the specific  
16 documents, and it was in response to Nuon Chea's request that we  
17 provided a table of all of the documents which are on the case  
18 file and which originate from DC-Cam.

19 Now, if my friend wishes to deal with categories of those  
20 documents and explore the areas of relevance and reliability by  
21 reference to DC-Cam's methods for recording and treating a  
22 document, then we would not object. But to engage in a broad  
23 enquiry about where DC-Cam collects documents, that has no  
24 bearing, that has no relevance for the documents that are in that  
25 table, we think is a waste of this Court's time and completely

1 irrelevant for the purposes of this hearing.

2 [11.45.24]

3 MR. PAUW:

4 Mr. President, if I may, I can only say that I am baffled by the

5 OCP's intervention -- I hope that is not too impolite a word.

6 But we are dealing here, again, with the methods of evidence

7 collection by DC-Cam. I am not talking about the bias of DC-Cam;

8 I'm not talking about the personal opinions of Mr. Youk Chhang. I

9 am asking a very simple question, and that is whether DC-Cam was

10 allowed to do research in the CPP archives.

11 [11.46.01]

12 If I recall correctly, the OCP has actually explored this very

13 issue in its own line of questioning, where it's tried to

14 establish where DC-Cam had been looking for documents and what

15 cooperation they got from the specific other institutions.

16 I am not sure why OCP is allowed to ask about access to the

17 National Archives or the Minister of Interior and I am not

18 allowed to ask questions about access to the CPP archives.

19 It's a very straightforward question and relates directly to the

20 access that DC-Cam has been given by a third institution.

21 So I would invite the witness to respond to this question, with

22 your permission.

23 MR. PRESIDENT:

24 The witness, please hold on.

25 (Judges deliberate)

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1 [11.48.35]

2 The objection is not sustained.

3 The witness should respond to the last question posed by the  
4 defence counsel.

5 [11.48.49]

6 MR. YOUK CHHANG:

7 A. Thank you, Mr. President. I am very -- I'm more than happy to  
8 answer this question.

9 I think everyone has been confused because, sometime in 1993, the  
10 Cambodian People's Party has an archive. This archive actually  
11 was established by a joint committee between Vietnam, Laos, and  
12 Cambodia, and this was actually modeled from the Stalin  
13 Institute. And this, actually, archive was closed. And I try--  
14 Mr. Chey Sophea (phonetic) and (sic) Chey Sophorn (phonetic) were  
15 the members of this committee. And I went to Vietnam, to Laos as  
16 well. I would like to explore how the committee worked -- how the  
17 committee worked together, but, well, since this is not an  
18 institution, it does not have a building or so, so I decided to  
19 incorporate this information on our website, indicating that we  
20 actually have been to certain places but we cannot get all the  
21 necessary information. But the Court may have better access due  
22 to its power. And I approached His Excellency Say Chhum<V>, and  
23 he told me that, of course, this archive had already been closed.

24 [11.50.13]

25 There was a committee for the history of the revolutionary party

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1 of the three countries, and they exchanged information in order  
2 to construct the history of the revolutionary party of the two --  
3 of the three countries. But there was no building whatsoever,  
4 now, because it was - it had been closed and I approach  
5 individual archive.

6 And when I collected this document, the document was scattered,  
7 and I went to Vietnam and Laos. And the two countries, Vietnam  
8 and Laos, issue a books on the history of their own revolutionary  
9 party. But in Cambodia, there have been change in political  
10 lines, and then the general election was held in 1993.

11 And I actually posed this question publically with the hope that  
12 sooner or later the Court may be able to find information as  
13 well. That's why I believe that party's question about that,  
14 because I have so far posed that question on the website as well.  
15 So it arouses curiosity by parties, I believe.

16 [11.51.27]

17 BY MR. PAUW:

18 Q. Thank you, Mr. Youk Chhang. I believe that you may have been  
19 speaking slightly too fast for the translators, and I - it's not  
20 my task to ask you to speak more slowly, but I certainly didn't  
21 understand everything that you were saying.

22 So let me restart by asking a simple question: Is there such a  
23 thing as the CPP archives? Is there a collection of documents  
24 that you would refer to as the CPP archives?

25 MR. YOUK CHHANG:

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1 A. This archive was closed in 1993. It was named the History of  
2 the People Revolutionary of Kampuchea, and actually is establish  
3 a committee, a tripartite committee of Vietnam, Laos, and  
4 Cambodia. And it modelled the History Institute of the Former  
5 Soviet Union. I tried to approach Mr. Chey Sophorn (phonetic),  
6 who was the chairman of this, and I ask him -- when I met him,  
7 actually, this institution was already closed down.

8 [11.52.59]

9 I was not satisfied with the answer he gave me, so I went to  
10 Vietnam because I believed that there must be Vietnam -- there  
11 must be documents of Cambodia in the custodies of Vietnam. And I  
12 also went to Laos as well. But what I learned was that, of  
13 course, in Laos and Vietnam, they published one joint history  
14 book on the history of the revolutionary party of Vietnam. And I  
15 was not - I did not content with that, and so I decided to pose  
16 this question publically.

17 I hoped that, once we have tribunal, as we are having today, the  
18 Court might have a better ways in order to find documents  
19 particularly to clear the doubt for the public as how it was  
20 going about; because I was the one who have tried to get all of  
21 this information.

22 Q. Thank you, Mr. Youk Chhang. So I understand -- if I understand  
23 you correctly, the original CPP archive closed in 1993.  
24 To your knowledge, does the CPP still have documents relating to  
25 the DK era in its possession?

1 [11.54.34]

2 A. Are you talking about its existence today? Or--

3 Q. Indeed, I'm talking about today. Do you know whether the CPP  
4 still possesses DK-era documents?

5 A. When the Court was established, in 2005, I made an open  
6 announcement to the world. I actually wrote an open appeal in  
7 Khmer, in English, and French, and I posted on our website, and I  
8 send it to all embassies in Phnom Penh to give documents to the  
9 tribunal. I mention in my letter that, of course, the Court  
10 should be the first place to receive the documents given by them.  
11 So I have actually publicized such an open appeal. I sent emails  
12 and sent this letter to embassies as well. And I think that it is  
13 the sole role of the tribunal in order to find those documents.  
14 We cannot affirm that we have a hundred percent of the documents,  
15 and we believe that there would be other documents in possession  
16 of others in other places as well, that's why we have tried our  
17 utmost, so far, to collect up to around 1 million documents. But  
18 this is not exhaustive; we believe that there will be others -  
19 others who may have in their possession as well, so it is up to  
20 the Court to find those documents. And we do not consider our  
21 place as a judicial body to collect this document.

22 [11.56.14]

23 And even though we have permission from the government to conduct  
24 research, but we do not have all of the documents we may want to.

25 Q. It's a very long answer, but it's not an answer to the

1 question I asked you.

2 The question I asked you is: Do you know whether the CPP still  
3 possesses documents that relate to the DK era? It's a simple yes  
4 or no answer that would do.

5 A. Your question cannot be answer with a yes or no because you  
6 talk about documents relating to the Democratic Kampuchea and the  
7 other types of document are contemporaneous documents of the DK.  
8 If you talk about the relevant documents to the DK period, there  
9 are plenty of them because, even today, people talk about  
10 Democratic Kampuchea.

11 [11.57.096]

12 So I need to give you explanation on that when you ask this  
13 question. It cannot be a yes or no answer.

14 Q. You're totally right. And I will then rephrase my question and  
15 make it into an actual yes or no question: Do you know whether  
16 the CPP possesses documents that actually stem from the 1975 to  
17 1979 era, original DK-era documents?

18 [11.57.48]

19 A. I think if -- since the archive was closed, then, even if  
20 those documents was available, it must be within the individual  
21 archives.

22 Q. Sorry, I did not understand your question (sic). Can you  
23 rephrase your answer? Sorry, I-

24 A. I am of the view that government officials may have those  
25 contemporaneous DK documents personally. But if you talk about

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1 the archive as an institution, it is no longer available because  
2 this institution was closed, because the archive of the History  
3 of the People's Revolutionary Party was closed in 1993. And so  
4 far, individuals who are now members of the Royal Government have  
5 given me documents as well, personally.

6 Q. Thank you. That is a clear answer. And continuing on that  
7 topic, Mr. Khieu Kanharith has been mentioned several times as a  
8 donor of certain documents.

9 And my question to you: Has Mr. Khieu Kanharith provided you with  
10 all the original DK-era documents that he has in his possession,  
11 or don't you know?

12 [11.59.20]

13 A. I do know about this.

14 Q. Can you provide us with an answer?

15 A. I was trying to be brief, and now you ask me to be long.

16 The documents concerning the CPK was obtained from Mr. Khieu  
17 Kanharith<V>, and I was asked where the provenance of the  
18 document could have been. So we received the response in writing,  
19 and I think I communicated this to the Office of Co-Investigating  
20 Judges already.

21 Mr. Khieu Kanharith said very clearly, when I asked, where the  
22 document could originally come from, and he said he was sure that  
23 he handed the documents to Mr. Ben Kiernan. And I made  
24 communications to him in writings, and I kept good records of  
25 such correspondences.



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1 [12.00.30]

2 This was the -- of course, the note of the meetings of the  
3 Standing Committee which we refer to.

4 Q. Thank you. And to your knowledge, has Mr. Khieu Kanharith  
5 provided you with all the original DK-era documents that he has  
6 in his possession?

7 A. To me or to other people?

8 Q. To DC-Cam.

9 A. No.

10 Q. This is a short answer, and I appreciate it, but I'm not sure  
11 what the answer relates to. Do you know if Mr. Khieu Kanharith,  
12 today, still possesses original DK-era documents that DC-Cam does  
13 not have in its possession?

14 A. I don't know. You may ask him. I once talked to him about  
15 this. I said that document was sent to Mr. Ben Kiernan. I just  
16 quoted from him.

17 MR. PRESIDENT:

18 Thank you, Counsel. And thank you, Witness.

19 It is now an appropriate time for lunch adjournment. The Court  
20 will adjourn until 1.30 p.m., for lunch.

21 During the adjournment, court officer is instructed to assist  
22 witness so that he can have a rest and that he be returned to the  
23 courtroom before 1.30.

24 Counsel for Nuon Chea, you may now proceed.

25 [12.02.40]

1 MR. PESTMAN:

2 Thank you, Mr. President. I have in my hand the waiver for my  
3 client regarding this afternoon's session. He kindly requests to  
4 follow the remainder of the session downstairs, from the holding  
5 cell.

6 MR. PRESIDENT:

7 We note the request by Nuon Chea through his counsel and ask that  
8 the client be excused from this courtroom and follow the  
9 proceeding from the holding cell.

10 The AV equipment has already been put in place so that the  
11 accused person can participate remotely.

12 The Chamber grants such request. Nuon Chea counsel is now  
13 instructed to present this waiver signed by -- or thumb printed  
14 by the accused person and that AV equipment - AV officers are  
15 instructed to make sure that the AV equipment is well linked to  
16 the holding cell so that the accused person can observe the  
17 proceedings remotely.

18 Security personnels are now instructed to take Khieu Samphan and  
19 Nuon Chea to the holding cell and return Khieu Samphan back to  
20 the courtroom before 1.30.

21 The Court is adjourned.

22 (Court recesses from 1204H to 1327H)

23 MR. PRESIDENT:

24 The Court is now back in session.

25 We would like to now hand over for counsels for Nuon Chea to

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1 proceed with remainder of the questions.

2 You have one hour and 20 minutes. So you can proceed until 2.40.

3 BY MR. PAUW:

4 Thank you, Mr. President.

5 Mr. Youk Chhang. Just to announce the order of things, I will

6 finish at my line of questioning and then I will, with your

7 permission, give the floor to Mr. Son Arun, the national counsel

8 for Mr. Nuon Chea.

9 [13.37.06]

10 Q. I would like to start, Mr. Youk Chhang, by showing you an

11 article, an academic article by Mr. Stephen Heder. It is called

12 "Reassessing the Role of Senior Leaders and Local Officials in

13 Democratic Kampuchea [...]", and the ERN is 00661455, and it runs

14 until 00661491. And if we can maybe show the first page of this

15 article on the screen, then you can see what I'm talking about.

16 This is the first page. I'm not sure if you, Mr. Witness, see the

17 first page. And then, if we move down a bit to page 36 and look

18 at footnotes 207 and 208 of this article --there, we see it in

19 the screen -- and those footnotes read:

20 "Various evidence implicates Heng Samrin in war crimes --

21 massacres of Vietnamese of civilians -- committed by troops under

22 his command during cross-border raids into Vietnam in 1977."<V>

23 [13.38.34]

24 And footnote number 208 reads: "Chea Sim has been accused of

25 responsibility for murders of new people and others in the

1 district of which he was Secretary, Ponhea Kraek in Sector 20 of  
2 the East zone."<V>

3 And then, a bit further down, it continues:

4 "[...] local informants estimate that thousands of people were  
5 killed at the district security office while Chea Sim was  
6 district secretary, with the worst killings under his rule coming  
7 in late 1977 and early 1978[...]."<V>

8 [13.39.03]

9 This, again, comes from an article by Mr. Steve Heder. We've  
10 spoken about him a lot during the last hearings. He is widely  
11 considered to be an expert on DK-era documents.

12 And my question to you is: Was DC-Cam allowed to access  
13 government archives regarding these alleged crimes that Mr. Heder  
14 is referring to in these footnotes?

15 MR. PRESIDENT:

16 Witness, hold on, please.

17 (Judges deliberate)

18 [13.40.05]

19 The Chamber decides that witness shall not respond to the  
20 question, as it is irrelevant. The question was irrelevant.

21 BY MR. PAUW:

22 Thank you, Mr. President.

23 Q. The Accountability Project that we've spoken about a lot has  
24 been doing research throughout Cambodia.

25 And my question is :To your knowledge, has the Accountability

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1 Project conducted interviews in the Ponhea Kraek<V> district,  
2 which is the district where, according to this footnote, crimes  
3 were committed, or there has been accused -- Chea Sim has been  
4 accused of committing crimes in this particular district.

5 Has DC-Cam conducted research on these alleged crimes?

6 MR. ABDULHAK:

7 We object, Your Honours.

8 [13.41.07]

9 You've just ruled against this line of questioning.

10 I would invite my friend -- I would invite for the direction that  
11 he move on from this.

12 MR. PAUW:

13 Mr. President, if I may respond, I mean, I'm not sure what the  
14 line of questioning is that my colleague is referring to, but I  
15 do wish to state that it's incredibly important that these issues  
16 get the proper attention.

17 I think they are three reasons why we need to explore this.

18 First reason is that we are trying to find out how DC-Cam manages  
19 and processes the evidence that it actually possesses. And the  
20 question is: Does it make it available to the public or, more  
21 specifically, to the OCP, every piece of evidence that it  
22 possess? And does it make available to the OCP, evidence that  
23 might be exculpatory for our client? That is what I'm trying to  
24 assess by these questions.

25 Second thing -- and this will come up, so I might as well address

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1 it right -- straight away -- we need, today, to explore possible  
2 government interference in the work of DC-Cam. This is simply a  
3 very relevant issue, considering the realities of everyday  
4 Cambodian society. It is undisputed that the Cambodian Government  
5 does not shy away from interfering with this Court. It does not  
6 even hesitate to directly interfere in the work of a duly  
7 appointed International Co-Investigating Judge. And it would be  
8 naïve to assume that the Government would shy away from  
9 interfering in the activities of a purely Cambodian NGO which is  
10 tasked with investigating the history of the Democratic--

11 MR. PRESIDENT:

12 Counsel, could you please be reminded that you are now given this  
13 opportunity to put questions with relation to the documentation  
14 cataloguing of other relevant documents by the DC-Cam? The  
15 Chamber does not allow you to make any further statement straying  
16 from this confined topics.

17 [13.41.31]

18 If you do not have further questions, then we may end it now.  
19 The prosecutor objection, just now, is sustained, and that you  
20 are not allowed to proceed with the same line of questions.  
21 Please be advised that you are now asked to put questions that  
22 are relevant to the main object or subject matters for the  
23 discussion during these hearings, and you need to put questions  
24 relevant to the methods in collecting documents, cataloguing  
25 them, and storing.

1 [13.44.28]

2 And witness is not supposed to be put questions concern each and  
3 particular or specific document. Any challenge to a specific  
4 document will be done at a later date.

5 The Chamber hopes that the message has already been clear.

6 BY MR. PAUW:

7 Thank you, Mr. President. I will move away from this specific  
8 body of evidence that would implicate current high-ranking  
9 officials, and I will move on to the next topic.

10 Q. Mr. Stephen Heder, in this article, develops the theory, based  
11 on his research of the evidence, that a substantial part of the  
12 killing committed in Cambodia was committed by lower-ranking CPK  
13 officials without specific instructions of the central  
14 leadership.

15 And just to introduce my question, let me just as you: Are you  
16 familiar with this particular theory of Steve Heder?

17 MR. YOUK CHHANG:

18 A. That Steve's Heder's theory and his analysis, I'm difficult to  
19 talk about this. And people we interviewed -- more than 1,000  
20 people who have been interviewed -- never admitted that they have  
21 killed anyone.

22 [13.46.28]

23 Q. Thank you. And from your own publications, we know that you do  
24 research to illuminate the chains of command in order to hold the  
25 senior leaders accountable for the crimes were committed.

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1 Has DC-Cam conducted any specific research to corroborate Heder's  
2 theory that a substantial part of the killing was committed by  
3 lower-ranking CPK officials, without specific instructions of the  
4 central leadership?

5 A. As stated, this project was carried out when we interviewed  
6 former combatants of the DK, following the biographies of them we  
7 obtained. We were wanting to know who killed the people back  
8 then. We did not follow Mr. Steve Heder's idea, and whether he  
9 used our idea to be integrated into his paper, it is his own  
10 decision.

11 [13.47.58]

12 And as I already said, more than 1,000 people we interviewed;  
13 none of them committed such crime or have ever killed anyone.

14 Q. Thank you. Then, I would like to end this particular segment  
15 by showing you the last page of Mr. Heder's article. If our -- it  
16 can be shown on the screen, in the red box?

17 And I will read it for you, the last part. And Mr. Heder opines  
18 that "a proper legal and historical accounting requires much  
19 broader and deeper investigations that do not exempt from  
20 scrutiny CPK-era 'small fish', regardless of their current place  
21 in Cambodian society"<V>.

22 [13.48.54]

23 And my-- Or let me put it to you that Mr. Heder has studied all  
24 this evidence for several decades now. Much like you, he has made  
25 the DK era his life's work, and, after studying all this



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1 evidence, he concludes that "a proper legal and historical  
2 accounting requires much broader and deeper investigations"<V>.  
3 You, as a director of a historical research organization, do you  
4 agree with this assessment by Steve Heder?

5 MR. ABDULHAK:

6 We would object to this, Your Honours.

7 Again, Mr. President was very kind to read out the Chamber's  
8 instructions with respect to this hearing. I think the Chamber's  
9 being very generous in granting counsel extra time, but I feel  
10 we're wasting time now, and we're just veering into areas which  
11 have nothing to do with the documents that are on the case file  
12 -- the origin, authenticity, and reliability -- and exploring  
13 matters which are way beyond the purposes of this hearing.  
14 And if counsel has run out of ideas, I would encourage Your  
15 Honours to simply ask him to hand over the floor to his  
16 colleague.

17 [13.50.10]

18 MR. PAUW:

19 If I may respond to that briefly, Your Chamber has indeed been  
20 kind to offer us extra time, and this is, again, what we feel is  
21 an incredibly important issue. It is, again, the approach by  
22 DC-Cam to the collection of evidence.

23 I will clearly accept your ruling on whether this question should  
24 be answered or not, and I'm happy to move on, but it is an issue  
25 that, we feel, needs to be addressed sooner or later.

1 So I will now conclude my part of the questioning, because too  
2 many questions that I want to ask, I cannot ask because of your  
3 directions. We have, as far as we are concerned, barely scratched  
4 the surface of the topics that we want to discuss, which is,  
5 again, DC-Cam's possible bias in collecting evidence and the way  
6 it has been analyzing this evidence.

7 [13.50.20]

8 We would already announce that we would want--

9 MR. PRESIDENT:

10 The Chamber has already made this clear that you are not allowed  
11 to make any further statement. You are allowed to only put  
12 questions to the witness, questions that are relevant to the  
13 agreed subject matter.

14 We have so far had problem to do with the documents, and you are  
15 supposed to address this issues in this courtroom. And if you  
16 insist moving with the questions that are banned by the Chamber,  
17 then we suggest that your request for additional time will now  
18 end here.

19 The question that you just put, and objected by the Prosecutor,  
20 has been taken by the Chamber as -- the objection itself is  
21 sustained, and witness cannot be forced to respond to any  
22 questions or any issues or opinion by any other author.

23 And the Chamber notes that even the witness may be allow to do  
24 so, but, if the topic is outside the subject matter, such issue  
25 shall also be disallowed.

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1 MR. PAUW:

2 Thank you, Mr. President. I understand your instructions, and I  
3 am actually ending my part of the cross-examination of this  
4 witness at this stage.

5 I just have two procedural points that I want to make, and I  
6 think it's convenient if I do it before Mr. Son Arun takes the  
7 floor.

8 One thing is that we do request the Trial Chamber to request Mr.  
9 Youk Chhang to provide the information that we discussed this  
10 morning, and which is the information that can be found in those  
11 so-called note 316 and note 317, which is information as to  
12 whether the document at DC-Cam is an original or not, and, in box  
13 317, the information as to the provenance of the document and  
14 earlier custodians.

15 [13.54.03]

16 We think this would clarify a lot of issues, and we would want  
17 Youk Chhang to do that for all the documents that appear on the  
18 list that has been provided by the OCP, the list of documents  
19 that come from DC-Cam. So that would be our first request.

20 The second request, I'm not sure if now is the time and place to  
21 do so, but just in case, we announce that we would want to hear  
22 this witness again on the issues that we have not been allowed to  
23 ask him questions on, which is-- I'm not going to repeat myself,  
24 but these issues are of crucial importance. It's an unprecedented  
25 situation that a private organization has been so instrumental in

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1 the collection of evidence in a criminal case--

2 [13.54.52]

3 MR. PRESIDENT:

4 Counsel, the Chamber has made this clear, and again that the  
5 floor is not for you to make any general statement. It is about  
6 the questions concerning subject matter of documentation at the  
7 DC-Cam. You cannot take the advantage of this venue to put other  
8 statements which are not relevant to this particular time given.  
9 You, indeed, can do so in another session, when it is reserved  
10 for such purpose, but not during this session.

11 MR. PAUW:

12 Thank you, Mr. President, for your instructions.  
13 And with your permission, I would give the floor to my national  
14 colleague, Mr. Son Arun.

15 (Judges deliberate)

16 [13.58.33]

17 MR. PRESIDENT:

18 To clarify matters, the Chamber would like counsel for Nuon Chea  
19 to be on his feet, and we would like to hand over to Judge  
20 Lavergne to put some questions to counsel for clarification.

21 JUDGE LAVERGNE:

22 Yes. Thank you, Mr. President. The Chamber would like you to make  
23 some clarifications regarding the motion you have just made  
24 before the Chamber with a view to obtaining information regarding  
25 the provenance and the state of documents from DC-Cam and that

1 are on the record.

2 [13.59.41]

3 Our first question to you is whether this request for information  
4 was made while the three years of preparatory investigations and  
5 if you did not have the opportunity to go to DC-Cam to obtain  
6 such information.

7 Secondly, your motion may have to do with the application of the  
8 Internal Rules, particularly Rule 87.4 regarding new evidence, in  
9 respect of which the request would be made for you to provide  
10 information before the Chamber. And it states as follows: (In  
11 English:) "The requesting party must also satisfy the Chamber  
12 that the requested testimony or evidence was not available before  
13 the opening of the Trial."<V> (End of intervention in English)

14 [14.01.03]

15 MR. PAUW:

16 Thank you, Judge Lavergne. I will try to be brief in my response.

17 First, answer to -- the answer to the first question would be:

18 No, we did not try to establish the provenance of every document  
19 that is on the OCP list that was provided two weeks ago, simple  
20 because we had no way of knowing which documents the OCP would be  
21 relying on at this point of the trial, especially considering the  
22 fact that clearly we had no idea that the trial would be  
23 organized in this way with a mini-trial and a subsection of  
24 documents.

25 If the question is whether or not we were able to verify the

1 provenance of these documents earlier, I think this is exactly  
2 what the hearing last week was about and the hearing this morning  
3 was about: finding out what DC-Cam did, how they collect and  
4 store documents. And it's only this morning that we established  
5 that DC-Cam indeed enters this information in such a database,  
6 and that these box 316 and box 317 exists.

7 [14.02.25]

8 Today, I clarified with Mr. Youk Chhang that, indeed, this box  
9 contains the information that we have all been looking for for  
10 the past few weeks. Even Mr. Youk Chhang is not entirely clear on  
11 what can be found in those boxes, but it seems to me that today  
12 we established that there is good hope that what we are looking  
13 for here, today, which is, again, the provenance of the documents  
14 and the chain of custody of the documents, can indeed be found in  
15 this particular database and in this particular box 316 and 317.  
16 So that's the reason that I would ask DC-Cam to provide this  
17 information today.

18 I would submit that, in fact, it was not for us to come up with  
19 this line of questioning and to establish what the provenance of  
20 these documents was. I would have submitted -- or I submit that  
21 it would have been up to the OCP or, at a later stage, the OCIJ  
22 to establish that, indeed, this information is available at  
23 DC-Cam.

24 [14.03.38]

25 So if-- And this is how I understand your question, but I don't

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1 want to read too much into it: if the line of thinking would be  
2 that we are late in making this request, I would say: a) we only  
3 established today that this information is likely available; and,  
4 b) it was not for us to come up with this information, it is for  
5 the party that wants to use this information as evidence.

6 [14.04.90]

7 Two, I think this partly answers the question -- the second  
8 question that you ask, which is whether this information was  
9 available before the trial started again. We discovered it today,  
10 that this is in fact information that is contained on these boxes  
11 316 and 317, and today's questioning has led us to make this  
12 request. This -- I hope this answers your question.

13 MR. PRESIDENT:

14 The International Co-Prosecutor, you may now proceed.

15 MR. ABDULHAK:

16 Your Honours, I don't wish to interrupt Judge Lavergne's  
17 questioning, so I just wish to indicate that we wish to respond  
18 to these submissions.

19 There are matters of fact that are on the record that relates to  
20 these very submissions, and I can either correct the record now  
21 or, if Your Honours wish to hear me, following questioning by  
22 Judge Lavergne. I'll proceed as you prefer.

23 MR. PRESIDENT:

24 The International Co-Prosecutor, you may proceed.

25 MR. ABDULHAK:

1 Thank you, Mr. President. I'll be very brief, but I do wish to  
2 correct the record or at least state for Your Honours some of the  
3 relevant developments.

4 [14.06.09]

5 Just as a - as a starting point, my friend insists on an  
6 apparently comprehensive inquiry into provenance and chain of  
7 custody of each document. Of course, Your Honours have ruled  
8 recently that that is not required for the purposes of admission.  
9 And one only need read your latest memorandum of 31st January  
10 2012, at paragraph 2; Your Honours make it clear that documents  
11 need only satisfy the prime facie standards of relevance,  
12 reliability, and authenticity, and, unless documents appear to be  
13 forgeries or unrepresentative of the originals, that the Chamber  
14 will consider them to be put before it.

15 And our submission is that that standard has indeed been met.

16 If my friend were to challenge specific documents, as the origin  
17 of which he puts in question or relevance and reliability,  
18 perhaps we would show some -- we'd certainly show a degree of  
19 understanding -- but this tendency to insist on a wide-ranging  
20 inquiry into documents is simply not in accordance with Your  
21 Judges' rulings and is completely beyond what is required for the  
22 purposes of admission.

23 And further to that, on the issue of due diligence, one only need  
24 look at the date of this manual. It's dated 1999, and one  
25 presumes it's been on the DC-Cam website this entire period.



1 And continuing in relation to counsel's knowledge of documents  
2 arriving from DC-Cam, again, if you look at the case file or it's  
3 phase that relates to the judicial investigation, you'll find any  
4 number of filings that relate to the collection and use of  
5 documents from DC-Cam, and just one of them was by the OCP,  
6 number D313, where we indicated, at paragraph, I believe, 25,  
7 that acting in accordance with the directions of the  
8 Co-Investigating Judges, we availed ourselves of the opportunity  
9 to visit DC-Cam and to look at the records there and collect  
10 relevant documents, since DC-Cam was a general, publicly  
11 available database, or archive, in respect of which we were  
12 instructed by the Co-Investigating Judges that all parties were  
13 allowed to conduct inquiries, collect documents, etc.

14 [14.08.30]

15 We filed-- This particular filing was dated 31st of December  
16 2009, well before the closure of the judicial investigation.  
17 There was no response from counsel, then, to say that with  
18 respect to the documents that we collected at DC-Cam that we  
19 needed to indicate-- I'll slow down for the interpreters; I  
20 apologize. There was no indication, then, from counsel for Nuon  
21 Chea or, for that matter, from any other defence team, that the  
22 OCP should go back and obtain evidence as to the provenance and  
23 chain of custody.

24 [14.09.08]

25 We were, of course, alleging that all of these documents were

1 relevant, and they're among the documents that are in the table  
2 that we've been discussing.

3 Our position is simply that the test which Your Honours have -  
4 have stated has been met in respect of these documents. You've  
5 now heard, I believe, five days of evidence on origin, chain of  
6 custody, processing, etc. To now suggest that this is the first  
7 opportunity that counsel have had to carry out a broader enquiry  
8 and that such a broader enquiry is warranted is simply  
9 disingenuous. All of these documents have been in the case file  
10 for two or three years or longer, and I believe there were plenty  
11 of opportunities for requests of this type to be made, and my  
12 learned friend has indicated that they - that such requests were  
13 not made by them.

14 And I would suggest that, at this stage, this type of a request  
15 can only tend to prolong the proceedings. Thank you.

16 MR. PAUW:

17 If I may respond to these matters, again, I think that my  
18 colleague at the OCP turns around the burden of proof, on this  
19 issue.

20 [14.10.29]

21 It is not for us to authenticate documents that the OCP wants to  
22 rely on. If the OCP wants to use documents as evidence, they need  
23 to provide us with enough information to make sure that we can  
24 verify whether these documents are authentic and reliable. This  
25 is what the hearing, in the past few weeks, has been about. And

1 during this hearing, as could have been expected, important  
2 information has surfaced as to the way that DC-Cam has stored and  
3 managed its information.

4 [14.11.10]

5 For example, we have noted that, apparently, no written notes  
6 have been taken when DC-Cam spoke to people that handed over  
7 certain documents. That is relevant information that only  
8 surfaced during this hearing. It is for this reason that, now,  
9 this issue has become urgent and we need to be able to establish  
10 it further.

11 And the OCP refers to it as a comprehensive re-investigation of  
12 the issue of provenance. This is exactly what I am not asking.  
13 This is the reason that I inquire today whether this information  
14 in box 316 and box 317 is readily available.

15 And, as far as I understand IT, it should be very easy to simply  
16 link specific documents with this box 316 and 317 and just  
17 provide us two columns: one column with box 316 information, one  
18 column with box 317 information. Then, we will be able to verify  
19 whether the chain of custody and earlier custodians have been  
20 adequately documented.

21 I will say that I doubt that is the case for many documents, also  
22 considering what I just mentioned with regard to earlier notes  
23 that had not been taken relating to the collection of evidence.  
24 And this is what we need to establish. And, again, it was up for  
25 the OCP to establish this when they wanted to rely on these

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1 documents. If we speak about due diligence, I think it's the OCP  
2 that has failed to be due diligent in this issue, and it's  
3 actually the whole reason that we now need to have this hearing  
4 that has cost this Court many, many days of questioning already.  
5 It's now simply not fair to look at the Defence and place the  
6 burden on us.

7 Again, it is up to the OCP, and we are now offering the OCP an  
8 opportunity to, basically, help it, in the authentication of the  
9 documents, by simply providing us that information in boxes 316  
10 and 317.

11 [14.13.57]

12 We're here to talk about the truth. The truth regarding these  
13 documents is crucial, and this truth is easily findable in  
14 DC-Cam's archives.

15 So we would request to have that information added to the case  
16 file to properly verify the authenticity of these documents.

17 MR. PRESIDENT:

18 Thank you.

19 (Judges deliberate)

20 [14.16.05]

21 With respect to the request made by the defence counsel for Nuon  
22 Chea, the Chamber would respond to it in due course.

23 Now, the floor is given to Mr. Son Arun to continue putting  
24 questions to the witness.

25 MR. SON ARUN:

1 Good morning, Mr. President. And good morning, Your Honours. Good  
2 afternoon.

3 For Your Honours' information, I have 20 questions to ask.

4 MR. PRESIDENT:

5 You have up to 2.40, today, to put your questions, so you should  
6 use the remaining time for your questions. And the Chamber did  
7 advise party in relation to the time available for the defence  
8 counsel this afternoon.

9 [14.17.24]

10 MR. SON ARUN:

11 Thank you, Mr. President, for your direction. And I will remit my  
12 questions to the time allotted.

13 QUESTIONING BY MR. SON ARUN:

14 Q. Good afternoon, Mr. Chhang Youk. I would like to begin with my  
15 first question.

16 In a statement taken by the OCIJ, document D2.2/7 (sic), dated  
17 2007, I would like to know -- I would like to check with the  
18 documents that were stored in the DC-Cam.

19 [14.18.10]

20 You mentioned that those documents are the contemporaneous DK  
21 documents.

22 So my question is: Do all -- are all the documents you have in  
23 your possession original documents?

24 MR. YOUK CHHANG:

25 A. We have some original documents and some copied documents.

1 Q. In your last line of the statement, you said that those  
2 documents are authenticated. In other words, they are copied  
3 properly from the originals.

4 What did you mean? Can you clarify?

5 A. I referred to the documents from the Swedish collection. We  
6 had them copied and transported it to the DC-Cam, and that's  
7 where are the documents that we discovered later on that Cornell  
8 University made into microfilm from the documents left in Tuol  
9 Sleng, and we made copy of those documents and kept them at the  
10 DC-Cam, and we leave the originals in the Tuol Sleng Museum.

11 Q. If I understand correctly, when we talk about original  
12 documents, it means that they are the originals of the documents.

13 [14.19.44]

14 A. Original documents refer to the ones which have not been  
15 copied. For example, a document originated from the Democratic  
16 Kampuchea, and they have not been copied by others, and the paper  
17 presentation reflects the one used during the regime. But if  
18 those papers were scanned, they look different.

19 When we talk about original documents, they may be in colours,  
20 and there were some written notes on those original papers as  
21 well.

22 [14.20.21]

23 Q. When you say that they were the original, what was your  
24 criteria for assessment of the original documents?

25 A. Are you referring to the Swedish collection?

1 Q. Well, both, Swedish collection and other documents.

2 A. For documents located domestically, I got them copies by the  
3 DC-Cam, so we work with the Tuol Sleng personnel and we kept some  
4 at the DC-Cam and left some with Tuol Sleng as well. So we have  
5 "TSL" with serial numbers to identify certain documents, then we  
6 can verify any time.

7 Q. You said, in your statement with the OCIJ, that those  
8 documents were consistent and they were contemporaneous DK  
9 documents.

10 What do you mean by "consistency"? Was it your sole conclusion of  
11 that or are you based on any criteria or evidence? Because, now,  
12 people can manipulate or fabricate a document in whatever way  
13 they like, taking into account availability of technology.

14 A. I can give you an example. A document that is considered the  
15 DK contemporaneous document, they use certain types of paper, and  
16 at that time they used typewriter to type documents.

17 And in each document there is an author as well. And some authors  
18 from that regime are still alive now, and there is a connection  
19 of documents. And they can track the chains of documents as well,  
20 if you want to actually -- want to find out who wrote it in the  
21 first place.

22 [14.22.20]

23 And, in addition to that, we also look at the content, the words  
24 used in the documents, so we have to actually understand the  
25 context as well. For example, Bophana's (phonetic) confession

1 consisting of more than 1,000 pages long, and it involved love  
2 stories and other stuff as well, so it is a long story of that,  
3 and it was quite difficult for anyone to actually fake such  
4 document.

5 Q. Have you ever received any written -- handwritten documents or  
6 any other documents that were handwritten, whatever documents?  
7 Have you ever received such documents?

8 A. Are you talking about documents from the before -- pre-1975 or  
9 during the DK period?

10 Q. Well, from the DK period.

11 A. Well, I have received some. There was written records of the  
12 DK comrades, and I read one of them and I noted that one of them  
13 was not from the Democratic Kampuchea because that written note  
14 was describing about a story of lady who migrated from France and  
15 she was executed. And I wrote another note as well, a record as  
16 well, about other story, and those notes were actually  
17 handwritten.

18 Q. Is this the only notes or records you have received in  
19 handwriting form?

20 A. Those records, 450 records, were all handwritten records of  
21 the former combatants of the Democratic Kampuchea, and certain  
22 record was written in 1972 or 1973.

23 Q. Thank you.

24 You told the OCIJ that for the prefix "B" were the documents  
25 received from the government as well as personal donations.



1 Are you certain that those documents are the contemporaneous DK  
2 documents?

3 A. Are you referring to letter K or--

4 Q. It was letter "Kor" [K]; it may refer to K in English.

5 [14.25.11]

6 A. If they refer to the K documents, they are biography  
7 documents.

8 We have never used the Khmer initial in order to code the  
9 document; we use the English alphabet. In this case, we used "K".

10 [14.25.29]

11 Q. For documents collected from S-21, they are marked "I"  
12 documents. They are documents concerning the confession of the  
13 prisoners, or the biography?

14 A. They -- of course, they are biography; I documents are the  
15 biography.

16 MR. PRESIDENT:

17 Of course, you may continue your question and answer, but the  
18 problem is that you are at times using the channel  
19 simultaneously. It is difficult for the interpreting team to  
20 render your questions and answers properly, so please pause in  
21 between question and answer.

22 BY MR. SON ARUN:

23 I'm sorry. Just now, I have not finished my question. I would  
24 like to repeat my question.

25 Q. You told the Co-Investigating Judges that the prefix K you

1 attached to the documents which you said you received from the  
2 government offices as well as individual donation.

3 Are you certain that these documents are the contemporaneous DK  
4 documents? Are you certain, or it is only your presumption?

5 MR. YOUK CHHANG:

6 A. As I informed the Chamber, we do not use the Khmer alphabet to  
7 code the documents; we use English alphabet instead. For example,  
8 letter I, letter K or so. But when you refer to documents marked  
9 with "Document Kor [K]", I don't know. Probably, there was a  
10 translation issue over there, but if it is the K document, it  
11 refers to the biography document.

12 And when we talk about biography documents, there are different  
13 types as well: there are biographies of the former CPK officers  
14 who actually wrote their own biographies, and others are  
15 autobiographies. And, as I said, Mr. Suong Sikooun, or Comrade  
16 Kong, he wrote his own biographies, and others are biographies  
17 with the mug shot of the comrade or any personnel working in any  
18 unit or organization.

19 Another biography belongs to the victims, and it reads the  
20 history or biography of the prisoners, and it consists of around  
21 four pages long, and it contains a mug shot of the prisoners as  
22 well. And these kinds of documents are I documents. And for K  
23 documents from Tuol Sleng-- And I's are for biographies that we  
24 actually collected from Ministry of Interior; then, we marked  
25 those documents "I documents", which refer to the biographies we

1 obtained from the Ministry of Interior.

2 Q. For documents you collected from S-21, you said that they are

3 I category documents, so they are -- they refer to the biography

4 of the personnel of the CPK as well as the prisoners of S-21.

5 And how can you distinguish between the biography kept at S-21 or

6 the confession or biography you obtained from Ministry of

7 Interior?

8 A. As I informed the Chamber last week, that whoever received the

9 confession or hears about confession, they only consider that

10 confession from the S-21, and there was an article written by

11 Douglas (phonetic), who specified the number of confessions.

12 [14.29.50]

13 At S-21, there are some 4,000 confessions, and certain

14 confessions from the Ministry of Interior we have collected up to

15 around 1,000 or so, and then we have verified two types of

16 confessions and biographies. We have noted that there are

17 overlapping biographies as well, but there are also some

18 different types of confessions and biographies. But normally,

19 what I found from Ministry of Interior contains more detail

20 biography or confession than the one found in the S-21.

21 So there are two kinds of confession: one from Ministry of

22 Interior, the other from S-21, and they consist of around 5,000.

23 [14.30.46]

24 Q. You said that confessions could come from two different

25 sources. Is it fair to say that the person could be interviewed

1 at the Ministry of Interior and also at S-21?

2 A. No, no one was ever interviewed at the Ministry of Interior,  
3 it was the confessions we obtained from the MOI, or Ministry of  
4 Interior; there's a confession of Koy Thuon. I guess these  
5 confessions were transferred to Santebal Office, and I guess  
6 people at Santebal office could have interviewed the persons  
7 further after they obtained the brief confessions from S-21  
8 previously.

9 Q. I do not -- if I have already read all the documents, but my  
10 question is that during the Democratic Kampuchea there was no  
11 ministry such as Ministry of Interior. Mr. Son Sen was the  
12 Minister of National Defence and Internal and External Security  
13 Affairs?

14 A. I think there is a misunderstanding here. I am referring to  
15 the documents of the Democratic Kampuchea at the Ministry of  
16 Interior, I'm not talking about the Ministry of Interior that was  
17 established during the Democratic Kampuchea.

18 [14.32.26]

19 What I am referring to is that the confessions could have been  
20 transferred to Santebal office, and then, at Santebal office,  
21 people could have interviewed the person who originally gave  
22 these testimonies for a second time.

23 Q. You say that there were millions of documents that was placed  
24 on your desk and that you would enjoy reading each document.  
25 My question is: If the documents belonged to the DK or to the

1 government or to the senate, have you ever observed any  
2 signatures on each document?

3 A. I think I have.

4 [14.33.26]

5 Mr. President, if you allow me to do so, I would like to talk  
6 further on this.

7 To me, documents -- reading documents is one of my most favourite  
8 hobbies. Any piece of document is more like a grain of rice one  
9 could pick up during the Democratic Kampuchea, because everyone  
10 was so hungry, so we would not waste any grain of rice.

11 And I noted that I read some documents with stamps. And I noted  
12 signatures by Khieu Samphan and also signatures by Duch and  
13 Comrade Khieu, so I have seen such marks.

14 [14.34.22]

15 Q. I have noted some stamps on documents, the stamps representing  
16 military divisions and also stamps representing ministries, but  
17 that's all I have noted.

18 Have you seen other stamps from other locations?

19 A. I think I have seen a few more other stamps representing other  
20 places, but not much -- or not many.

21 Q. During Democratic Kampuchea regime, the policy was very  
22 strict.

23 My question is: How could DC-Cam obtain information or documents  
24 from all level -- from the grass root or local grass root level  
25 to the central centre?

1 A. I think that's a good question why such document is kept in  
2 one place. I should refer the questions to your client as well,  
3 why such documents are kept. I think I talked to a person and --  
4 who knows a thing about the Khmer Rouge regime. They got their  
5 documentation team, and Sous Thy<V> was a member of the  
6 documentation team, and he also gave testimonies before the  
7 Chamber. I asked him some questions about why -- or he was asked  
8 why such a huge volume of document was kept, but he also said  
9 that there was a team who was tasked with compiling or keeping  
10 document and that we only feel that the document we obtain today  
11 is only a drop in the ocean. There's still plenty of other  
12 documents that could be available elsewhere.

13 [14.36.38]

14 And back then, the Khmer Rouge Government was a well established  
15 one, so it could have been an institution where documents could  
16 be properly managed.

17 Q. I think I used to talk to Nuon Chea and asked him some  
18 question to learn that; during the Democratic Kampuchea, people  
19 minded their own businesses and that a senior person only was  
20 confined to understand his or her own personal affairs, rather  
21 than knowing more about other institution.

22 So I can go back to the question at S-21; and the question  
23 remains: Why should document or number of documents stored at  
24 S-21, which was only a small location?

25 [14.37.38]

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1 A. I am very happy that you put question to me because, when you  
2 put question in Khmer, it's really easy for me to respond.  
3 Indeed, you perhaps misunderstand this. Documents at DC-Cam are  
4 not only collected from S-21. Documents from Ben Kiernan was  
5 obtained through Mr. Khieu Kanharith, and such documents were not  
6 stored earlier at S-21. And we obtained only confessions and  
7 images from S-21. Other documents are obtained from other  
8 locations.

9 In the Khmer Rouge regime, when three people were grouped, they  
10 would be called "Angkar" or (words in Khmer), upper echelon  
11 organization. So even our group leaders in the mobile unit would  
12 also be regarded as "Angkar". So that was an institution.

13 Q. You said from 2005 there has never been any agreement  
14 concerning documents with the tribunal.

15 My question is: What do you think about this? Why you keep  
16 providing document to the ECCC? Do you think that such act is not  
17 legal?

18 A. I think I have to answer to requests by the ECCC as a judicial  
19 institution, and I provide documents discriminate --  
20 non-discriminately. I give document to any parties to the  
21 proceedings, including the public, and documents collected at  
22 DC-Cam has been done so through permission from the Government of  
23 Cambodia as well.

24 [14.39.48]

25 Q. I think my question is more relevant. Indeed, it has been

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1 asked time again, but I would like to seek clarification.

2 ECCC is a judicial body. I don't really care whether who you send  
3 these documents to. DC-Cam is a centre, centre that is  
4 responsible for providing documents to ECCC, which is a judicial  
5 body.

6 [14.40.21]

7 A. I think ECCC has made request for documents, so we need to  
8 provide documents to them.

9 Q. But how could you provide documents to the ECCC without  
10 memorandum being signed?

11 A. It was my initial intention that I fully support the Court,  
12 the tribunal, so, as an outsider of the Court, I would do my best  
13 to feed the Court with documents available at my centre that has  
14 been collected so far.

15 We discussed with our expert, including Kate Wilson<V>, at ICTY,  
16 and that's why we proposed the idea of having a memo being signed  
17 with Michelle Lee representing the Court, back then, because we  
18 would like to make sure that it is proper and-- However, although  
19 we have not signed the contract, we kept people who requested for  
20 the document informed of the cost in producing the document to  
21 them. I talked to Knut and Tony Kranh<V> concerning my request  
22 because I was very concerned that this would prolong the  
23 proceedings, and I -- as indicated, I did my best to support the  
24 Court and that we would like everything to be done in a --  
25 legally.



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1 Q. When you receive documents from a foreign country, the  
2 documents would only be in a foreign language.

3 Now, with regard to the "Black Paper" or the "Revolutionary Flag"  
4 in particular, my client said that the "Flag", at the beginning,  
5 was written by -- was written by hands, but then, when the  
6 documents went all the way to Sweden, then it was converted into  
7 French. Can we call it French original documents?

8 A. I have never seen "Revolutionary Flag" in French or in  
9 English. Perhaps you have mistaken. According to my observation,  
10 I think even in the "Revolutionary Flag" magazines themselves  
11 there were photos of your client, Nuon Chea, in particular, and  
12 these documents were produced in 1975. And they remain -- and in  
13 my office, you can find those copies.

14 [14.43.38]

15 So I would like to make it clear that Mr. Son Arun don't -  
16 misunderstand. We have the magazines, and bulletins, and  
17 journals. I think Uncle Nuon -- I prefer you say Uncle Nuon  
18 because I respect him as a senior person -- refer to 1950s, when  
19 such magazines could have been produced in handwriting. But later  
20 on, they developed.

21 And, again, I would like to make it clear: there is no  
22 "Revolutionary Flag" magazine, at DC-Cam, that is in Swedish.

23 Q. I would like to also question you concerning this  
24 "Revolutionary Flag". Nuon Chea is not here, but he was here this  
25 morning. He said-- And he always challenged the production of

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1 "Revolutionary Flag" when Co-Prosecutor raised the -- or put the  
2 document before the Court or show it to him because he said that  
3 that document was not original, so he said that he did not want  
4 to answer to any question with reference to the copy of document  
5 that lack its originality. So that's why I, myself, tried to  
6 locate those documents so that, if we can trace the original  
7 documents, then my client would be more cooperative to respond to  
8 questions put to him.

9 [14.45.34]

10 A. I think maybe -- maybe we put it this way to help his memory.  
11 I know that these things happened many years ago. People need to  
12 stimulate his memory.

13 I think there is another book -- novel. Even during the Khmer  
14 Rouge regime, there -- there was also novel. Comrade Sy  
15 (phonetic), who wrote the book, the book was handwritten. Perhaps  
16 we need to collect some other documents to help promote his  
17 memory or refresh his memory of the events. If he still argues  
18 that the "Revolutionary Flag" were only written by hand, we may  
19 look at the novel concerning the person named Chao Say  
20 (phonetic).

21 [14.46.54]

22 MR. PRESIDENT:

23 Counsel, could you please indicate how much time would you need  
24 to put the remainder of the question? Because it's already 10  
25 minutes past your allocated time.

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1 We also note that Nuon Chea may have mistaken for the  
2 "Revolutionary Flags" that produced during the 1960s that he  
3 claimed were handwritten, but then there also were magazines that  
4 were later on produced in August 1975, through printed media.  
5 He indicated that it was impossible to locate people who had  
6 knowledge of publishing the book back then; that's why only later  
7 that "Revolutionary Flags" could be made available in printing  
8 rather than by handwriting, as indicated.

9 We suggest that counsel did some homework very well with regard  
10 to the sources of these documents before putting the question to  
11 witness. Otherwise, you would drag on, and there will be more  
12 confusion.

13 [14.48.31]

14 How much time would you need further on this?

15 MR. SON ARUN:

16 If the Chamber allows, I would need only 15 more minutes. Or I  
17 can also be stopped.

18 MR. PRESIDENT:

19 Indeed, the Chamber gives you 12 minutes.

20 Please make the most of your allocated time; use it effectively,  
21 wisely, and try to avoid repeated questions. And the questions  
22 themselves shall be precise to save you time.

23 BY MR. SON ARUN:

24 Q. In the same document, you stated that the five different kind  
25 of documents -- paper-based document, minutes of the meeting,

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1 biographies, and also the locations of the pits-- We want to know  
2 whether all these documents produced before the Khmer Rouge or  
3 after the Khmer Rouge regime?

4 MR. YOUK CHHANG:

5 A. I think all images have been obtained from the Democratic  
6 Kampuchea regime.

7 [14.50.09]

8 Q. I think I heard somebody talking in the background. Could you  
9 please make sure the mic was not activated when you talked?

10 Well, I would like to continue. I think the images were from not  
11 only S-21, but from the collection of senior leaders who could be  
12 taken by photographers whose -- whose photo could have been taken  
13 by photographers on their trips to other location, like on trains  
14 or in other locations. It's not difficult to identify them  
15 because their photos were there.

16 [14.50.55]

17 Some photos have been traced all the way to France. They  
18 disappeared from Cambodia, but they were located in France  
19 including the films. We have some films that produced after the  
20 Khmer Rouge regime by the East Germany and Yugoslavia. These  
21 prints have been returned to us on the condition that they shall  
22 not be reproduced because we do not want to create the image that  
23 the movies or the film could have been perceived to have been  
24 produced after the regime.

25 Richard Rogers<V> visited our office to inspect the films and we

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1 also made them available to them, but on the condition that the  
2 films must not be reproduced or copied because we want to avoid,  
3 as I indicated, the notion that people would say the films could  
4 have been produced after the regime.

5 And documents concerning films were returned to Cambodia, and we  
6 obtained several other images, not necessarily from S-21.

7 [14.52.39]

8 Q. Thank you.

9 I've got another question to pose, but before that, I would like  
10 to explain a bit.

11 According to the statement, D204/2, you indicated that the  
12 original documents that relevant to Kraing Ta Chan were missing;  
13 only the copied versions remain. And the question was put to you  
14 why such documents were missing, were they stolen, and where are  
15 they now, and when -- when they went missing.

16 A. I think if you read the whole transcript itself, you would see  
17 who I met first. I met His Excellency Sou Phirin. I met Ting  
18 Sokhai locating the original documents.

19 After the regime collapsed, documents were scattered and that  
20 some documents were copied and placed at Tuol Sleng for its  
21 archive. And my approach is to locate people who may have  
22 knowledge of the documents and among the many prisons all across  
23 the country, people said that only at Tuol Sleng that documents  
24 were kept.

25 [14.54.35]

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1 We tried to contact victims or relatives of those who were  
2 detained at Kraing Ta Chan Prison to locate the relevant  
3 documents and its provenance. I think my first impression with  
4 regard to this document was when I read Ben Kiernan's book  
5 concerning that prison, but there was no more documents left that  
6 pointing to Kraing Ta Chan. The Deputy Chief of Kraing Ta Chan  
7 also named Duch, but Eap Duch<V>. And another artist still alive.  
8 Also, the former staff at Kraing Ta Chan who was asked, but still  
9 we could not locate the original documents.

10 Q. In 1979, the Vietnamese troop controlled the country, and at  
11 each ministry there were Vietnamese experts, including experts  
12 who managed documentation. Vietnamese entered Phnom Penh and  
13 started collecting and organizing documents.

14 [14.56.12]

15 My question is -- the question, back then, was that could the  
16 Vietnamese fabricate the documents collected, its substance, for  
17 example. So this question can be now put to you, whether it is  
18 possible.

19 A. I think it is impossible. Only the very, very good expert who  
20 could really fabricate such document in huge amount. For example,  
21 when it comes to the term "dialectical materialism", no one could  
22 ever imagine of how such terms could be used during the Khmer  
23 Rouge regime, and these terms appear in several other documents  
24 that identifying the terminology used during the regime.

25 I think, back in the Democratic Kampuchea, although people were

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1 forced to work at the labour sites or at later date when the  
2 Vietnam in part of Phnom Penh, there were people who had to work,  
3 although they had very little food, but they -- they worked very  
4 hard to collect documents along with the Vietnamese. And the  
5 documents were written in Khmer, so I could not really imagine if  
6 any Vietnamese expert could produce very detailed information on  
7 those hundred thousand pages of document. And, as I indicated,  
8 the very jargon used by the Khmer Rouge, "dialectical  
9 materialism", the term in Khmer is not really understood by many  
10 of us here.

11 [14.58.25]

12 MR. SON ARUN:

13 Thank you, Mr. President. I have no further questions.

14 MR. PRESIDENT:

15 Thank you, Counsel.

16 And it is now appropriate time for the adjournment, as well.

17 The Chamber would like to thank you, Mr. Chhang Youk, very much  
18 for your time and effort to give testimonies before the Chamber.

19 The Chamber notes that the hearing or your testimonies today  
20 comes to a completion and that you will be excused.

21 [14.59.05]

22 So the process concerning the documentation at DC-Cam and how  
23 documents are collected have already been heard, and we thank you  
24 very much, indeed, for your time again.

25 Court officer is now instructed, along with the WESU, to assist

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1 witness so that he can be returned home safe and sound.  
2 According to our schedule, we should conclude the session by 4  
3 p.m., today. However, since counsel for Ieng Sary indicated that  
4 they would not wish to put question, that's why we had to adjourn  
5 this hearing earlier.

6 So the next session will be resumed on Wednesday, at 9 a.m.,  
7 proceeded with Nuon Chea, questioning to Nuon Chea.  
8 Counsel for the civil party, you may proceed.

9 [15.00.26]

10 MS. SIMONNEAU-FORT:

11 Excuse me, Mr. President, could the Chamber enlighten me about  
12 Wednesday and Thursday's hearings?

13 I had understood that there might be hearings in the morning on  
14 Nuon Chea, but I would like to be sure that those are limited to  
15 the morning sessions.

16 If the Chamber could clarify, I would be most grateful.

17 (Judges deliberate)

18 [15.01.45]

19 MR. PRESIDENT:

20 Thank you. With regard to the scheduling of the hearing, indeed  
21 there will be changes occasionally. And the Chamber has already  
22 indicated to the parties that the management of Case File 002 is  
23 complicated and that we would do our best to inform to the  
24 parties to the best of our knowledge of the future scheduling of  
25 any hearing.



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1 And on Wednesday and Thursday, this week, the Chamber will  
2 proceed with the hearings on Nuon Chea, and that Nuon Chea's  
3 counsel will proceed with questions allocate -- according to the  
4 allocated time to the counsels for the morning session. Then, the  
5 Chamber will proceed to discuss matters concerning documents  
6 issue to be put before the Chamber.

7 And for the following week, the Chamber has already indicated to  
8 the parties, in particular pursuant to the Scheduling Order and  
9 also with relevance to the filing of documents.

10 The subject matters remain the historical background of the  
11 Democratic Kampuchea, and we will also proceed to the structure  
12 of the administration and communications of the Khmer Rouge  
13 communication system. So these are the orders of the facts to be  
14 discussed during the following sessions.

15 [15.04.11]

16 Security personnels are now instructed to bring the accused  
17 persons back to the detention facility and return them to the  
18 courtroom by Wednesday, 9 p.m. (sic).

19 The Court is now adjourned.

20 (Court adjourns at 1505H)

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