



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**  
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

15 February 2012

Trial Day 32

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

The Accused: NUON Chea  
IENG Sary  
KHIEU Samphan

Lawyers for the Accused:

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Trial Chamber Greffiers/Legal Officers:

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Lawyers for the Civil Parties:

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LOR Chunthy  
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SAM Sokong  
VEN Pov

For Court Management Section:

KAUV Keoratanak

**List of Speakers:**

Language used unless specified otherwise in the transcript

<b>Speaker</b>	<b>Language</b>
MR. ANG UDOM	Khmer
MR. BAHOUGNE	French
JUDGE FENZ	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. PAUW	English
MR. PESTMAN	English
MR. PICH ANG	Khmer
MR. SAM SOKONG	Khmer
MS. SIMONNEAU-FORT	French

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

2 (Court opens at 0906H)

3 MR. PRESIDENT:

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

5 According to our schedule, it is now opportunity for the Lead

6 Co-Lawyers to put documents before the Chamber if they would wish

7 to do so.

8 We, therefore, now hand over to the Lead Co-Lawyers to do so.

9 And the documents must be relevant to the historical background  
10 context of the CPK.

11 MS. SIMONNEAU-FORT:

12 Yes, Mr. President. Good morning. Good morning, Your Honours.

13 Good morning, colleagues. Good morning to all of you.

14 First of all, and before I give the floor to Sam Sokong and

15 Olivier Bahougne regarding the documents, I would like to refer

16 to an issue regarding the civil party applications, so I would

17 like to ask the Chamber the opportunity to make a few

18 observations regarding the civil party applications because it's

19 an extremely important issue and -- which has very significant

20 consequences for us. I'm not only speaking about the lawyers, I'm

21 also speaking about the civil parties.

22 So may I please be given a few minutes to make my observations

23 regarding this point?

24 [09.09.15]

25 MR. PRESIDENT:

2

1 You may proceed.

2 MS. SIMONNEAU-FORT:

3 Thank you, Mr. President. I'm going to try to be as concise as  
4 possible.

5 First of all, I would like to let you know that my observations  
6 today relate only to the civil party applications, so, therefore,  
7 I am excluding the statements from other parties such as  
8 statements from witnesses or from statements that might exist  
9 within DC-Cam; I'm only speaking about the civil parties.

10 I'd like to let you know that we have put these applications  
11 before the Court in July, October, and April, and there was never  
12 any objection that was raised regarding these applications.

13 [09.10.08]

14 And then I would like to let you know that, among the 3,860 civil  
15 party applications, we have selected 14 of them relating to the  
16 historical context of Democratic Kampuchea, which means that we  
17 did carry out a selection based on relevance, and this means as  
18 well that we do not have the intention to encumber the debates  
19 with multiple civil party statements.

20 And then I also would like to let you know that when the issue  
21 was raised for the first time, on 30 January, we faced  
22 difficulties in the translation, and the Chamber indicated to us  
23 that the documents had to be presented at least in two languages.  
24 Then, the following day, in its memorandum of 30 January or 31  
25 January, the Chamber indicated that, if the relevant part of the

1 document is short and can be easily translated during the  
2 proceedings or during the hearing, the Chamber may authorize the  
3 presentation of this segment. And this is the case today.

4 [09.11.23]

5 On 30 January, another difficulty was raised, which is that we --  
6 that we were not entitled to present applications of people who  
7 will be heard, and there will be no further civil parties heard  
8 than the two first ones. Therefore, the documents that we're  
9 presenting today are not concerned by this issue that was noted  
10 on the 30th of January.

11 Yesterday, my defence -- my colleague in -- from the Defence  
12 indicated that there might be issues regarding the relevance of  
13 these documents and regarding the admissibility of these civil  
14 parties. I believe the issue of admissibility has already been  
15 settled, but as far as relevance, I'm surprised that we -- that  
16 you can already challenge the relevance of these documents  
17 without having seen the documents.

18 Today, upon reading the email that we received from the special  
19 -- the senior legal officer, there might be difficulties in terms  
20 of the limited or non-existent probatory value of these civil  
21 party applications.

22 Now, regarding the probatory value of these statements, how  
23 can we decide as of now that 3,860 civil party applications are  
24 -- have no or little probatory value? How can we decide on  
25 this? Whereas, most of these civil parties are Khmer and that

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1 many of us here -- or most of us here do not speak Khmer.

2 [09.13.11]

3 First, these applications need to be translated and then  
4 assessed. And therefore casting them aside seems to us to be  
5 unfair and unequitable. These are parties to the proceedings who,  
6 just as the Accused, make statements, and each one of these  
7 statements is unique.

8 The civil party applications that we are going to tender must be  
9 treated one by one on the basis of each topic, starting with the  
10 historical context. Casting them aside because their probative  
11 value may seem inexistent means that very little importance is  
12 given to the work of the Investigating Judges and to the work of  
13 the Pre-Trial Chamber, who, pursuant to Rule 23 bis of our  
14 Internal Rules, considered that these -- that they were convinced  
15 that the alleged facts supporting the civil party applications  
16 are most probable, so they considered therefore that what the  
17 civil parties were stating has a sufficiently important probative  
18 value to be considered.

19 [09.14.41]

20 Globally casting aside the civil party applications would be  
21 tantamount, in our eyes, to something arbitrary because, as I  
22 already said it -- but I will say it again -- each statement is  
23 unique. Casting them aside also means depriving ourselves of an  
24 extraordinary element of evidence in this case, which is  
25 extremely important because, if one single civil party

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1 application is not considered to have sufficient probative value,  
2 therefore it is clear that if we repeat -- that the repetition of  
3 facts that are mentioned and the similarity between what the  
4 civil parties are stating in one place or another place  
5 regarding, for example, forced evacuation, regarding, for  
6 example, forced labour, regarding a historical context, well,  
7 when we cross this information and when we see the similarity of  
8 this information, this, in itself, is a very important element,  
9 an element that has very high probative value.

10 [09.15.53]

11 So these applications should not be cast aside. We should at  
12 least hear some of these civil parties. Casting them aside  
13 because we feel that their statements have little probative  
14 value, then, is denying their role as civil parties in these  
15 proceedings. They're not here just only to be sitting down in the  
16 courtroom; they are entitled to speak exactly in the same way as  
17 the Accused. They are entitled to challenge points. They're  
18 allowed to raise questions, to question and to request and to  
19 appeal and, above all, especially to speak. We're not giving them  
20 a free ride by allowing them to be here; they have rights and  
21 obligations, and these rights must be respected.

22 And I also note that the Chamber can hear the -- the Chamber may  
23 decide on which civil parties it wants to hear. I agree, and I  
24 hope that the Chamber will hear the greatest amount. We also know  
25 that it's impossible for the Chamber to hear all civil parties;

1 that is clear.

2 [09.17.06]

3 And there is another possible solution – it's the solution that  
4 we're proposing today -- which is to read statements that are  
5 particularly relevant -- given relevance in the civil party  
6 applications. Not hearing these statements or considering that  
7 they do not have or have little importance simply means rendering  
8 them mute, simply means considering that they are in reality a  
9 non-party to the proceedings, that means denying their capacity  
10 as party to the proceedings, and simply means conducting a trial  
11 without civil parties.

12 [09.17.53]

13 We give the floor to the defendants -- or the Chamber gives the  
14 floor to the defendants, and the Chamber must give the floor to  
15 the civil parties as well, and that's what we are requesting.  
16 Therefore, we are requesting, once again, the Chamber to, first  
17 of all, allow the reading of the excerpts that have been  
18 carefully chosen and that are relevant, and -- and that, because  
19 they will be read out today, will allow each party to gauge the  
20 value of the information in these statements. So we're asking the  
21 Chamber to give us the possibility to choose, for each topic, a  
22 few civil parties from which we will read excerpts of their  
23 statements.  
24 The Chamber, of course, will have the possibility to assess the  
25 probative value of these documents.



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1 But in any case, the Chamber cannot cast aside this possibility  
2 unless they deprive the civil parties of their role in this  
3 trial.

4 [09.18.57]

5 Thank you very much. I would like now to give the floor to my  
6 colleague.

7 MR. PRESIDENT:

8 Counsel Pich Ang, you may now proceed.

9 MR. PICH ANG:

10 Mr. President, Your Honours, I would like just to be very brief  
11 on this.

12 The summaries of the statements by the civil parties will be very  
13 brief. And each civil party testimony will be summarized into  
14 only one sentence, and there will be only 10 of them, only whose  
15 statements will be summarized. And these texts are merely  
16 relevant to the historical background context of the Democratic  
17 Kampuchea.

18 [09.20.05]

19 I would not commit more time of the Court to do this other than  
20 emphasizing that we only summarize the 10 civil parties'  
21 testimonies for the Court. The Co-Prosecutors have submitted a  
22 great deal of numbers of documents already before this Chamber,  
23 and civil parties are supposed to support the Co-Prosecutors.  
24 And for that reason, we only wish to make it known to the Court,  
25 part of the statements by the civil party. Thank you.

1 (Judges deliberate)

2 [09.23.04]

3 MR. PRESIDENT:

4 To clarify things with regard to the Lead Co-Lawyers for the  
5 civil party, our position, we would like to hand over to Judge  
6 Lavergne. Judge Lavergne, you may now proceed.

7 JUDGE LAVERGNE:

8 Yes. Thank you, Mr. President.

9 The Chamber has just heard the clarifications that were provided  
10 by the civil party Lead Co-Lawyers, and the Chamber would first  
11 like to make an observation of general nature, because the  
12 Chamber, of course, does not wish to impose silence upon the  
13 civil parties. That's where the problem lies. The problem is  
14 something of a more general nature. And it is the usage of  
15 statements of a few people, whoever they may be, whether they are  
16 witnesses, whether they are civil parties in the context of a  
17 trial when these statements are used as evidence. And the Chamber  
18 is going to rule on this soon.

19 And the Chamber wishes to draw the attention of the parties on  
20 the fact that it will be necessary to rule in compliance with  
21 international jurisprudence and in compliance with the rights of  
22 the Accused and with their right to question inculpatory  
23 witnesses.

24 This is what we wanted to stress today. This therefore, again, is  
25 not a problem specific to the civil parties; it's a much more

1 general problem.

2 [09.25.05]

3 And of course we are not challenging the admissibility of the  
4 civil parties, because a decision has already been made. And it's  
5 not because they're admissible that their statements, however,  
6 gain probative value that is higher than the statements of other  
7 witnesses.

8 MR. PRESIDENT:

9 We would like now to hand over to the Lead Co-Lawyers for the  
10 civil parties to pose documents before the Court.

11 MR. PICH ANG:

12 Mr. President, may we hand over first to Mr. Olivier Bahougne,  
13 followed by Counsel Sam Sokong to do this?

14 MR. PRESIDENT:

15 Counsels for the civil party are now permitted to do that.

16 [09.26.27]

17 MR. BAHOUGNE:

18 Good morning, Mr. President, Your Honours, dear colleagues,  
19 ladies and gentlemen.

20 Today, the presentation that I'm going to give to you regards  
21 only Mr. Khieu Samphan.

22 And I'd like to specify that all of these documents were given  
23 since long and in conformity with your -- with your rules to all  
24 of our colleagues, and our colleagues have been -- have been  
25 afforded the time to become aware of these documents. And these

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1 are fundamental documents as well regarding Khieu Samphan. And I  
2 believe that our colleagues have been aware of these documents  
3 for a very long time even before the start of the trial.

4 [09.27.32]

5 I'd like to specify that -- before I speak before you and before  
6 Mr. Khieu Samphan, that, as of November 2011, we organized, our  
7 MAAT Team, we -- we organized a civil party meeting in Kampong  
8 Cham, and 200 people were convened. And we've been interacting  
9 with the civil parties for more than three and a half years,  
10 indeed, to meet the expectations of this trial, and we are  
11 informed of everything that is happening here, and we show them  
12 DVDs, and we communicate to them information.

13 And these civil parties are particularly attentive and follow --  
14 attend these meetings on a regular basis. But simply, among -- in  
15 the November meeting, 20 out of the 200 were absent; two had  
16 died, and the others were ill, so they could not attend the  
17 meeting we organized in November. They are very attentive and  
18 they are asking for a lot. And when we gave information to them,  
19 the first question that they asked us regarding Khieu Samphan was  
20 the following: He's Cambodian, they asked, so how was he able to  
21 do this to us?

22 [09.29.16]

23 MR. PRESIDENT:

24 Counsel for Khieu Samphan, you may proceed.

25 MR. KONG SAM ONN:

11

1 Thank you, Mr. President. May I ask that counsel for the civil  
2 party be directed to the subject matter of today hearing?  
3 Is counsel now on his feet to present evidence or making  
4 accusations as part of the opening statement against my client?  
5 We note that the purpose of today hearing is to put before the  
6 Chamber the relevant documents. However, what the counsel was  
7 stating just now was not part of the documents, it was part of  
8 what counsel believed to have been taken from a meeting  
9 somewhere.

10 [09.30.28]

11 MR. PRESIDENT:

12 Counsel's observation is plausible.

13 Counsel for the civil party is now instructed to restrict their  
14 presentation only to the relevant documents before this Chamber  
15 and that they should do so in accordance with the topics already  
16 indicated. Counsel is advised to refrain from making any  
17 pleadings or opening statement against the accused persons.  
18 Counsels, indeed, at a later date, will be given ample time to do  
19 so when time fits.

20 [09.31.44]

21 MR. BAHOUgne:

22 Thank you very much, Mr. President. I do understand. My  
23 introductory comments were a little lengthy. They are not meant  
24 to be accusatory; I simply wished to situate the relationship  
25 between Mr. Khieu Samphan and the rest of the Court and the fact

12

1 that what we are talking about today is the civil parties.

2 In closing my introductory remarks, I'd like to bring you to

3 document E3/123 (sic). The French ERN of this is 006206 (sic). In

4 Khmer, it is - rather, in English it is 0000930. I repeat that

5 I'm making the closing remarks in my introduction just now.

6 And Mr. Khieu Samphan was asked: "What does justice mean to you?"

7 He replied: "I do not believe that there is justice in the world.

8 Everybody wants to win. If there is justice, I may not be brought

9 to the court because I worked tirelessly for my country. I have

10 never corrupted or made any cent from my work or from Pol Pot. If

11 I see anything wrong, then I say it immediately. My country and

12 people will provide justice for me."

13 I now want to refer to E1/21 (sic). French ERN 00761947, in Khmer

14 00760292, and in English 00761842. This is a transcript from a

15 hearing in November 2011:

16 "Before coming back into the country, Ieng Sary gave me

17 responsibility for this circle, and I imagine that in those - at

18 that time he had no further choice. The most convinced and the

19 most active, such as Ok Sakun and Son Sen, were already back in

20 the country. Other former members, such as In Sokhan -- he was

21 finishing his medical studies in Reims. Furthermore, In Sokhan,

22 there was - rather, there was nobody who could take charge of

23 this circle, except for me, and I accepted to do so."

24 [09.35.21]

25 This situated in history before 1959, so that shows, I think,

13

1 that a degree of political implication of Mr. Khieu Samphan.

2 I'd now like to take you to E1/211 (sic), French ERN 00761952, in  
3 Khmer 00760295, and in English 00761846-00761847. This is from a  
4 hearing of the 13th of December. Khieu Samphan is referring to  
5 the newspaper "L'Observateur", and we are therefore in 1960-61,  
6 after he's back from France:

7 "The part of the magazine that was most enjoyed by readers was  
8 called 'Corners of Phnom Penh'. We found things that depicted the  
9 daily life of ordinary people, such as cycle drivers and so  
10 forth."

11 MR. PRESIDENT:

12 Counsel, could you please speak rather slowly for the  
13 interpreters and the record? Because you speak too fast.

14 MR. BAHUGNE:

15 Thank you, Mr. President. As I said, after 1960, we're talking  
16 about the newspaper "L'Observateur", newspaper founded by Mr.  
17 Khieu Samphan, and he says that the section of the magazine that  
18 was most enjoyed by the readers was called "Les coins de Phnom  
19 Penh" - "The Corners of Phnom Penh" -- and there you found life  
20 stories that described the day-to-day existence of ordinary  
21 people such as cycle drivers, water carriers, people who carried  
22 vegetables to the market before dawn.

23 "We saw the entertainment of the workers in the city who gathered  
24 in small groups, drinking pineapple juice under the candlelight  
25 or walking around the gardens near Independence Monument, etc.,

14

1 an area that was illuminated by candles."

2 [09.38.27]

3 MR. PRESIDENT:

4 Counsel, you may proceed.

5 MR. KONG SAM ONN:

6 Thank you, Mr. President. Can the counsel for civil party be  
7 directed to indicate the document identity? Because, according to  
8 the list of documents submitted by the Lead Co-Lawyers -- you --  
9 it does not appear that this article was in the list, or you are  
10 referring to any other article that was not actually in the list  
11 you place before the Chamber? Thank you.

12 MR. BAHOUGNE:

13 All the documents are on the list. We are talking about the  
14 hearing of the 13th of December 2011, which you no doubt  
15 attended.

16 MR. KONG SAM ONN:

17 Can you tell us the order of number in the document selection?

18 MR. BAHOUGNE:

19 I can't find it.

20 MS. SIMONNEAU-FORT:

21 Mr. President, on behalf of the civil parties, let me offer a  
22 brief apology.

23 It's true that the two first documents quoted aren't on the list  
24 that we submitted, and we will try and amend that. And then, when  
25 it comes to the break, we will submit a revised list. I suggest



15

1 that what we do now is just go straight on to the next one. Thank  
2 you, President.

3 [09.40.52]

4 MR. BAHOUGNE:

5 I would ask my learned friend to forgive me. My list is not quite  
6 up to date, but I did give you the ERNs and they are, of course,  
7 available in the system if you want to consult them. In any case,  
8 certainly, there was nothing invented in what I said.

9 The purpose of the document was in fact to show Mr. Khieu  
10 Samphan's solicitude for ordinary people in the conditions of  
11 their lives and their suffering.

12 I'd now like to quote IS 4.23; that is in Khmer 00103820 and in  
13 English 00103733.

14 What we're looking at here is Mr. Khieu Samphan's book entitled  
15 "Cambodia's Recent History and the Reasons Behind the Decisions I  
16 Made".

17 In his book, Mr. Khieu Samphan explains why he left Phnom Penh.

18 So we're moving forward in history a little bit:

19 [09.42.37]

20 "After the clean-up operation around Samlaut, the accusations  
21 against Hou Youn and myself of being behind the rebellion and the  
22 threat of bringing us before a military tribunal could not be  
23 taken lightly. We no longer felt secure in Phnom Penh and, thus,  
24 we accepted the proposal of the Communist Party of Kampuchea, the  
25 CPK, to allow us to take shelter in the countryside. The proposal

16

1 was made to us in a letter that included a rather detailed  
2 analysis of the situation, leaving no room for doubt as to who  
3 sent it. The messenger who delivered the letter was well known to  
4 both of us. He was a man respected for his age and his  
5 comportment. He often attended meetings organized by the  
6 Association of Former Students of Sisowath High School, a group  
7 to which we also belonged. [...] I left Phnom Penh in early  
8 1967[...]."

9 [09.44.15]

10 The document tends to illustrate the continuity of Mr. Khieu  
11 Samphan's participation in the Communist Party.

12 I now look at E3/27. This is a written record of an interview. In  
13 the French, the ERN is 00156667 and 68, two pages; in English  
14 00156745, and in Khmer 00156615.

15 The question from Judge You Bunleng is: "Between 1970 and 1975,  
16 did you stay permanently with the Khmer Rouge leaders?"

17 And the answer was:

18 "Yes, because my role was to establish the liaison with King  
19 Norodom Sihanouk. And when the United Front of Kampuchea was  
20 established after the coup d'état in 1970, Prince Norodom  
21 Sihanouk knew neither Pol Pot nor Ta Mok. I was the only one who  
22 could establish relations with the prince. It was at that time  
23 that I was presented officially as the leader of the resistance  
24 movement. And I must stress this: my official title was deputy  
25 chairman of the National United Front of Kampuchea and commander

17

1 in chief of the People's Liberation Army of Kampuchea.

2 [09.46.28]

3 "I was considered as the leader of the Khmer Rouge at that point.

4 But it was not the real situation of my position. The real leader

5 was Pol Pot. I would like to clarify that he was the political

6 and ideological leader, but not the military leader."

7 And Judge Marcel Lemonde goes on to ask: "Well, who was the

8 military leader, then?"

9 And the answer is: "In fact, each zone secretary had his own

10 army. It was not the same as in Vietnam", and he concludes,

11 saying: "I saw different zone secretaries coming to Pol Pot's

12 headquarters often."

13 That document serves to confirm what has already been

14 demonstrated from the outset that there is no breach -- or break

15 since 1957 in Mr. Khieu Samphan's presence within the Communist

16 Party and in his relations with that organization.

17 [09.47.45]

18 IS 4/23 is my next document; 00595415 in French, in English

19 00103744, and in Khmer 00103831. Here, we are again on

20 "Cambodia's Recent History", Mr. Khieu Samphan's book, his own

21 words, therefore:

22 "At the time, the two significant forces: the CPK, which was the

23 only one able to lead the struggle in the field; and Prince

24 Norodom Sihanouk, the political authority over the entire country

25 and who's backing was necessary to win international support for

1 the cause. Neither of the two could do without the other. But how  
2 could they be brought together? Would the Prince agree to  
3 cooperate with the CPK leaders? Certainly not! That is where my  
4 social origins and my old and fairly good relations with key  
5 figures in the country gave me an important, if not an  
6 indispensable, role. But before taking on this duty, I had to  
7 agree to assume the role as an important leader of the country's  
8 internal resistance. Frankly, this greatly embarrassed me, but it  
9 was a 'sacrifice' I could not refuse if I wanted to contribute,  
10 in accordance with my possibilities at the time, to the battle  
11 for the salvation of our country."

12 [09.49.59]

13 This extract, once again, confirms what has already been said to  
14 the effect that Mr. Khieu Samphan was the only person able to  
15 hold that particular office to be recognized both by the King and  
16 by the Khmer Rouge.

17 I will now look at E3/111. This is an interview with Mr. Ieng  
18 Sary in the "Vietnam Courier" of 1972. The French ERN is  
19 00738620, in Khmer 00711434, 00711435, in English 00762419. The  
20 question asked is:

21 "The world is well aware of the personality of Samdech Norodom  
22 Sihanouk, but it is less acquainted with the GRUNK branch  
23 leaders. Kindly tell us particularly about Mr. Khieu Samphan,  
24 Vice-Premier and Defence Minister."

25 And this is the answer given by Mr. Ieng Sary:

1 "All the leaders of the FUNK and the -- in that section of GRUNK  
2 are militants and revolutionaries of long standing. Thanks to  
3 their high vigilance they have been able to escape the savage  
4 repression of the U.S. imperialists and the Lon Nol clique.

5 [09.52.00]

6 "[...] Mr. Khieu Samphan, a doctor of economics in the Paris  
7 University, is very engaged in patriotic activities. Since 1946,  
8 he has been actively associated with the movement of collegians  
9 and other people against French colonialism. After coming to  
10 France in 1953, he resolutely joined the French people's struggle  
11 against the colonialists' war in Indochina. After the signing of  
12 the Geneva Accords in 1954, in France, he led Cambodian students'  
13 and residents' fight against the U.S. imperialists. Back home in  
14 1958, he continued his patriotic activities under different  
15 forms: as editor of his newspaper, 'L'Observateur', on the  
16 rostrum of the National Congress and the National Assembly [...].  
17 And because of his activism and his sympathies among the broad  
18 masses, he was pursued by the police and exposed to provocation,  
19 intimidation and persecution..."

20 "[...] In order to avoid similar plots by the Lon Nol clique, Mr.  
21 Khieu Samphan and many other patriots, including Mr. Hu Nim, were  
22 compelled to take to the maquis in 1957 to carry on the fight  
23 alongside the people. Since then, Mr. Khieu Samphan has lived a  
24 most hectic revolutionary period of his life.

25 "Thanks to his broad learning and chiefly his record in Cambodia

20

1 and abroad, with the rural masses as well as with the townsfolk  
2 (workers, labourers, pupils, students, intellectuals, monks,  
3 public servants, soldiers, national bourgeois), in the National  
4 Assembly and in the government, in his legal and underground  
5 work, in his political and military activities for over two  
6 decades against French colonialism and U.S. imperialisms and his  
7 lackeys, Mr. Khieu Samphan has become a prominent patriot with a  
8 wealth of revolutionary experience and he is well qualified to  
9 lead our revolutionary war for liberation until total victory is  
10 achieved."

11 This brings me to an end to my remarks, which are designed to  
12 demonstrate that, since before 1953 -- and these are not my own  
13 words -- has been -- Mr. Khieu Samphan has been a member of the  
14 circle and working with the underground to promote revolutionary  
15 war.

16 [09.55.31]

17 Now, I will put to you document E/123 and the importance of this  
18 -- this is in fact the economic thesis that Mr. Khieu Samphan  
19 wrote. The French ERN is 00236470, in English 00750527, and in  
20 Khmer 00767293.

21 MR. PRESIDENT:

22 Counsel, please repeat the ERNs because it is not clear for the  
23 record if you speak that fast.

24 MR. BAHOUGNE:

25 I will, Mr. President. In French, the ERN is 00246470; English,

21

1 00750527; Khmer, 00767293. This is the doctoral thesis of Mr.  
2 Khieu Samphan, which he defended on the 13th of May '57 -- [the  
3 interpreter corrects] 1959, 13th of May 1959.

4 [09.57.40]

5 My purpose is to show you that, from the very start, Mr. Khieu  
6 Samphan is obsessively determined to see that the contents of his  
7 thesis are put into practice. I refer to IS 4.23--

8 MR. PRESIDENT:

9 Counsel, you may proceed.

10 MR. KONG SAM ONN:

11 Thank you, Mr. President. Just now, the representative of the  
12 civil party's made yet another submission.

13 As a matter of fact, such submission is not the objective of  
14 today's hearings, so I would like to simply draw the attention of  
15 the Chamber of that matter. Thank you.

16 [09.58.42]

17 MR. PRESIDENT:

18 Thank you for the observation and objection.

19 The Chamber wishes to remind the counsel for civil party that you  
20 should refrain yourself from making any pleading or submission,  
21 because the main purpose of today's hearing is to present the  
22 particularly relevant documents to be placed before the Chamber.  
23 So, once again, you are reminded not to make any pleading or  
24 submission when you refer to the possible uses of such document  
25 or so that there may be amounted to the submission.

1 MR. BAHOUGNE:

2 I've understood clearly, Mr. President. I have understood,  
3 indeed. I was simply stressing -- and not pleading -- the  
4 relevance of this document because I'm not only here to read. In  
5 fact, I'm not a very good reader. I am here only to stress the  
6 reason why I'm presenting this document, and nothing more. I'm  
7 not pleading. I understand, of course, my colleagues' concerns,  
8 although with a bit of difficulty.

9 [10.00.16]

10 And I'm reading 4.23, now, ERN French, 00595382; English,  
11 00103726; Khmer, 00103812. And in his book, "The Recent History  
12 of Cambodia", Mr. Khieu Samphan indicates:

13 "In the middle of the year 1962, I was elected to parliament as a  
14 member of the Sangkum Reastr Niyum -- and please forgive me for  
15 my pronunciation -- in Kandal province and appointed secretary  
16 state of trade in the government of Prince Norodom Kantol.

17 [10.01.08]

18 "Within the government, I tried to help solve one of our  
19 country's most urgent economic problems - the deficit in the  
20 balance of payments and trafficking in foreign currencies. Of  
21 course, and I stress as I had expressed in my doctoral  
22 dissertation, the deficit was the consequence of the country's  
23 entire economic structure [...]."

24 This document is here to show you that, as he -- as of his  
25 arrival, Mr. Khieu Samphan's objective was to implement his ideas



1 that he had developed in 1958, 1959.

2 And in the same document, 4.23 -- IS 4.23 [corrects the  
3 interpreter], ERN 00595398, Khmer 00103822, English 00103735, Mr.  
4 Khieu Samphan indicates:

5 "Is this a conspiracy? Is it a conspiracy the fact of wishing to  
6 see Cambodia reach a certain social and economic progress and,  
7 therefore, restore its national dignity? When I prepared my  
8 dissertation, I hoped that the top government officials would  
9 implement the necessary reforms. And thus, when the reforms  
10 suggested in the plan I had prepared were submitted by Prince  
11 Norodom Sihanouk to His Excellency Son Sann, the door seemed to  
12 open so that our country could move in the direction suggested in  
13 the conclusion of my dissertation."

14 You probably are following my train of thought here, which is to  
15 demonstrate and -- to demonstrate Khieu Samphan's obsession of  
16 implementing the ideas he laid in his thesis. Same document, IS  
17 4.23, ERN Khmer 00103815/001038116, English 00103729-00103730,  
18 French 00595387-00595388:

19 [10.04.37]

20 "Through His Excellency Son Sann, who then was president of the  
21 National Bank, I submitted to Prince Norodom Sihanouk an economic  
22 reform plan that would nationalize the foreign trade of essential  
23 goods such as rubber, rice and corn and the Cambodian banks which  
24 had been involved in currency speculation. Admittedly, my plan  
25 was just one part of the solution, but it was necessary to

1 address the problem as soon as possible until the government  
2 agreed to additional measures, as I have suggested in my  
3 dissertation."

4 So, now, the question is raised as to what are these ideas that  
5 Khieu Samphan developed in his dissertation. So let me go to  
6 document E3/123; ERN Khmer, 00767392; English, 00750607; French,  
7 00236582. And I will read:

8 "The necessity for a vast structural reform program.

9 "In our opinion, the main measures to be taken resemble more a  
10 political program and a social program that is proposing to  
11 destroy the precapitalist economic relations [...].

12 "We are not proposing to eliminate the classes having the highest  
13 incomes. We -- The structural reform which we are proposing does  
14 not tend to eliminate the contributive capacity of these groups.  
15 Rather, we believe ways can and must be found to bring out their  
16 contributive potential by attempting to transform these  
17 landlords, retailers, and users into a class of industrial or  
18 agrarian capitalist entrepreneurs. An effort thus will be made to  
19 deter them from unproductive activities and to encourage them to  
20 participate in production.

21 [10.07.37]

22 "[...] But to operate such deep transformation, we cannot satisfy  
23 ourselves with isolated measure. At the beginning, at least, a  
24 package of very strict measures appears absolutely essential. And  
25 among these, those concerning foreign relations come at the top

1 of the list."

2 So, here again, we see that Khieu Samphan is speaking about a  
3 reform requiring severe transformation.

4 In the same document, E3/123, Khmer ERN 00767359-00767360,  
5 English 00750587-- And this, here, is the distinction between  
6 people considered as productive and non-productive. Thus, are  
7 considered as non-productive, in Phnom Penh, hairdressers and  
8 cycle drivers.

9 [10.09.13]

10 And regarding Kampong Cham, unproductive activities are  
11 cart-pullers, tailors.

12 And finally Mr. Khieu Samphan writes:

13 "A rational organization of society thus must tend towards the  
14 compression of unproductive activities in order to occupy the  
15 maximum amount of individuals in productive activities."

16 I tried to -- I couldn't find "monks" among productive or  
17 non-productive categories.

18 In the -- in the same document, ERN 00767445-00767446, English  
19 00750638, French 00236648 -- and this is section II, titled  
20 "Structural Reform in the City": "The limiting of imports of  
21 consumer goods--" And this is "State Efforts to Productions", I'm  
22 sorry, that's the subheading.

23 "The limiting of imports of consumer goods and the relative rise  
24 in the standard of living of the mass of the population--"

25 And in subparagraph 2, we read: "To favour and to encourage the

1 large number of individual artisans to form production  
2 cooperatives [...]."

3 And in subparagraph 3: "To establish new state enterprises."  
4 [10.11.24]

5 And Mr. Khieu Samphan specifies that "only state enterprises in  
6 different sectors of production can provide the leverage needed  
7 for the leading, directing, and protecting role falling upon the  
8 state."

9 And in the same document, ERN Khmer 00767429-00767430, English  
10 00750630, French 00236630 -- and I will read:

11 "Even though we believe that it is necessary to carry out  
12 agrarian reform, including a redistribution of lands, we are of  
13 the opinion that productive mobilization of lands' income will  
14 only be possible through authoritarian means, especially at the  
15 beginning."

16 So, here again you can see the foundations of what was later  
17 implemented.

18 Now, document E3/123, same document, Khmer 00767453, English  
19 00750642, French 00236655 -- this is the excerpt regarding

20 industry: "The pharmaceutical industry as of now, currently--"

21 This is 1958: "Currently, Cambodia is able to manufacture certain  
22 pharmaceutical goods on the basis of medicinal plants that exist.

23 Laboratories required for producing these products -- enormous  
24 capital outlays and returns can be immediate."

25 [10.14.18]

1 And in the same document, Khmer ERN 00767447, English 00750639,  
2 French 00236650, so, here again, we see further ideas regarding  
3 industry: "Extracting benzoic acid from cow urine." This example  
4 might seem surprising to you, but for the children who had to  
5 pick all this urine up in the countryside, this does mean a lot.  
6 Same document, French ERN 00236643, Khmer 00767441, English  
7 0075063 (sic). And here the idea is to raise the standard of  
8 living of the masses and the poor peasants in order to come up  
9 with a sufficient market for the new industry:  
10 "And for these reasons, the government must try to mobilize the  
11 peasant masses from mutual solidarity to organize supply  
12 cooperatives and consumer cooperatives and to apply a planified  
13 policy of agricultural credit, and finally to accustom the  
14 peasants more and more to cooperation. And this -- the idea is to  
15 systematically generalize this practice. Solidarity may first be  
16 accomplished for a specific task and then generalized. It might  
17 become permanent. It might be used to build up production  
18 cooperatives in villages where there have already been many  
19 successes.  
20 [10.16.56]  
21 "On the basis of these starting points, the production  
22 cooperatives or the production cooperative might spread in a  
23 centrifugal manner. This effort to organize more and more  
24 rationally production must be supported morally, technically, and  
25 financially by the State. This is thus with the technical means

1 that are pretty much the same as until now, we may generate  
2 important increase in production and progressively free-up part  
3 of the workforce that will be used to operate new industries."

4 Same document, ERN Khmer 00767449, English 00750636, French  
5 00236644:

6 "We have noticed that there is a tendency to increase the number  
7 of workers per land hectare. However, this tendency is partially  
8 disguised by the existence of easily cultivated land. However, as  
9 international integration and the strengthening of semifeudal  
10 structures associated with it continues in the countryside, such  
11 a trend can only become worse. It is true that there are still 20  
12 million hectares of arable land. Nevertheless, 14,450,000  
13 hectares of inland plain deemed arable but as of yet uncultivated  
14 still have to be cleared and irrigated before they can be  
15 planted. Of the 550,000 hectares of the area of riverbank and of  
16 the upriver lands, about 200,000 hectares are 'beng' or ponds and  
17 swamplands; this area is surrounded by another 200,000 hectare of  
18 argillaceous terrain which drains slowly when flood waters recede  
19 and is the first to be inundated by the overflowing of the Mekong  
20 [...]. Rainy season cultivation (corn, tobacco, peanuts) is much  
21 more risky here, as crops are sown in the lowest areas, first to  
22 be flooded. Thus, this land needs to be protected by dikes and  
23 loosened up with harrows.

24 [10.20.45]

25 "Individual peasants, pushed down the road to ruin by

29

1 international integration of the country, are not in a position  
2 to open up lands which have never been cultivated. Restricting  
3 international integration, reducing rents [...] will serve to  
4 arouse the latent potential of the peasantry. Methodical  
5 organization of this peasant force, into mutual aid teams, first,  
6 and then into cooperatives, will magnify its effectiveness and  
7 make possible the clearing of new land, its irrigation, and its  
8 draining. New lands can thus be opened up without upsetting  
9 current technology and without absorbing too much capital which  
10 could otherwise be employed in a development of industry. It is  
11 on this base there will be considerable growth in the production:  
12 of rice to meet growth in peasant consumption and export  
13 expansion [...]."

14 [10.22.42]

15 And just to, again, justify the relevance of this document  
16 without this being a pleading, I just underlined the economic  
17 measures and the structural reforms that are mentioned, which  
18 Khieu Samphan paid so much importance to, as he indicated in his  
19 book, and which he wished to see implemented in reality.

20 I believe that now we could present two excerpts -- two video  
21 clips that correspond to excerpts 3 and 4 bis; there's no 4, it's  
22 4 bis.

23 So I'm speaking now to the AV technicians: Please, was I  
24 understood?

25 (Short pause)

30

1 Oh, I'm sorry the numbers, of course, yes. I don't know the  
2 numbers, unfortunately.

3 [10.24.26]

4 (Audio-visual presentation)

5 "[Mr. Khieu Samphan, interpreted from Khmer:] When I was at  
6 school, I prepared my thesis, I dreamed of having a countryside.  
7 I never expected such high production, I just hoped for a  
8 prosperous countryside with abundant crops and growing  
9 productivity. I never talked about 3 tonnes per hectare, but I  
10 knew that 1 tonne per hectare was not enough to feed the  
11 population and, therefore, insufficient for export. We had to  
12 produce more to develop the country."

13 (End of audio-visual presentation)

14 [10.25.18]

15 MR. BAHOUGNE:

16 This might be an error because I cannot find - because I can't  
17 find what I wanted to - what part-- This does not correspond to  
18 excerpts 3 and 4 bis. I think this is a bit of an issue, so,  
19 maybe, during the break, I might speak to the AV people and I  
20 will present these clips when we resume after the break, Mr.  
21 President, if that's okay with you.

22 MR. PRESIDENT:

23 However, you should also advise the Court of the relevant  
24 importance of the video clip you would wish to be posed before  
25 this Chamber. The Chamber needs to be well-informed before any



31

1 instruction can be made to the AV booth officers to put up any  
2 relevant portion of the clip on the screen.

3 [10.26.49]

4 MR. BAHOUGNE:

5 Of course, Mr. President, and I can do so immediately, in fact.  
6 So these are interviews of Mr. Khieu Samphan that were conducted  
7 by Ms. Roshane Saidnattar, and the film is called "What Matters  
8 is Staying Alive". And Roshane spent many days at Mr. Khieu  
9 Samphan's home and interviewed him. And in the two excerpts that  
10 I wish to show to you, Mr. Khieu Samphan revisits the ideas of  
11 his thesis and what he saw in the countryside, and his conclusion  
12 is that what he saw corresponds exactly to his vision. So,  
13 according to Mr. Khieu Samphan's own words, you can see that  
14 there is a continuation in his ideas, that is to say, to  
15 implement what he proposed in his thesis. And this is what I --  
16 what I can show you in these video clips.

17 [10.28.18]

18 MR. PRESIDENT:

19 Counsel for Khieu Samphan, you may proceed.

20 MR. KONG SAM ONN:

21 Thank you, Mr. President. The indication of the title of the  
22 video clip is not yet sufficient. We, therefore, suggest that  
23 counsel also refer to the document in the case file, whether this  
24 video clip has already been admitted to be put before the case  
25 file or it is a new piece of document.

1 MR. PRESIDENT:

2 Counsel, could you also advise the Court and counsel on this?

3 MR. BAHUGNE:

4 Well, this is E109/2.3R. And these video clips were communicated  
5 to you a long time ago. This is a film that was shown in France  
6 and in Canada and received many awards. And to reassure my  
7 colleague and to inform the Chamber as well, I will ask for leave  
8 to show two further segments after the presentation of the two  
9 first clips because there's a certain logic, here, and these—So,  
10 in the further extracts, one will be from the same film from  
11 Saidnattar, and one will come from the film that was presented  
12 yesterday by the Co-Prosecution, that is to say, Mr. Aronowitsch,  
13 his interview. But there's a logic in my presentation.

14 [10.30.35]

15 MR. PRESIDENT:

16 While it is now appropriate time to take adjournment, the Court  
17 will adjourn for 20 minutes. We will resume at 10.50.

18 Counsel for Ieng Sary, we note you're on your feet. You may  
19 proceed.

20 MR. ANG UDOM:

21 Thank you, Mr. President, Your Honours.

22 Due to health concern -- and Ieng Sary complains of his lumbago  
23 -- and he cannot remain seated in this courtroom and he asked  
24 that he be excused and be allowed to follow the proceedings from  
25 his holding cell. Could the Chamber, therefore, grant our

1 request?

2 [10.31.33]

3 MR. PRESIDENT:

4 Thank you, Counsel. The Chamber has noted the request made by  
5 Ieng Sary through his counsel, asking that he be excused from  
6 this courtroom and that he be allowed to observe the proceedings  
7 from his holding cell due to his health reason.

8 The Chamber, therefore, grants the request. Ieng Sary is now  
9 allowed to observe the proceedings from his holding cell during  
10 today's session.

11 Counsel for Ieng Sary is instructed to produce the waiver signed  
12 by Ieng Sary or give a thumbprint by him.

13 And that AV booth officials are now instructed to ensure that his  
14 holding cell is linked to the courtroom so that he can observe  
15 the proceeding through the audio-visual equipment.

16 The Court is adjourned.

17 (Court recesses from 1033H to 1101H)

18 MR. PRESIDENT:

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

20 Before we broke, counsel for the civil party asked that the AV  
21 officer put the video clip up on the screen.

22 The Chamber would like to know whether the identification of the  
23 document has already been well communicated to the AV booth  
24 officer, and in particular the exact portion the video clip to be  
25 put up on the screen. Have you done that already? And could you

1 please advise the Court on this?

2 MR. BAHUGNE:

3 Thank you, Mr. President. Yes, it's been done.

4 [11.03.43]

5 I was a little bit slow before, but in fact it's on list  
6 E109/2.3, and the video clip reference we're talking about is  
7 V00720415. And the first part we saw was in the 14th minute and  
8 39th seconds--

9 MR. PRESIDENT:

10 Counsel, could you please slow down for a good record and  
11 interpreting? And may you please be reminded that, when reading  
12 ERN, please slow down?

13 MR. BAHUGNE:

14 Yes, Mr. President. So, referring to the work by Roshane  
15 Saidnattar, this is E109/2.3, ERN V00720415. And the first clip  
16 which we projected was the 14th minute, 39th second up to the  
17 15th minute, 19th second of the film.

18 From this same film, I would like to ask you, Mr. President, if  
19 we can now look at another extract from the 22nd minute, 19th  
20 second until the 23rd minute, seventh second, and then just one  
21 sentence, 1.06.42 (sic) seconds to eight seconds later, all of  
22 this in the same film by Roshane Saidnattar.

23 [11.06.13]

24 At a later stage, Mr. President, I'll ask for your permission to  
25 see another clip from the same film, again an interview of Mr.

1 Khieu Samphan, and this will be from the seventh minute, 12th  
2 second until seventh minute, 35th second, and then seven minutes  
3 55 seconds to eight minutes 20 seconds.

4 At the close of my statement, Mr. President, I will be asking you  
5 if we can look at an extract from the film by Mr. David  
6 Aronowitsch and Staffan Lindberg, which actually was projected  
7 yesterday, already. It's E109/2.3, ERN V00720414. These excerpts  
8 start at the 41st minute, 36th seconds until 42nd minute, 39th  
9 second, and finally 42nd minute, 18 seconds.

10 And there you have it.

11 So, with your kind leave, Mr. President, I will continue with my  
12 document presentations. And I'm still looking rather closely at  
13 Mr. Khieu Samphan's thesis, my intention being to bring to the  
14 attention of this Court and as you, yourself, have said, Mr.  
15 President, also to inform the general public about important  
16 documents.

17 So we're still on E3/123, Khmer 00767394 to 0073 -- 767384 (sic).

18 This is a quote from Mr. Khieu Samphan about the economist, Adam  
19 Smith, and the aim is to show the approach to society that the  
20 author takes: "The essential fact that should occupy the  
21 attention of economists is not the individual, but the nation."

22 [11.09.44]

23 To back up this point, Mr. President, this is where I would like  
24 to show extract 4 bis from our video clip selection, please.

25 MR. PRESIDENT:

1 Indeed, you are allowed to do so.

2 The AV booth officers are now instructed to put up those clips on  
3 the screen.

4 (Audio-visual presentation)

5 "[Mr. Khieu Samphan, interpreted from Khmer:] The force of the  
6 peasantry made change-- This force fought to free the country  
7 before 1975. Now, it was rebuilding the country, especially the  
8 rural areas, the foundation of all progress. Our country was  
9 considered poor, without capital, yet it has capital in the  
10 richness of its soil and its peasant workforce. With that, we  
11 could produce rice."

12 (End of audio-visual presentation)

13 [11.12.05]

14 MR. BAHUGNE:

15 Mr. President, technology isn't always up to the task, and I  
16 think the very last bit got clipped off the end.

17 If you want, I do have a transcript that I can read out because  
18 we didn't actually get the entire extract there.

19 MR. PRESIDENT:

20 Can AV booth officers advise the Chamber whether his request be  
21 entertained, for example, the four clips as requested, whether  
22 they can be put up on the screen?

23 The Chamber allows counsel to proceed already, so it is now up to  
24 the AV booth officers to ensure that the video clips are up on  
25 the screen.

1 [11.13.17]

2 MR. BAHUGNE:

3 Thank you, Mr. President. So why don't I read the parts that I  
4 quoted?

5 "Now, the force of the peasantry has made change possible. That  
6 force has struggled to free the country before 1975."

7 MR. PRESIDENT:

8 Counsel for Khieu Samphan, you may proceed.

9 MR. KONG SAM ONN:

10 Just now, if I didn't misunderstand the instruction by the  
11 President, the President asked whether AV booth officers could  
12 put up the video clips on the screen, and now counsel proceeded  
13 with his reading of the statement. I am rather confused, now.

14 [11.14.41]

15 MR. PRESIDENT:

16 Due to technical issue, we would like to ask that counsel for the  
17 civil party read -- not read, indicate to the AV booth a  
18 particular clip -- a video clip, one at a time, and that, by  
19 doing so, the AV booth officers will be able to fully control  
20 what have been asked to do so. Because, if you fed more  
21 information to the AV booth at the same time, we are afraid that  
22 they, perhaps, cannot handle them all at once. So one video clip  
23 and certain seconds of the clip at a time, please.

24 MR. BAHUGNE:

25 Thank you, Mr. President.

38

1 With the AV services, we had made the necessary arrangements. And  
2 they need me to say to them it's 4 bis. So, if they can play 4  
3 bis, 22nd minute, 19 second up to 23rd minute seventh second.  
4 That is my request to them.

5 MR. PRESIDENT:

6 AV officer is now instructed to put up this video clip from the  
7 seconds as indicated by counsel.

8 [11.17.19]

9 (Audio-visual presentation)

10 "[Mr. Khieu Samphan, interpreted from Khmer:] The force of the  
11 peasantry made change possible. This force fought to free the  
12 country before 1975. Now, it was rebuilding the country,  
13 especially the rural areas, the foundation of all progress. Our  
14 country was considered poor, without capital, yet it has capital  
15 in the richness of its soil and in its peasant workforce. With  
16 that--"

17 (End of audio-visual presentation)

18 [11.18.12]

19 MR. BAHUGNE:

20 Thank you, Mr. President.

21 All right, we will make do with that.

22 Turning back, then, to the thesis, Khmer ERN 00767431, English  
23 00750631, French 00236632 -- and I read:

24 "A Regime of Strict Economy.

25 "Industrialization requires substantial investment funds; these



1 must be obtained by accumulation of the country's own resources.  
2 Consequently, economies of the most stringent sort are essential.  
3 The state must set an example for others. It should be the first  
4 to eliminate all prestige expenditure and to avoid the smallest  
5 waste.

6 "The first order of business would be to rank the country's  
7 priorities, giving preference to urgent needs and postponing  
8 attention to others. Energetic cuts in state expenditure might be  
9 accompanied by the transfer of surplus administrative personnel  
10 into state enterprises and also by demobilization of part of the  
11 army and the creation of reserve forces which could be used in  
12 production.

13 "[...] A great deal of measures could certainly be economized by  
14 simplifying administrative procedures, reducing personnel and  
15 eliminating extravagance in public offices."

16 [11.21.04]

17 So, here, we see the organization of a stringent regime.

18 Still referring ourselves to the thesis, in Khmer ERN 00767439 to  
19 00767440, English 00750635, French 00237641, now:

20 "Encouraging and Developing Production.

21 "We suggested that measures designed to relieve pressures on  
22 peasants and to raise their income might prompt them to consume  
23 more and in the process to retain their produce, which could  
24 prove a source of grave difficulties. Indeed--"

25 And we're still talking about increased consumption by peasants.

1 "Indeed, such a situation would mean a reduction in the volume of  
2 saleable agricultural produce at the very moment when industry  
3 needs materials. It should not be overlooked, moreover, that the  
4 local processing of agricultural produce should not be done at  
5 the expense of exportation."

6 And there you'll find evidence of this idea that production must  
7 serve exportation.

8 [11.23.26]

9 Staying with 00767432, in Khmer 00767433, in English 00750632,  
10 and in French 00236633:

11 "In order to achieve that adherence to the regime of economy,  
12 every individual must have the right and the obligation to combat  
13 openly any attitudes opposing economy."

14 And this was written in 1959; opposing economy and encouraging  
15 waste. As for the enjoyment of waste:

16 "No administration or person must be indulgent with itself or  
17 with others or replace control and mutual verification with  
18 reciprocal indulgence. The movement for making economies must be  
19 a national movement."

20 I am reading out the text for the appreciation of this Court and  
21 the public, that is all.

22 [11.25.45]

23 Mr. President, now, I would like to ask your permission to show  
24 another video clip, still part of Roshane Saidnattar's work,  
25 E109/2.3, ERN V00720415. The actual extracts are 7 minutes 12 to

41

1 7 minutes 35, then 7 minutes 55 to 8 minutes 20 seconds. We've  
2 isolated these clips with the -- with the AV services under  
3 number 2. Thank you.

4 MR. PRESIDENT:

5 Thank you.

6 Now, AV officials are instructed to put the two parts of the  
7 video clips, as indicated by counsel, on the screen.

8 [11.27.27]

9 (Audio-visual presentation)

10 "[Mr. Khieu Samphan, interpreted from Khmer:] At first meeting, I  
11 listened to him speaking. I noted that he had such capacity for  
12 analysis. Everybody accepted this: Hou Youn, Hu Nim, Pok Komar  
13 (phonetic), and myself. We were all impressed because before we  
14 only know that Saloth Sar was a musician, footballer, and at all  
15 of our meetings, when we left the meetings, everything was clear;  
16 we understood the situation and measures to be taken. We noted it  
17 was the only path to take, and that's it."

18 (End of audio-visual presentation)

19 [11.28.36]

20 MR. BAHUGNE:

21 Thank you, Mr. President.

22 After having explained to you about how Mr. Khieu Samphan's  
23 participation in the Marxist circle and the Communist Party was  
24 an integrated thing, I'd now like to turn to some documents which  
25 are designed to demonstrate the continuation of that relationship

1 with the Khmer Rouge.

2 So I'd like to start with IS 4.23 again. And this is, once again,  
3 "Cambodia's Recent History", the book written by Khieu Samphan.  
4 The ERN is in Khmer 00103826 and in English 00103739 and in  
5 French 00395406.

6 Mr. Khieu Samphan brings up his souvenir of the Kab Kang attack.

7 "One evening, in January 1968, three men, the same who  
8 accompanied me when I was travelling, came to ask me to prepare  
9 myself. 'D-Day' had arrived. We left the village at night. And on  
10 the way, they were speaking to me about orders or the others who  
11 are going to surround the Kab Kang garrison, on road number 4, in  
12 Trapeang Kraloeng district. They had already carefully analysed  
13 the situation. The soldiers seemed to have no doubts. Throughout  
14 the entire night, with deep feeling of profound fraternity, we  
15 awaited news from our comrades. They had decided to become  
16 masters of their own destinies."

17 [11.31.04]

18 This document -- the presentation of this document is useful  
19 because it shows that, despite a situation of complete secrecy,  
20 Mr. Khieu Samphan was informed of the preparation of this attack.  
21 In the same document, "The Recent History of Cambodia," therefore  
22 ERN in Khmer 00103835, English 00103747, French 00595422:

23 "During one of -- one day, during 1971, during a work tour, Pol  
24 Pot and Nuon Chea allowed me to accompany them. I saw with my own  
25 eyes two lines of bicycles, aligned as far as the eye could see,

1 on a road that was several hundred kilometres long. One line of  
2 riders pedalled from the regions of the Great Lake, south of Siem  
3 Reap and Kampong Thom, toward the region of Stung Treng, while  
4 the other headed in the opposite direction. The bicycles coming  
5 from the Northwest were filled with bags of rice or all sorts of  
6 staples. Those coming up had light loads."

7 [11.33.06]

8 This document has the same object as the previous document, which  
9 is to show that Mr. Khieu Samphan was travelling and saw many  
10 things.

11 Document, now, E3/5; this is "Revolutionary Flag", 8 of August  
12 1975, ERN Khmer 000063318; 00401482-00401483; French, 00538958.  
13 The segment is called "The Steps of the Development of Economic  
14 and Financial Situation of the Party as of the Middle of 1973  
15 Until the Middle of 1975":

16 "In the liberated areas of the first category, we organized and  
17 generalized the cooperative system progressively -- and you will  
18 remember what was written in Khieu Samphan's thesis, I suppose -  
19 progressively, therefore rapidly, whereas in the liberated  
20 regions of the second category, this happened more slowly, but  
21 this progress, however, was made; we suppressed private ownership  
22 of land as well as ownership of production means and we imposed  
23 the cooperatives."

24 This document, again, establishes a link between what was written  
25 in 1958 or 1959 and what was written in 1975 in this issue of

1 "Revolutionary Flag".

2 [11.35.39]

3 Document IS 20.21; this is the second letter of -- open letter of  
4 Mr. Khieu Samphan, Khmer ERN 00002801, English 00002805 (sic),  
5 French 00623778:

6 "The Americans bombarded Cambodia brutally during the first half  
7 of 1975 -- 73 [corrects the interpreter]. This bombing damaged  
8 the Khmer Rouge forces seriously, and at the same time it reduced  
9 to nothing the economy of the Khmer countryside, which gave the  
10 opportunity to the Khmer Rouge to transform the cooperatives,  
11 low-level cooperatives that were created at the end of 1971 and  
12 throughout all of 1972 in the regions under their control, and  
13 they were transformed into high-level cooperatives in order to  
14 make them instruments of their power in terms of mobilizing human  
15 resources, economic resources, and ideological forces to win the  
16 war.

17 "The victory of the Khmer Rouge of 17 April 1975 strengthened the  
18 conviction, Pol Pot's conviction, which states that there is only  
19 one single way for the survival of the Khmer Rouge movement, and  
20 that's the survival of Cambodia. In view of the dangers coming  
21 from Vietnam, considered as the most serious dangers of all times  
22 following the reunification of Vietnam, and the way to follow was  
23 achieving the revolutionary -- socialist revolutionary process  
24 and edifying socialism very rapidly."

25 [11.38.16]

1 This document that was drafted by Mr. Khieu Samphan specifies  
2 that the cooperatives were already set up in 1971 -- in 1972. And  
3 this, again, corresponds to what he developed in his  
4 dissertation.

5 E3/27; this is the written record of interview of Mr. Khieu  
6 Samphan on 13 December 2007; Khmer ERN 00156619, English  
7 00156750, French 00156672. So, answering a question of Judge  
8 Bunleng, "So how often were the general meetings held before the  
9 liberation?", Mr. Khieu Samphan answers:

10 "[...] they were not very frequent. The first general meeting was  
11 held in 1960 in Phnom Penh, it was held in a house close to the  
12 railway station. The second general meeting was held in 1971 in  
13 the Northwest Zone, somewhere near Steung Chinit. The third and  
14 last meeting was held in 1976, in Phnom Penh, in Borei Keila, the  
15 sports centre.

16 "The Central Committee convened a meeting every 6 months from  
17 1970 onwards. The Standing Committee met frequently, probably  
18 about every 7 to 10 days or more regularly in emergencies."

19 [11.40.22]

20 Another question from Judge Lemonde: "What was the composition of  
21 the Central and Standing Committee?"

22 Mr. Khieu Samphan answers:

23 "I was a member of the Central Committee, first as a candidate  
24 member in 1971, then a full-rights member in 1976. The 'candidate  
25 members' might be -- or 'interim members' might also be called

1 'candidate members', but I don't know of any 'reserve members'."

2 [11.41.05]

3 So my objective is still the same, remaining within the  
4 historical context and to prove that there is a clear continuity  
5 in Mr. Khieu Samphan's activities.

6 So the IS 4.23, "The Recent History of Cambodia", ERN Khmer  
7 00103845-00103846, English 00103756-00103757, French 00595440.

8 Mr. Khieu Samphan, in this excerpt, expresses his feelings  
9 towards Prince Sihanouk:

10 "I felt disoriented, somewhat, each time I would reflect on the  
11 issue of establishing a scale -- a price scale for prices in the  
12 absence of - in the absence of any monetary trading system.

13 "As for the relations between the CPK and Prince Sihanouk, there  
14 was a rift between the two parties, and a break seemed  
15 inevitable. And I did not see how I could prevent it. I felt  
16 inconvenient the Khmer Rouge leaders' reluctance to acknowledge  
17 the Prince's contribution to the victory of the national forces.

18 "Indeed, the Khmer Rouge leaders were self-consistent. The  
19 dialectic of 'revolution and of socialist edification' and the  
20 rapid communization of the country implied a wide ideological  
21 campaign to awaken the peasants' 'class consciousness', and which  
22 did not tolerate the slightest sentiment toward an individual,  
23 whoever he might be. Rather, 'no longer believing in heaven, no  
24 longer believing in the stars', this was the objective he set for  
25 the peasants."



1 [11.44.14]

2 And here I am drawing a relation with the sentence that -- with  
3 Adam Smith's quote that "only economy matters, and not the  
4 individual". And as well I'm referring again to the distinction  
5 between productive and non-productive people. And again we see  
6 that monks are not included in this list. And once again I am  
7 trying to show, through these documents, that Mr. Khieu Samphan  
8 is present everywhere. I'd like to remind you that -- that I  
9 proved that he was the head of the armies.

10 And (inaudible) to document 1085/81 (sic); and this is a record  
11 of interview of Ros Samly (phonetic), a witness who will not be  
12 heard. And I will only quote passages linked to the historical  
13 context before 1975. And no accused person here -- this regards  
14 no defendant.

15 "In 1973, villagers rose up against the arrest warrant of a  
16 religious leader in the village. The villages -- villagers did  
17 not want to surrender them to the local security guards. The  
18 villagers were prosecuted by other - were -- and Im, the leader  
19 of this uprising, escaped to the forest when security guards  
20 arrived in the pagoda more massively, and they came in cars.  
21 About then -- about 20 villagers were arrested and taken away in  
22 cars. The guards asked the villagers from the neighbouring  
23 villages to watch over those rising up, in order to make sure  
24 that nobody escapes when cadres would arrive to arrest villagers  
25 whose names were included in their lists. And later on, the

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1 remaining villagers in the villages were summoned to meetings  
2 that were organized in five different places throughout the  
3 commune. During the meetings, they were criticized for having  
4 participated in the uprising. The people who were arrested were  
5 tied up in rows. There were 10 people per row. In the same year  
6 -- 1973, therefore -- they had evacuated all of the Cham from the  
7 village, and only left 15 per cent of them there, including  
8 myself."

9 [11.47.42]

10 And I'd like to stress, again, that the reason why I'm presenting  
11 this document is to show that there are major events that  
12 occurred and that it's not possible that they were not noticed by  
13 Mr. Khieu Samphan during those years, because, as I said-- I  
14 started my presentation with the declaration of Mr. Khieu  
15 Samphan, who said: "The people will do justice to me. Each time  
16 something went wrong, I would denounce it." That's what he said.  
17 Now, I'd like to refer to D125/99.

18 MR. PRESIDENT:

19 Counsel for Khieu Samphan may proceed.

20 MR. KONG SAM ONN:

21 Mr. President, I think that the counsel for the civil party is  
22 trying to make, once again, another submission.

23 And the Chamber has well instructed on that matter, and I'm of  
24 the opinion that the counsel should refrain himself from making  
25 such submission.

1 [11.49.14]

2 MR. PRESIDENT:

3 The civil party lawyer, you may now proceed.

4 MR. BAHOUGNE:

5 Thank you, Mr. President. So I am now referring to D125/99, Khmer  
6 ERN 00218586, French 00334645, English 00242081.

7 And this is a question to witness Sman At: "When the Khmer Rouge  
8 came to the village, what happened to you?"

9 "Answer: From the beginning, they were not good people. They  
10 forbid the practice of religion. They gathered up our Qurans and  
11 had us to cut our -- asked us to cut our hair. The security  
12 chairman of the commune was called Meng. He was responsible for  
13 the arrests of many people. They always arrested people during  
14 the daytime, especially on Fridays, when the males worshipped at  
15 the Cham mosque. They arrested people, tied them by their hands,  
16 and walked them to the District Security Office of Kroch Chhmar."  
17 So this is document D166/81 (sic), now, that I will be quoting  
18 from, the witness -- record of witness interview, same witness  
19 (sic), Loem Savon; ERN Khmer, 00355445; English, 00358146;  
20 French, 00408422. So this is 1973, here:

21 [11.52.12]

22 "The Khmer Rouge started forcing the monks to be defrocked by  
23 saying to them monks are living at the expense of others;  
24 therefore, they must be defrocked in order to participate in the  
25 struggle for the liberation of the country. Some monks in this

1 monastery, the Chambak monastery, did not accept to be defrocked  
2 and they fled to Vietnam. And the monks who did not dare oppose  
3 the Khmer Rouge, they were defrocked."

4 Last document, this is document E3/9; this is Phillip Short's  
5 book. And the translation is not complete yet, but the  
6 translation was requested, so I just wanted to inform you about  
7 this. And this -- I have no Khmer ERN for these documents. I have  
8 the French -- the English, 00396455; French, 0039 -- 639784  
9 [corrects the interpreter].

10 [11.53.48]

11 Phillip Short relates an event that is very important and that  
12 occurred before 1975, and this is the attack of 3 March 1974, in  
13 Oudong, and it's hard to ignore it:

14 "By morning, most of the defenders had been driven back to a  
15 narrow perimeter centred on a temple south-east of the town.  
16 After a three-week siege, the redoubt fell and several thousand  
17 government soldiers and civilian refugees were massacred. It was  
18 said afterwards that many 'turned their guns against their own  
19 families' -- the eternal camp-followers of Cambodian military  
20 campaigns -- 'before killing themselves to avoid capture and  
21 torture'. The population of the town, some 20,000 people, was  
22 rounded up and marched to the forest of Palhel, an uninhabited  
23 area to the east of Chrok Sdech, where Mok had a military base,  
24 before being resettled in co-operatives in the Special Zone and  
25 the South-West. Officials and uniformed soldiers were separated

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1 from the rest, led away and killed."

2 "Because, on the brink of despair, due to the severity of the  
3 regime imposed by Ke Pauk and Koy Thuon, some 40,000 villagers in  
4 the Northern Zone took advantage of a thrust by the government  
5 troops to flee the 'liberated areas' in - en masse and take  
6 refuge in the town of Kampong Thom. Their accounts of the  
7 brutality of Khmer Rouge cadres is edifying."

8 MR. PRESIDENT:

9 Please read the last part of your presentation because it was  
10 lost in translation.

11 MR. BAHOUGNE:

12 I don't remember where the last part is, I-- Okay, let me start  
13 again:

14 [11.57.22]

15 "On the brink of despair, driven to desperation by the harshness  
16 of the regime imposed by Ke Pauk and Koy Thuon, some 40,000  
17 villagers in the Northern Zone took advantage of a thrust by the  
18 government troops to flee en masse the liberated areas and take  
19 refuge in the town of Kampong Thom. Their accounts of the  
20 brutality of Khmer Rouge cadres, of forced labour--"

21 And I will stop here.

22 [11.58.10]

23 So I propose, Mr. President, that I finish by showing you the  
24 second video, which is an excerpt from Mr. Aronowitsch's film;  
25 and the document is E109/2.3, ERN V00720414, minute 41, second

1 36-- Excuse me, I'm-- So this is the segment from the 41st  
2 minute, 36th second, to the 42nd minutes, 39th second, and then  
3 minute 42, second 18, to minute 42, second 39.

4 MR. PRESIDENT:

5 Please read slowly, Counsel, on the minutes you mentioned. The AV  
6 technician cannot follow it either, so please repeat it and  
7 please try to slow down on the specific minutes or seconds of the  
8 video clip.

9 [11.59.51]

10 MR. BAHOUAGNE:

11 I'm really very sorry, Mr. President.

12 We're talking about the 41st minute, 36th second, to the 42nd  
13 minute, 39th second, and then 42nd minute, 18th second, to 42nd  
14 minute, 39th second.

15 So we have selected these clips with the AV services, under  
16 number 1.

17 MR. PRESIDENT:

18 Thank you.

19 The AV assistant, please play the video clip as requested by the  
20 counsel. Please play the relevant part of the video clip.

21 [12.00.50]

22 (Audio-visual presentation)

23 "[Mr. Khieu Samphan, interpreted from French:] I followed him all  
24 the time like my shadow.

25 "[Interviewer, interpreted from French:] What did he say during

1 those meetings?

2 "[Mr. Khieu Samphan, interpreted from French:] He talked about  
3 the current political situation and patriotic awareness in  
4 combination with the awareness of class, the Party, sacrifice,  
5 heroism. He demanded from all the cadres that they live and think  
6 like peasants. And I--"

7 (End of audio-visual presentation)

8 [12.02.14]

9 MR. BAHOUGNE:

10 Mr. President, this brings me to the end of my presentation, and  
11 I've done so by submitting these video clips.

12 What I want to say to you is that myself and my team were looking  
13 for extracts drafted by Mr. Khieu Samphan whereby, in the  
14 pre-1975 context, Mr. Khieu Samphan could have objected to events  
15 such as the capture of Oudong, or religious persecution, or other  
16 issues, but we found absolutely nothing. And we asked ourselves:  
17 Why was there nothing to be found? Because we are either bad  
18 researchers, or because Mr. Khieu Samphan, as he said in his book  
19 about the history of Cambodia, he was managing to enforce his  
20 thesis from above.

21 [12.03.10]

22 Thank you, Mr. President.

23 MR. PRESIDENT:

24 Thank you, Counsel.

25 It is now appropriate time for lunch adjournment.

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1 But before the adjournment, we would like to ask the Lead  
2 Co-Lawyers for the civil parties to advise the Chamber how much  
3 time they would wish to have for this afternoon's session.

4 [12.03.36]

5 MR. PICH ANG:

6 Mr. President, we need about 30 minutes or more, if without  
7 further objection.

8 MR. PRESIDENT:

9 Counsel for Nuon Chea, you may now proceed.

10 MR. PESTMAN:

11 Thank you, Mr. President. I don't think that there will be a  
12 problem, as far as we are concerned. I don't think we will need  
13 more than an hour, an hour and a half to present our documents  
14 and talk about related issues, but my client would like to go  
15 downstairs and follow the remaining of the procedure from the  
16 holding cell, but he would also like to comment on all the  
17 documents which were presented.

18 [12.04.34]

19 And my request would be to allow him to do that tomorrow morning,  
20 first thing tomorrow morning, and allow -- of course, and allow  
21 my client to go downstairs after the -- or remain downstairs  
22 after the break.

23 MR. PRESIDENT:

24 Counsel, could you advise the Chamber on his willing to comment  
25 with regard to the documents presented by the Lead Co-Lawyers for



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1 the civil parties? Tell us, how much time would he wish to take  
2 the floor for that?

3 MR. PESTMAN:

4 I'm sorry; I forgot to mention. He would like to comment also to  
5 the documents presented by the prosecutor, and it would not take  
6 more than 10 to 15 minutes altogether.

7 (Judges deliberate)

8 [12.06.12]

9 MR. PRESIDENT:

10 Thank you for indicating the time needed by counsel and his  
11 client.

12 And the Chamber also notes that request made by Nuon Chea  
13 counsel, asking the Chamber that Nuon Chea be excused from this  
14 courtroom and be allowed to observe the proceeding from his  
15 holding cell in the afternoon session.

16 The Chamber therefore grants the request and instructs the AV  
17 officers to link the AV communication to the holding cell so that  
18 Nuon Chea can observe the proceeding from the holding cell.

19 Security personnels are now instructed to bring Nuon Chea and  
20 Khieu Samphan to the holding cells and have Khieu Samphan  
21 returned to the courtroom before 1.30.

22 The Court is adjourned.

23 (Court recesses from 1207H to 1350H)

24 MR. PRESIDENT:

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

1 During this afternoon's session, before we hand over to the Lead  
2 Co-Lawyers for the civil parties represented by the Co-Lawyers,  
3 the Chamber would like to issue a decision as follows.

4 The Chamber notes that the Nuon Chea defence has, in accordance  
5 with the memorandum E120 (sic) of the 9th of February 2012,  
6 communicated a list of six documents it wishes to present during  
7 the time allocated to them today, in an email to the senior legal  
8 officer dated the 14th of February 2012.

9 All of these documents appear on the list submitted by the Nuon  
10 Chea defence on December -- rather, on the 31st of January 2012.

11 This list purports to identify the documents the Nuon Chea  
12 defence wishes to put before the Chamber.

13 [13.52.32]

14 In its objection to some of the documents on this list, the  
15 Prosecution has pointed out the general failure of the Nuon Chea  
16 defence to adhere to deadlines imposed by the Chamber in relation  
17 to the filing of document lists, in defiance of repeated and  
18 clear orders by the Chamber.

19 The Chamber will rule on the Nuon Chea request of the 31st of  
20 January 2012 and the Co-Prosecutor's objections in due course.

21 [13.53.22]

22 The memorandum guiding this week's proceedings allowed parties to  
23 either refer to documents already before the Chamber or to the  
24 documents previously identified by the parties as relevant to  
25 Case 002/1.

1 The Chamber notes that this memorandum does not rule out  
2 reference to the documents put before the Chamber by other  
3 parties. Of the six documents identified by Nuon Chea defence,  
4 two are not objected by the Co-Prosecutors, either because they  
5 are cited in the relevant Closing Order footnotes and have  
6 already been granted an E3 classification or because they are on  
7 a previous document list submitted by the Co-Prosecutors within  
8 the applicable deadlines.

9 The Chamber allows the Nuon Chea defence to discuss the two  
10 documents, document D222/1.17 and D313/1.2.2.

11 The Chamber will address the issues raised by the remaining four  
12 in its pending admissibility decision. In the event these four  
13 documents are ultimately determined to be admissible, time will  
14 be allocated to the Nuon Chea defence to present them during the  
15 next trial session.

16 [13.55.48]

17 Counsel for Nuon Chea, you may proceed first.

18 MR. PESTMAN:

19 Thank you, Mr. President.

20 So, if I understand correctly, the decision on the admissibility  
21 of the documents is still pending.

22 In that case, I would like to ask permission to respond to the  
23 objections raised by the prosecutor. I think I have the right,  
24 and so does my client, to make our observations before you take  
25 this decision on the admissibility.

1 So my request is: Can we make submissions on the question whether  
2 those documents are admissible or not?

3 (Judges deliberate)

4 [13.57.52]

5 MR. PRESIDENT:

6 International Co-Prosecutor, you may now proceed.

7 MR. LYSAK:

8 Thank you, Mr. President. And we appreciate the Court's  
9 indication on that. We had intended to bring up the fact that we  
10 had objected on that basis to those four documents.

11 There is a second problem with the document list, though, that I  
12 would like to bring to the attention now, which may -- the  
13 Chamber may want to take into consideration, which is that none  
14 of the documents or the portions of the documents that the Nuon  
15 Chea team have listed for presentation have been translated. That  
16 would include both the four documents that the Court has deferred  
17 ruling on for time, but also the two documents that we have  
18 indicated in general we do not have any objection to. However,  
19 the specific pages that the Nuon Chea team have listed in their  
20 filing yesterday, that they want to present, have not been  
21 translated into either French or Khmer.

22 So the presentation of those portions would violate another order  
23 of this Court, and on that basis, we would object as well. And  
24 that may well affect how the Court wants to deal with the other  
25 issue as well, which is it seems to us that the Nuon Chea team

1 cannot present -- or proceed at this time to present any of these  
2 documents.

3 (Judges deliberate)

4 [14.03.02]

5 MR. PRESIDENT:

6 Can the international counsel for Nuon Chea be on his feet?

7 The prosecutor objected the document to be put by the defence  
8 counsel, and the defence counsel wishes to respond to that  
9 objection. The Chamber now advised the defence counsel to submit  
10 in writing his response.

11 Concerning the last two documents raised by the prosecutor --  
12 concerning the last two documents raised by the Co-Prosecutor  
13 that has not been translated, the Chamber seeks the view of the  
14 defence counsel.

15 I now hand over to Judge Fenz to clarify the matter. There  
16 appears to have translation problem. So, in order to be clear,  
17 Judge Fenz, who speaks English, can clarify the matter.

18 [14.04.52]

19 JUDGE FENZ:

20 Yes. To clarify, we would like to hear comments orally today from  
21 defence counsel on the issue orally raised today by the  
22 prosecutor. This is the issue of translation, and it pertains to  
23 two documents.

24 Contrary to that, we invite written submissions to the document  
25 of the prosecutor, which objected to the acceptance of the list

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1 forwarded by Nuon Chea -- or not forwarded, filed by Nuon Chea in  
2 January.

3 So we have two issues: one, according to the order of the  
4 Chamber, should be dealt with in writing; the one we would want  
5 to deal with orally today is exclusively the one addressed by the  
6 prosecutor today, and this is the translation issue.

7 Is it clear? Okay.

8 [14.05.55]

9 MR. PESTMAN:

10 Very clear, thank you.

11 Although we prefer to do so orally, as a rule, we will file our  
12 reply in writing. We prefer to do it orally because it's a Court  
13 and we'd like the public to follow the discussion. And if we do  
14 it in writing, I think the discussion will be lost on most  
15 people.

16 [14.06.18]

17 To respond briefly to the comments made by the prosecutor, he is  
18 right, but not completely right.

19 Some of the documents have been translated. Some have been  
20 translated-- All of the documents are English in their original  
21 form; some of them have been translated into French and some have  
22 been translated into Khmer.

23 The list which we distributed yesterday is not completely up to  
24 date. We have ERN numbers for the second document on the list --  
25 one of the documents, I understand, I am not allowed to speak

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1 about -- ERN numbers of the Khmer version of the document.

2 The two last documents on the list -- which, I understand, we can  
3 discuss today -- have been translated into Khmer and French, one  
4 of them in French. Unfortunately, the quote I wanted to read out  
5 is not translated, so the prosecutor is right, there.

6 [14.07.32]

7 To make -- to conclude and make everything absolutely clear, we  
8 have asked the translation unit to translate all the documents  
9 when we filed the list, but unfortunately the request is still  
10 pending. Some of the documents have been translated, but those  
11 are not documents which we have included in this short list.

12 (Judges deliberate)

13 [14.08.40]

14 MR. PRESIDENT:

15 (No interpretation)

16 JUDGE FENZ:

17 Counsel, just to clarify, you were referring to a few short  
18 quotes that have not been translated.

19 Are we really talking short quotes, or are we talking-- Again,  
20 what length are we talking?

21 MR. PESTMAN:

22 Are you referring to the two documents--

23 JUDGE FENZ:

24 Yes.

25 MR. PESTMAN:

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1 --I am allowed to discuss?

2 [14.09.02]

3 JUDGE FENZ:

4 This is the only issue under discussion for the time being, these  
5 two documents.

6 MR. PESTMAN:

7 There's two documents -- two quotes, in the Vickery document, of  
8 15 lines, and in the Shawcross document, it's two quotes as well,  
9 also 15 lines, maybe 100 words altogether.

10 JUDGE FENZ:

11 Thank you.

12 (Judges deliberate)

13 [14.10.16]

14 MR. PRESIDENT:

15 As a matter of fact, the Chamber has decided that the Nuon Chea  
16 defence can present two documents, and these are D222/1/17 and  
17 D313/1.2.2. And one of these documents has the English and French  
18 translations, and the other document has the English and Khmer  
19 translations, and the portion to be quoted is short.

20 The Chamber now allows the defence team to do so, even though the  
21 document -- the entire document has not been translated. The  
22 Chamber has once informed the party that we can proceed as such  
23 when the quote is short.

24 Now, the Chamber hands over to--

25 Right, counsel for Khieu Samphan, you may proceed.



1 MR. KONG SAM ONN:

2 Thank you, Mr. President, my respects to the Chamber.

3 I would like to make a correction concerning the transcript on  
4 the 13 February, in Khmer, on page 85, line 20.

5 [14.12.27]

6 There was a mentioning of the letter of Hu Nim, and Hou Youn, and  
7 Khieu Samphan, that they supported the creation of the temporary  
8 government in Beijing following the Lon Nol coup d'état. And in  
9 -- the translation of that portion is incorrect or is mistaken.  
10 The presentation by the prosecutor was in English, and the Khmer  
11 translation on the day was -- does not -- did not reflect what  
12 the prosecutor was presenting.

13 As I observed on the - on line 20, on page 85, it says that the  
14 two people died, Hou Youn and Hu Nim, were killed under the order  
15 of Prince Sihanouk. But in -- the document that the prosecutor  
16 was referring to did not contain that information. The prosecutor  
17 referred to that document as the speech made by Khieu Samphan,  
18 but the real meaning is that Hou Youn and Hu Nim were suspected  
19 to have died and at the order Prince Sihanouk.

20 So given the error in this translation, I'm afraid that we now  
21 have great prejudice to the reputation of the King - rather, the  
22 former King.

23 (Judges deliberate)

24 [14.15.35]

25 MR. PRESIDENT:

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1 Counsel for Khieu Samphan, the Chamber would like to inform you  
2 as well as other parties that we have been -- dealt with this  
3 issue even since the trial of Case 001.

4 When it comes to the mistakes parties find in the transcript, if  
5 any party observed any particular error in the transcript, the  
6 party is advised to make the request for correction, with  
7 reference to the original document, and the request is to be made  
8 in writing. This is what the Chamber has practised.

9 We understand that there are a lot of translation problems, but  
10 parties are advised to follow our common practise.

11 MR. KONG SAM ONN:

12 Thank you, Mr. President. Now, the important issue here--

13 MR. PRESIDENT:

14 This issue has been dealt with, Counsel. The Chamber does not  
15 allow you to further your comments.

16 Now, the Chamber hands over to the civil party lawyer to continue  
17 his presentation of the documents to be put before the Chamber.

18 MR. SAM SOKONG:

19 First of all, my respects to the President, and my respects to  
20 the Bench and everyone in the courtroom.

21 [14.18.03]

22 Pursuant to the memorandum of -- memorandum E170, the purpose of  
23 today's hearing is to inform the public to the extent possible  
24 and to present to the Court a number of documents that the  
25 parties believe that are important.

65

1 However, in Case 002, we have a lot of civil parties; that is  
2 almost 4,000 civil parties. But because today's hearing purpose  
3 is to deal with only the historical background of Democratic  
4 Kampuchea, I will only refer to documents that are related to  
5 this context.

6 However, before I move on to present these documents, I would  
7 like to seek the Chamber's permission to put up the document on  
8 the screen so that parties find it easy to examine the document.

9 [14.19.20]

10 MR. PRESIDENT:

11 Your request of permitted.

12 MR. SAM SOKONG:

13 The first document is D22/3387; ERN in Khmer, 0057 - 8, rather,  
14 59996 [005785996]; and the English - or, rather, the French ERN  
15 is 00585995. I will only refer to the important facts in this  
16 document, that is: "From 1972, the Khmer Rouge evacuated me to Ta  
17 Suy commune, district not known - Chhlaung district, Kratie  
18 province. A lot of people were to be deported."

19 The applicant was forced to work, receiving rations consisting of  
20 watery porridge.

21 "At the time of transfer, the Khmer Rouge told me that I would go  
22 to live in a safe place. We were told to live in a cooperative."

23 This document concerned the evacuation of the population  
24 including the ethnic minority, Cham, as well as the Chinese to  
25 the liberated areas since 1972. And this is the facts concerning

1 my civil party client.

2 Another document is D22/2903; the ERN in Khmer is 00558351.

3 [14.21.52]

4 In that document, I would like to refer to the following facts:

5 "In 1972, because of the security reason the Khmer Rouge  
6 encountered with the Lon Nol soldiers, me and my family moved  
7 from one place to another place, then the Khmer Rouge soldiers  
8 led me to live in the liberated areas which was located in a far,  
9 remote area. At the time, we had Lam Thim, and my other six  
10 children."

11 [14.22.53]

12 These facts reflect that people were evacuated from one place to  
13 another even during the pre-1975 period, and those people were  
14 taken to the liberated areas under the control of the Khmer  
15 Rouge. The areas were located in remote area and this fact also  
16 reflects that people were not willing to move to those places.

17 Another document is D22/3304; the ERN Khmer, 00562112.

18 In this document, it reads:

19 "In early 1973, in Trapeang Ruessei village, in Krala  
20 sub-district, Kampong Siem district, Kampong Cham province, this  
21 area was called Lon Nol area. In the middle of 1973, the Khmer  
22 Rouge soldiers led everyone to live in the liberated areas,  
23 saying that there was plenty of food and that everyone had the  
24 right to speak out."

25 The applicant and her family were forcibly transferred to a

1 liberated area located in Svay Teab sub-district, Chamkar Leu  
2 district, Kampong Cham province. At that place, the applicant and  
3 her family lived difficult lives, only being able to eat meals  
4 composed of broken grains of rice mixed with banana, manioc, and  
5 sometimes only banana. There was not only salt available because  
6 it was expensive, no currency was allowed, and if someone would  
7 be using it, they would be accused of being an enemy of the  
8 regime. These facts reflect that money was abolished and if  
9 someone was found using the money, they were considered as the  
10 oppressing class.

11 [14.25.31]

12 Another document is document D22/0193 (sic); the Khmer ERN is  
13 00578451. In this document, there is a description of the  
14 following facts: "Since 1970, the Khmer Rouge forced me to do  
15 military service."

16 And she was 15 years old, and she was forced to dig a canal, to  
17 build a dam, live in a different place than her parents and to  
18 work all day without food. Then, she was given only porridge  
19 mixed with jam and had to attend a meeting until 12 a.m. -  
20 midnight.

21 [14.26.43]

22 "And during the meeting, if we did not listen to them, we would  
23 be accused of the 'White Khmer'."

24 These facts, which occurred in 1970, reflect the collection of  
25 children to join the military service, and if they refused to

1 join, they would be accused of -- as the 'White Khmer'.

2 The next document is D22/1710 and ERN 00533834. In this document,  
3 it reads:

4 "Before 1970, I lived in Pu Long village, Romonea sub-district.

5 We had been living peacefully according to the minority practise,  
6 and we hunted animals in order to support our lives. The Khmer  
7 Rouge conquered to the area even before 1975.

8 "In late 1974, the commune chief, along with other people, forced  
9 the villagers to go out of the place without letting them  
10 bringing along any other stuff -- any stuff. My family were also  
11 forced to go, and they were -- they told me that we were to work  
12 and to eat communally because we were now under the control of  
13 the Angkar.

14 [14.28.50]

15 "Villagers believed in spirits, and villagers were evacuated and  
16 journeyed along with other people for days. At a place, we were  
17 told to do work, beginning at 4 o'clock in the morning until 2  
18 o'clock p.m., when we were given meal. We were given a bowl of  
19 rice with soup made from banana trees. And then we were told to  
20 work again until it was dark before we were allowed to go back  
21 home. And we were then told to attend the meetings praising the  
22 Khmer Rouge policy, the 'great leap forward'.

23 "The work became harder and harder and we were only given little  
24 food to eat and the food was never enough."

25 [14.30.12]

1 This again reflects the historical background of Communist Party  
2 of Kampuchea before 1970. It reflects the collective to work and  
3 the meeting criticizing people and to praise the Khmer Rouge  
4 policy.

5 MR. PRESIDENT:

6 National Counsel for Khieu Samphan, you may proceed.

7 MR. KONG SAM ONN:

8 Thank you, Mr. President. Could counsel for the civil party be  
9 instructed to read the ERN number of the document clearly and put  
10 document up on the screen simultaneously, because it is really  
11 difficult for us to follow when he already finished his reading  
12 of the text and that the document only appeared too late on the  
13 screen. This document had to be presented through--  
14 And that interpreters need to interpret, so it is good if counsel  
15 is instructed to be slow when speaking.

16 MR. PRESIDENT:

17 Thank you, Counsel, for your observation.

18 The Chamber notes that we would like to follow the documents by  
19 having them put on the screen -- put up on the screen to easily  
20 follow. And it is appropriate, indeed, to have such document  
21 available on the screen.

22 [14.32.16]

23 And the observation is also appropriate that counsel should read  
24 more slowly when reading the statement quoted from the document.  
25 You may now wait until the document is put on the screen before

1 you read.

2 MR. SAM SOKONG:

3 Thank you, Mr. President.

4 Next document is document D22/3342, Khmer ERN 00564568.

5 In this document, it is relevant to the fact concerning how  
6 people were liberated and how people were being treated, and in  
7 particular those people who had been accused as spies.

8 [14.33.40]

9 "In 1973, the Khmer Rouge evacuated me, my family, and other  
10 people in Boeng Basak, Sambuor Meas, Kampong Siem, Kampong Cham.  
11 We were evacuated to the Khmer Rouge liberated zone, in Tuol  
12 Srae, Kokor district, Kampong Cham. The Khmer Rouge had a pretext  
13 that people shall be evacuated from the enemy."

14 And I would like to also quote:

15 "In 1974, the Khmer Rouge arrested me, accusing me of being a  
16 spy. I was brought to Kampong Siem for one week before I had been  
17 sent to Sector 3 or 4. There were 17 people arrested, including  
18 me, and we were sent to a prison in Sector 3 or 4 and detained  
19 for one month before we were interrogated.

20 "One month later, they were assigned - or we were assigned to  
21 build dykes in paddy fields and dig canals. They were -- we were  
22 shackled at night. We were provided with only one small bowl of  
23 watery porridge twice a day. Many prisoners died. We were allowed  
24 to only have a wash a day - rather, once a month. People felt  
25 sick, and some died.



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1 [14.36.14]

2 "After one month of hardship at that prison, Krouch Kor Prison,  
3 we were tortured. Three people interrogated us. I was asked what  
4 I did in the enemy zone. I was asked whether I was a spy. When I  
5 denied being a spy, I was beaten.

6 "During the time when I was in Krouch Kor Prison, I was  
7 questioned -- or interrogated twice and I was left to be in the  
8 prison for nine months and made to endure hard labour."

9 MR. PRESIDENT:

10 Counsel, you may proceed.

11 [14.37.19]

12 MR. KONG SAM ONN:

13 Thank you, Mr. President.

14 I have read -- and I think counsel made a mistake by referring "3  
15 or 4" to "3-4" instead.

16 MR. PRESIDENT:

17 Counsel, you may continue.

18 MR. SAM SOKONG:

19 Thank you for indicating this; and my sincere apologies for this  
20 mistake.

21 We now proceed to D22/1181, ERN in Khmer 00521501 through 02.

22 This is about the collective work, and how women were treated by  
23 the Khmer Rouge, and how people who were perceived to be the  
24 members of the families of the enemy. I would like to quote the  
25 text as follows:

1 "In Ratanakiri -- rather, in Mondulkiri, which was in the  
2 Northeast, Khmer Rouge took controls in 1970. Back then people  
3 were made to work collectively. However, food at that time were  
4 decent.

5 [14.39.30]

6 "People were made to dig canals, build dykes. We worked harder  
7 and harder and we were being watched by the Khmer Rouge soldiers  
8 days and nights.

9 "In 1973, I was assigned by Angkar to join the arts group before  
10 I was converted to work as a medic in the military.

11 "Later, I was made to marry a guy name Makara. After the  
12 marriage, we did not stay together because we had to be separate  
13 to work in other various locations. We met only at night, every  
14 -- occasionally.

15 "A guy, a Laorian, loved me and asked me to marry him, and I  
16 denied the proposal. Because I refused to marry the man, I was  
17 tortured by a soldier and raped. I was later on mistreated. I was  
18 made to work days and nights. I was asked to look after patients  
19 in the jungle. I was so afraid of the wild animals but I had no  
20 choice.

21 [14.41.38]

22 "The soldiers mistreated me time and again. On one occasion, a  
23 soldier asked me to give him a coin massage, but I refused, and  
24 he beat me, and I was chased and whipped. I was asked to do hard  
25 work as a punishment. I was watched every move I made.

1 "And after my marriage, seven months later, in late 1973, my  
2 husband was arrested by 12 soldiers. Comrade Sun came to round my  
3 husband up and accused us of being 'White Khmers'. Indeed, it was  
4 just a pretext because I refused to fall in love with the guy  
5 before, and because of that denial, I was mistreated time and  
6 again, and they punched a hole by -- in my palm.

7 "I was mistreated badly. I suffered a great deal. I was not given  
8 enough food. I was watched every minute of every day. After my  
9 husband died, a week later, indeed, some four Laosians arrested  
10 my cousin and accused him of being the 'White Khmer' and killed  
11 him.

12 "Later, I was sent to work at a work site in Chinit commune, in a  
13 mobile unit. I was made to build canals, dams and was deprived of  
14 my food. I had to work so early in the morning, for example, at 4  
15 a.m. and continued working until 7 p.m. or 9 p.m.

16 [14.44.40]

17 "I was asked to work that hard because my husband had been  
18 accused of being a 'White Khmer'. I was treated nothing more than  
19 a prisoner because, if I committed any small mistake, then I  
20 would be killed."

21 I would like now to go to another document: D22/2735; Khmer ERN  
22 00555914. In this document, it talks about how people who had  
23 been pursued as enemies treated.

24 I would like to quote the text as follows:

25 "His father was accused of being a rich person in the village.

1 Later on, a commune chief named Chrae, he supervised the location  
2 where I lived along with five soldiers, armed soldiers, rounded  
3 up their father and accused him of being the rich, the  
4 reactionary belonging to the oppressor class. His hands were tied  
5 to his rear and he was returned with -- threatened at gun point.  
6 He was then sent to be tempered at Kaoh Nheaek location.  
7 He had been severely mistreated. However, he could manage to  
8 survive. He is very old now. He had been arrested before my  
9 families were arrested. A month later, everyone was evacuated.  
10 [14.47.47]

11 "In 1974, during the time when Khmer Rouge took control of my  
12 village, on one occasion, six to seven Khmer Rouge soldiers with  
13 arms came to the village and said everyone had to evacuate this  
14 village because the Americans would be coming soon to drop bombs  
15 on our heads and everyone had to leave without taking with them  
16 any belongings because everyone would have something - or there  
17 were things ready for them to use at the new locations. Because  
18 of that, we did not bring with us anything except a small package  
19 of luggage. A few days later, we approached Ampum commune in  
20 Mondulkiri province. At that location, we were asked to do  
21 farming. The food was decent although it was not - the food was  
22 not very delicious.

23 "They built houses for us and we were made to join the mobile  
24 units to plough the paddy fields. We were asked to get up very  
25 early in the morning and worked until 12:00 a.m. where we would

1 be allowed to break for a meal of banana tree with other wild  
2 leaves.

3 We were asked to build dykes, canals and there was always work to  
4 do. We worked every minute of every day and we were under  
5 constant vigilance because our family was accused of belonging to  
6 the oppressor class, we were accused of coming from the rich  
7 family who exploited other people, and we were watched.

8 [14.50.37]

9 "A few months later, we were evacuated to a few other new  
10 locations."

11 I would like now to proceed to another document D22/0957a (sic);  
12 ERN in Khmer, 00577146. I would like to quote the statement of  
13 the civil party from this text as follows: "During the Khmer  
14 Rouge regime, I was made to work at Laming dam site in Bar Keo  
15 district in 1975. I was tasked to fish and I was stabbed by a  
16 Khmer Rouge soldier, and both of my legs were chopped by  
17 machetes. And I also was shot at by Khmer Rouge soldiers because  
18 I was accused of-- Rather, my father was accused betraying the  
19 Khmer Rouge political line and, later on, was killed."

20 [14.52.48]

21 I would like now to proceed to another document, D22/0660; Khmer  
22 ERN 00581082. In this statement, it is about the religious  
23 persecution and how monks were mistreated.

24 I would like to quote from this civil party as follows:

25 "I would like to tell the Court that I was ordained as a monk in

1 1960, along with three friends named Mi Rithy (deceased), Kan  
2 Kan (deceased), and Ei Chouleng, who were also monks. When the  
3 Khmer rouge regime took control in Kampot Province, I and three  
4 friends who were monks were forced to disrobe at Kampong Trach  
5 Pagoda, Kep, currently Damnak Chang'aeur sub-district. I escaped  
6 from the forced disrobing because I knew previously that the  
7 Khmer Rouge did not allow for -- allow monks to practice  
8 religion.

9 [14.54.46]

10 "The other friends were later on conscripted, and I never heard  
11 from them since then. However, eventually, I had to compel myself  
12 to leave monkhood because there was no more monks, no more  
13 religion, nothing, no more Buddhist, and I was afraid that I  
14 would be forced to disrobe, so I had to leave monkhood  
15 voluntarily."

16 The final document is document D22/3675 under ERN in Khmer  
17 00568489. This document is relevant to religious persecution, the  
18 Cham.

19 I would like to quote the statement as follows:

20 "From 1973, Cambodians had been at war, and the Khmer Cham people  
21 were not allowed to practice their religion. At that time, I was  
22 living in Tuol Tbaeng, near Longveaek sub-district."

23 This statement is from the civil parties. And, Your Honours,  
24 these are the documents that we wish to put before the Chamber.

25 I thank you very much indeed for giving me the opportunity to

1 present the documents.

2 MR. PRESIDENT:

3 Thank you, Counsel.

4 Now, Counsel for Khieu Samphan, you may proceed.

5 [14.57.25]

6 MR. KONG SAM ONN:

7 Thank you, Mr. President, Your Honours.

8 I would like to make some observations with regard to the

9 presentation of documents by civil party counsel.

10 First thing first, there were two witnesses named in the list

11 D125/99. However, these witnesses are not listed in the documents

12 before us previously.

13 And I would like to also make the public be informed that the

14 presentations of documents by the prosecutors and the civil party

15 counsels were about the accounts according to their own version,

16 and we, the defence counsel, will present our own version of the

17 accounts for examination as well in due course.

18 MR. PRESIDENT:

19 International legal lawyer for the civil party, you may proceed.

20 [14.59.02]

21 MR. PICH ANG:

22 Thank you, Mr. President, Your Honours.

23 The documents as referred to by counsel for civil parties have

24 already been listed or placed in the case file and the documents

25 have already been communicated or submitted before the Chamber

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1 time and again, pursuant to the TC's memorandum. This document  
2 was already released to the party as of yesterday.

3 MR. PRESIDENT:

4 Counsel for Khieu Samphan, you may proceed.

5 Counsel, please let the Chamber inform, not the public inform,  
6 because you are now addressing the Chamber, not the public. You  
7 are not allowed to take the advantage of this opportunity to  
8 address the public rather than the Bench.

9 MR. KONG SAM ONN:

10 Thank you, Mr. President. Indeed, I am supposed to address the  
11 Chamber, the Bench, and the public at the same time.

12 [15.00.30]

13 I think I had been mistaken concerning some point. I was not  
14 referring to just the document Mr. Sam Sokong just indicated, I  
15 was referring to other documents presented previously, too,  
16 concerning the statements by the witnesses. And I refrain myself  
17 from reading these again.

18 MR. PRESIDENT:

19 Since it is now an appropriate time for an adjournment, we take  
20 20 minutes break.

21 (Court recesses from 1501H to 1519H)

22 MR. PRESIDENT:

23 Please be seated. The Court is now in session to continue its  
24 proceedings.

25 Now, the Chamber hands over to the defence counsel for Nuon Chea



1 to present two documents as the Chamber has already ruled.

2 You may now proceed, Counsel.

3 [15.20.47]

4 MR. PESTMAN:

5 Thank you, Mr. President.

6 Before I forget, I would like to note for the record and also for  
7 the public that yesterday we filed a motion for disqualification  
8 against Judge Cartwright for remarks made in the media in New  
9 Zealand.

10 The documents. I will be very brief. Your decision today has made  
11 it impossible for me to present our documents in a coherent and  
12 logical way.

13 Nuon Chea maintains, as he has done in the past, that he has the  
14 right to be tried under Cambodian law, in conformity with  
15 international law, and that, under Cambodian law, he has the  
16 right to submit documents until the end of the trial.

17 I am not going to present quotes out of the two documents which  
18 you allow me to present today and leave out the other four. I  
19 think that such an approach, a selective or random quoting out of  
20 those two documents, will not enlighten the public as was the aim  
21 of this week's hearings, but it will only confuse it.

22 [15.22.15]

23 We will therefore wait for your decision on our document list --  
24 and I'm sure it will be the right one -- our document list  
25 submitted on the 31st of January, and I'm sure and convinced that

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1 you will allow us eventually to present all of our documents  
2 relevant for the historical context. And we will wait for  
3 instructions on the date when we are allowed to do so.

4 I will cede the floor to my colleague, Jasper Pauw, who will use  
5 the remainder of the day to discuss some related topics, the  
6 historical context, the importance thereof, and make some remarks  
7 on your intentions to "close" - in between brackets or inverted  
8 comas - to "close" the historical context, the segment on the  
9 historical context. Thank you very much.

10 (Judges deliberate)

11 [15.29.27]

12 MR. PRESIDENT:

13 The Chamber would like to inform the defence team for Nuon Chea  
14 once again that the time allocated for counsel has already been  
15 decided: that is, counsel is given today's time to present two  
16 documents out of the six documents requested to the Chamber  
17 through the senior legal officer yesterday. The Chamber decided  
18 already before we commenced our afternoon session today.

19 Therefore, the Chamber directs that the defence counsel for Nuon  
20 Chea presents two documents: one is D22/1.17 (sic), and another  
21 document is D313/1.2.2.

22 Other documents that the defence counsel for Nuon Chea intends to  
23 place before the Chamber are pending the decision from the  
24 Chamber. The Chamber will inform the Chamber (sic) about the date  
25 of its decision concerning the four remaining documents on a

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1 later date.

2 [15.31.25]

3 If, however, the defence counsel for Nuon Chea wishes to present  
4 any other documents concerning the historical background of the  
5 Democratic Kampuchea, the defence team can submit in writing  
6 their request to the Chamber. Nonetheless, if the defence team do  
7 not use the time provided by the Chamber today, the defence team  
8 will not have another chance to present the two documents.

9 And in order to even further clarify the matter, Judge Fenz can  
10 take the floor.

11 JUDGE FENZ:

12 I'm afraid there was a translation issue again.

13 When the President referred to the option to file written  
14 submissions, the idea is not written submissions to introduce new  
15 documents, but written submissions concerning whatever oral  
16 submissions the Defence had in mind regarding the historic  
17 background. So we are not inviting new document lists at that  
18 point in time.

19 [15.33.12]

20 And the second part, I think, was clear: the Chamber has decided  
21 that, for those two documents which have been identified, it's  
22 either today or never, the discussion or the presentation.

23 MR. PESTMAN:

24 As I said, I will cede the floor today to my colleague, Jasper  
25 Pauw. There's not much time left today to wrap up this week of

1 discussions on the documents.

2 I would just like to note that, of course, we have the right to  
3 discuss these documents. There will be final or closing argument,  
4 and if we're not allowed to do that in between, then we will do  
5 it at the end of the trial.

6 MR. PRESIDENT:

7 International Co-Prosecutor, you may not proceed.

8 [15.34.20]

9 MR. LYSAK:

10 Thank you, Mr. President. Two points.

11 First, I'm not sure what they have planned if they're not going  
12 to present documents. The only purpose of the hearings today was  
13 to present documents. If they're not going to do that, we would  
14 object to whatever else they - they have in mind.

15 Second, because these hearings have a public purpose and because  
16 the Nuon Chea defence are suggesting by their comments that  
17 somehow they are being deprived unfairly of the opportunity to  
18 present these documents, I would wish to just quickly address why  
19 it is that the Prosecution objected to the four - four documents,  
20 if the Chamber wishes to hear.

21 If not, I simply wish to state that we object -- object to  
22 anything other than presentation of documents today.

23 MR. PESTMAN:

24 I object.

25 We are not allowed to make oral submissions on this issue; the

1 same goes for the prosecutor.

2 (Judges deliberate)

3 [15.36.45]

4 MR. PRESIDENT:

5 Counsel for Nuon Chea, are you willing to present the two  
6 documents that we already discussed this afternoon?

7 MR. PESTMAN:

8 I already explained that I don't feel I'm able to do so in an  
9 effective, and logical way, and coherent way, so I will not do  
10 that today.

11 MR. PRESIDENT:

12 Thank you, Counsel.

13 You exercise your right not to present the documents today.

14 And as scheduled, the Chamber notes that we should conclude  
15 today's session by now and that tomorrow's session will be  
16 resumed by 9 o'clock.

17 Counsel for Nuon Chea, you may proceed.

18 MR. PAUW:

19 Thank you, Mr. President, Your Honours, everybody in and around  
20 the courtroom. Good afternoon. I have an issue that needs to be  
21 raised today or, at the latest, tomorrow, but it needs to be  
22 discussed, and it has to do with the simple fact that your Trial  
23 Chamber has announced that you will closing the segment of this  
24 trial that relates to historical context.

25 [15.38.50]

1 And the Nuon Chea defence team has numerous submissions to make  
2 on this issue, and it boils down to one simple point: we will ask  
3 you not to close this segment of historical context yet.

4 We think that there are numerous important issues that have not  
5 been discussed as part of the discussion of the historical  
6 context as conducted by the Trial Chamber so far, and we would  
7 like to have room to speak about these issues in open court,  
8 where the public can hear us. Because some of these issues have  
9 been addressed in some written filings, as my colleague, Mr.  
10 Pestman, has said; the public does not read these filings; we  
11 need to discuss more thoroughly certain historical components of  
12 this trial.

13 At this point, I will be very brief to give you an opportunity to  
14 respond to this submission, but very simply put, we state that  
15 what is very relevant when considering the facts of this case is  
16 to study and more properly discuss what happened in Cambodia in  
17 the years between 1970 and 1975.

18 [15.40.10]

19 We state that, when you assess the acts of a leader - when you  
20 assess the acts of our client, Mr. Nuon Chea, it simply matters  
21 whether his country, Cambodia, has just been destroyed for years  
22 on end by American B-52 bombers. And when assessing the acts of a  
23 leader, it simply matters whether he takes control over a  
24 blossoming and healthy city or, rather, a city that's on the  
25 brink of starvation. In short, we cannot understand the acts and

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1 possibly the inactions of the leaders of the DK regime if we do  
2 not also look at the historical and sociological context in which  
3 they had to operate.

4 I want to refer to international case law--

5 MR. PRESIDENT:

6 The Chamber has already ruled on this, and you are not allowed to  
7 touch upon this in this courtroom because we asked you to submit  
8 such statement in writing.

9 The Chamber ruled that today's session would conclude. We noted  
10 that you're on your feet -- or raised your hand and we thought  
11 that you would be very brief, and that brief already.

12 The session is now adjourned. Tomorrow's session will be resumed  
13 by 9 a.m.

14 Security personnels are now instructed to bring all the accused  
15 persons to the detention facility and have them returned to the  
16 courtroom before 9 a.m.

17 (Court adjourns at 1541H)

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