



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

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Case File N° 002/19-09-2007-ECCC/TC

19 April 2012

Trial Day 52

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

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
MS. GUISSÉ	French
MR. IANUZZI	English
MR. KARNAVAS	English
MR. KONG SAM ONN	Khmer
JUDGE LAVERGNE	French
MR. LYSAK	English
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. SAUT TOEUNG (TCW-617)	Khmer
MS. SIMONNEAU-FORT	French
MR. SON ARUN	Khmer
MS. TY SRINNA	Khmer

1

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

2 (Court opens at 0902H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear the testimonies of witness,

6 Saut Toeung; questions to be put by the Co-Prosecutors and

7 further questions will be put by the civil party counsels.

8 Co-Prosecutor, you may now proceed.

9 QUESTIONING BY MR. LYSAK RESUMES:

10 Q. Good morning. Thank you, Mr. President.

11 [09.03.36]

12 Good morning, Mr. Witness. Mr. Saut Toeung, when we stopped

13 yesterday, I was asking you some questions regarding your trip to

14 China and North Korea with Nuon Chea. Do you recall whether Nuon

15 Chea made any speeches during that trip including when you were

16 present at banquets that were held by Chinese leaders?

17 MR. SAUT TOEUNG:

18 A. No, I don't. I was sitting from a distance from his table.

19 Q. I'd like to try to refresh your recollection on that by

20 showing a document that is in the case file as IS20.27 and it is

21 -- Mr. President, if I could have leave to give a copy to the

22 witness and also put it on screen.

23 MR. PRESIDENT:

24 Could you please hold on? Counsel for Ieng Sary, you may now

25 proceed.

2

1 [09.05.19]

2 MR. KARNAVAS:

3 Good morning, Mr. President. Good morning, Your Honours, and good
4 morning to everyone in and around the courtroom.

5 The gentleman just indicated that he was far too away to have any
6 memory so there's no point in trying to refresh a memory with a
7 document. He's indicated that he doesn't know. Now, if the
8 purpose is to try to get the document in, if the document is
9 already in, there's no need to go through this exercise. We
10 received the gentleman's answer.

11 [09.05.47]

12 Also, may I point out that the prosecutor is talking about
13 Chinese leaders; who are these Chinese leaders? Perhaps the
14 witness should be asked to identify. This is something that the
15 Prosecution has indicated by just simply saying did he meet with
16 Chinese leaders, and now we had this long series of questions
17 about Chinese leaders not knowing who they may be. If they are,
18 indeed, Chinese leaders, then how would this gentleman know if
19 they were Chinese leaders if he was not privy to any discussions?
20 He wasn't sitting anywhere near any discussions being held,
21 assuming discussions were being held, between Mr. Nuon Chea and
22 anyone else. But this document cannot be used to refresh a memory
23 that doesn't exist. Thank you.

24 MR. LYSAK:

25 I don't understand that objection. I mean the point of refreshing

3

1 memories is because a witness may have forgotten something from
2 30 years ago.

3 [09.06.47]

4 The witness has indicated that he was present during this trip at
5 banquets. We have a document that's in the case file that is
6 indicated as a speech by Nuon Chea at a banquet in Peking given
7 in honour of the delegation from Kampuchea on the 3rd of
8 September 1978 and my questions to the witness are going to be
9 very simple; it's whether looking at the document that refreshes
10 his recollection as to whether Nuon Chea gave speeches at this --
11 at these banquets.

12 (Judges deliberate)

13 [09.08.00]

14 MR. PRESIDENT:

15 Counsel for Ieng Sary's objection is not sustained. International
16 Co-Prosecutor is now permitted to have the document put up on the
17 screen. Court officer is now instructed to bring the hard copy of
18 the document to the witness.

19 BY MR. LYSAK:

20 Q. Mr. Saut Toeung, are you able to read the cover or the title
21 of the document I gave you or would you like me to read that for
22 you into the record?

23 MR. SAUT TOEUNG:

24 A. Could you please read for me? It's better.

25 Q. The title of this document is "Speech by Comrade Nuon Chea,

4

1 the Deputy Secretary of the Central Committee of the Communist
2 Party of Kampuchea and Chairman of the Standing Committee of the
3 Assembly of the People's Representatives in Kampuchea at the
4 Banquet Given in Honour of the Delegation of the Assembly of the
5 People's Representatives of Kampuchea in Peking the 3rd of
6 September 1978".

7 [09.09.52]

8 We asked -- we established yesterday that you left on this trip
9 to Peking on the 2nd of September, and I also asked you yesterday
10 whether you recalled a banquet that was held the day after your
11 arrival. Does this refresh your recollection that Nuon Chea gave
12 a speech at that banquet?

13 A. I don't remember having heard him giving any speech because
14 this was conducted inside the hall, but I think he could have
15 some conversation with people inside.

16 Q. Well, let me also refer you to a prior statement that you gave
17 in this case. And, Mr. President, at this time, I would like to
18 refer the witness to E3/423 and it is question -- answer and
19 question A27 in that interview. And, if I may, the witness was
20 previously provided with this statement, but if he doesn't have a
21 copy, I have an additional copy to give him today.

22 MR. PRESIDENT:

23 You may proceed.

24 Court officer is now instructed to take the document from the
25 Co-Prosecutor and hand it over to the witness.

5

1 [09.12.21]

2 BY MR. LYSAK:

3 Q. Mr. Saut Toeung, I'd like to refer you to a question and
4 answer from your previous interview with the Office of
5 Co-Investigating Judges which is question and answer number 27.

6 Question: "Did Mr. Nuon Chea say anything during the visit to
7 China?"

8 And the answer you gave was -- quote: "I do not recall that. I
9 only know that during a party, he talked about economic
10 activities."

11 When you said that he'd talked about economic activities during a
12 party, what were you referring to?

13 MR. SAUT TOEUNG:

14 A. I was not very interested in economic activities, but I guess
15 his visit was part of his vocation or work maybe.

16 Q. Do you recall whether Nuon Chea had meetings with any Chinese
17 leaders during this trip?

18 A. Yes, I do, but I don't remember those people.

19 [09.14.01]

20 Q. I want to turn to the period during the trip when you were in
21 North Korea. Do you recall when you were in North Korea whether
22 there was any special event that was being celebrated at the
23 time?

24 A. The only thing I remember is that, when we landed, we were
25 received by people; then, immediately, he went to the

1 countryside.

2 Q. Did you travel with him to the countryside in North Korea?

3 A. Yes, I do -- sorry; yes, I did.

4 Q. Can you tell the Chamber, how did the living conditions and
5 food -- available food in North Korea during your trip there --
6 how did that compare to the conditions back in Democratic
7 Kampuchea?

8 MR. PRESIDENT:

9 Witness, could you please hold on?

10 International counsel for Mr. Ieng Sary, you may now proceed.

11 [09.15.40]

12 MR. KARNAVAS:

13 Thank you, Mr. President. I'm forecasting that, at some point
14 today, the Prosecution will be asking for additional time.
15 I'm objecting to this question, in particular because it's not
16 relevant. What is the relevance of this question? There is none,
17 especially when considering the purpose for bringing this
18 witness. So I would object on the grounds of relevance.

19 MR. LYSAK:

20 Mr. President, I will not be asking for additional time, and I
21 think it is relevant to get observations of this witness on
22 living conditions in Democratic Kampuchea and he has an
23 opportunity to compare it to what other countries including North
24 Korea and China. So I think it's reasonable to ask one question
25 on this, which is to get his observations on this issue, and then

7

1 I plan to move on.

2 [09.16.42]

3 MR. PRESIDENT:

4 The objection is not sustained.

5 Witness is now instructed to respond to the question put by the
6 prosecutor.

7 The witness appears to have forgotten the question. Co-Prosecutor
8 is now advised to put the question again so that witness can
9 respond.

10 BY MR. LYSAK:

11 Q. Yes. My question, Mr. Saut Toeung, was: How did living
12 conditions and food or meals in North Korea compare to the living
13 conditions and meals that you had while you were in Democratic
14 Kampuchea?

15 MR. SAUT TOEUNG:

16 A. The foods and meals in China and in North Korea were not the
17 same as the food in Cambodia, for sure.

18 [09.17.58]

19 Q. And what do you mean when you say they were not the same?

20 A. I can't talk about the food in North Korea, but Chinese food
21 were not the same as Cambodian food. For example, in Cambodia we
22 would have the sour soup, the hot pot soup, so on and so forth
23 which are different from the Chinese dishes and also different
24 from the Western dishes. I just don't know what the Korean soup
25 would be like. I just talking and responding to your question

8

1 about this.

2 Q. Okay. Well, I'm glad you explained that. The -- the question
3 that I was asking more had to do whether -- the amount of food
4 that was available. Were there -- was there any difference in the
5 food that -- food rations that were available to you in China and
6 North Korea, compared to the food rations that you had in
7 Democratic Kampuchea?

8 [09.19.22]

9 MR. IANUZZI:

10 Your Honour, objection.

11 MR. PRESIDENT:

12 Witness, could you please hold on? Counsel for Nuon Chea, you may
13 now proceed.

14 MR. IANUZZI:

15 As much as this is making me hungry for some kimchi, I think the
16 witness is clearly being led here, now, at this point. The
17 questions about the amount of food, he's clearly being lead. So I
18 think that's inappropriate, and I object to that.

19 [09.19.52]

20 MR. LYSAK:

21 Mr. President, that was not a leading question; it's an
22 open-ended question for the witness to answer as he sees. There's
23 absolutely nothing suggestive in the question.

24 MR. PRESIDENT:

25 International counsel for Mr. Ieng Sary, you may now proceed.

1 MR. KARNAVAS:

2 Thank you, Mr. President. What his -- how much food his hosts
3 provided him, the Chinese or the North Koreans being good hosts,
4 what has that have to do with how much food he had when he was in
5 Cambodia?

6 [09.20.30]

7 Also, if we look at his statements, he clearly indicates that he
8 had sufficient food while he was living in Phnom Penh and since
9 he didn't travel outside Phnom Penh, he couldn't tell about the
10 conditions elsewhere.

11 So this line of questioning, in my humble opinion, is utterly
12 futile. How much food the Chinese hosts gave him while he was
13 there or the North Korean hosts-- One only needs to look at
14 television today to see that there's massive starvation in North
15 Korea today. So we haven't laid a foundation.

16 Has this gentleman travelled outside, into the countryside? Has
17 he gone into the homes? Has he met with the people? Has he seen
18 what the people are eating in the villages? How much food is
19 being provided to them? How can he possibly answer this question?
20 And why is this question relevant? A foundation hasn't been led.

21 But how his host gave him, and how tasteful the food was, and how
22 -- how he can compare it to Cambodian food is utterly irrelevant.

23 [09.21.45]

24 MR. PRESIDENT:

25 Counsel for Khieu Samphan, you may now proceed.

10

1 MR. KONG SAM ONN:

2 Thank you, Mr. President. I can see that this question is not
3 relevant when asking the witness to compare the food ration in
4 Korea to that of Cambodia. This question seeks to ask for an
5 explanation of his idea concerning how he feels with regard to
6 the food offered to him in a banquet, for example when they were
7 received in a foreign country, and it is not really relevant
8 because, if the question is addressing the food ration for the
9 ordinary foreign national in Korea or whether people conducted or
10 had experience going down to visit those people homes that he --
11 they could be able to shed light on the food ration; otherwise,
12 it's pointless.

13 MR. PRESIDENT:

14 The objections by both counsels are sustained.

15 Witness is now instructed not to respond to the final question
16 put by the Co-Prosecutor.

17 [09.23.11]

18 And Co-Prosecutor is now advised to rephrase the question in
19 order to be in line with the facts at issue in this scope of Case
20 File 002/1.

21 BY MR. LYSAK:

22 Thank you, Mr. President. I will move on to my next question.

23 Q. Do you recall whether while Nuon Chea was in North Korea
24 whether he met with any of the leaders of that country including
25 Kim Il-Sung?

11

1 MR. SAUT TOEUNG:

2 A. No, I don't.

3 [09.24.06]

4 Q. And my last question about your trip is to ask you about the
5 date that you returned to Cambodia: As you sit here today, do you
6 recall the exact date on which the Nuon Chea delegation flew back
7 to Cambodia from its trip to China and North Korea?

8 A. I don't remember, but I remember that the return trip was
9 immediate -- immediately after a week spent in China and another
10 week spent in Korea.

11 MR. LYSAK:

12 Mr. President, to refresh the witness' recollection on the date
13 of the return, I'd like to refer again to the same document that
14 we used yesterday, which is E3/76, at Khmer ERN 00701881 through
15 82, English ERN 00170385 through 170386, and French ERN 00701865
16 through 866. And we've provided a copy of that, previously, to
17 the witness.

18 If we could put that page up on to the screen?

19 MR. PRESIDENT:

20 You may proceed.

21 Court officer is now instructed to take the document from the
22 prosecutor and have it handed over to the witness for
23 examination.

24 [09.26.20]

25 BY MR. LYSAK:

12

1 Q. Mr. Saut Toeung, I -- would I be correct again that you would
2 prefer for me to read the document to you; would that be helpful
3 to you?

4 MR. PRESIDENT:

5 Mr. Saut Toeung, please repeat your response and please be
6 advised again that wait until you see the red light on the mic
7 before you respond.

8 MR. SAUT TOEUNG:

9 Mr. Co-Prosecutor, it is good that you keep reading it for me
10 please.

11 [09.27.43]

12 BY MR. LYSAK:

13 Q. The report that we've just referenced to you is titled "Nuon
14 Chea Delegation Returns Home from PRC and DPRK". It is a report
15 from the Phnom Penh Domestic Service from the 16th of September
16 1978, and the text reads as follows -- quote:

17 "The delegation of the Kampuchean People's Representative
18 Assembly led by Comrade Nuon Chea, deputy secretary of the
19 Central Committee of the KCP and chairman of the Standing
20 Committee of the Kampuchean People's Representative Assembly,
21 returned to Phnom Penh from Peking by plane at 1130 on [the 16th
22 of] September 1978 following the successful conclusion of its
23 visit to the PRC and the DPRK. Comrade Khieu Samphan, chairman of
24 the State Presidium; Comrade Ieng Sary, deputy prime minister for
25 foreign affairs; Comrade Vorn Vet, deputy prime minister for

13

1 economy; Comrade Mey Prang, chairman of the committee for
2 communications; Comrade Cheng An, chairman of the committee for
3 industry; Comrade Ieng Thirith, minister of social affairs;
4 Comrade Yun Yat, minister of propaganda, culture and education;
5 and many cadres from various ministries went to Pochentong
6 Airport to extend warmest welcome to Comrade Chairman Nuon Chea
7 and the delegation."

8 [09.29.25]

9 Does that refresh your recollection that you returned to Cambodia
10 from your trip on the 16th of September 1978?

11 MR. SAUT TOEUNG:

12 A. I don't think I remember this very well.

13 Q. The two media reports that I have described and shown to you
14 indicate that your delegation left on the 2nd of September 1978
15 and returned on the 16th of September 1978, which is a period of
16 two weeks. Is that consistent with your memory of the total
17 length of your trip to China and North Korea?

18 A. Yes, it is.

19 Q. Thank you.

20 I'd now like to turn some questions -- turn to some questions
21 regarding your role in delivery of documents.

22 In your role as Nuon Chea's messenger, did you deliver or pick up
23 documents for Nuon Chea?

24 A. No, I didn't.

25 [09.31.11]

14

1 Q. Mr. Saut Toeung, did you deliver documents from Nuon Chea to
2 Duch at S-21?

3 A. Yes, I did. I -- on some occasions, picked up letters from
4 Nuon Chea to Duch and from Duch back to Nuon Chea.

5 Q. Who asked you to take documents from Nuon Chea to Duch or to
6 get documents from Duch and bring them back to Nuon Chea?

7 A. He presented them to me himself.

8 Q. When you say "he presented them" to you, who are you referring
9 to?

10 A. "He", here, refers to Nuon Chea.

11 [09.32.27]

12 Q. When you delivered documents from Nuon Chea to Duch, where did
13 you -- where was it that Nuon Chea provided those documents to
14 you? Where is it that you met Nuon Chea and he gave you the docs?

15 A. I would get these letters at the door and people would be
16 waiting to get the paper or to give the papers.

17 Q. And when you say you got the documents "at the door", the door
18 of what location? Whose house or what location was it where you
19 picked up documents from Nuon Chea?

20 [09.33.32]

21 A. I don't remember the exact location, but I'm sure that it was
22 Duch's location - Duch's office.

23 Q. Okay, that was my next question, which is: Where -- where did
24 you go to deliver the documents to Duch or to pick up documents
25 from Duch? What I'm asking you first is: When you received

15

1 documents from Nuon Chea, where did -- where did you receive the
2 documents from Nuon Chea?

3 A. I only know the place where I delivered the documents to the
4 place at Duch's office.

5 Q. Who -- who was it that informed you where Duch's office was in
6 order that you could go there to deliver documents?

7 A. It is difficult to find the location because it was a long
8 time ago; I'm afraid we can't find it now.

9 Q. I wasn't asking you about the exact location, so I just want
10 to be clear. My question to you is: Do you remember who told you
11 where to go to deliver documents to Duch?

12 A. It depends. Sometimes Pang would do that, sometimes Nuon Chea.
13 [09.35.55]

14 Q. When you delivered documents to Duch at his house or office,
15 would you talk to him?

16 A. No, I wouldn't because I was received at the door of -- at the
17 gate, indeed, to handle the documents -- hand the documents to
18 them -- to him.

19 Q. I'd like to again refresh your recollection by referencing
20 your prior statement to the Office of Co Investigating Judges.

21 And, Mr. President, I again would like to have the witness
22 reference document E3/423 (sic), in this case question and answer
23 A106. And the witness already has the document, so I'll request
24 to show that portion of the document on the screen.

25 [09.37.23]

16

1 MR. PRESIDENT:

2 Yes, you may proceed.

3 BY MR. LYSAK:

4 Q. Mr. Saut Toeung, there's actually two answers of yours I'd
5 like to refer you to.

6 The first one is answer 106. In response to a question, "So,
7 where did you meet with Duch when you delivered and fetched mails
8 from him?", your answer was -- quote: "I met with Duch at the
9 entrance of his house but I am not sure if it was his house or S
10 21."

11 And then, later on, at answer -- question and answer 125, and --
12 question and answer 125, question was: "So in conclusion, are a
13 lot of points mentioned by Duch yesterday saying that he knew you
14 and used to talk to you true?" And your answer was -- quote:
15 "Yes, they are true. When I received mails from him, I always
16 chatted with him."

17 The next question and answer, number 126, question: "During your
18 chat, what did you talk about?" Answer: "We just chatted for fun;
19 we did not mention about content of the mails."

20 [09.38.54]

21 Was the testimony that you provided to the Office of Co
22 Investigating Judges -- that I just read -- truthful?

23 A. Yes, I did not discuss the content of the documents, I simply
24 chatted with him because I had nothing to do with the content of
25 the mail. I simply say hello to him or ask him how he was.

17

1 Q. And can you describe for the Court the -- what the documents
2 -- can you describe the appearance of the documents that you
3 delivered between Nuon Chea and Duch? For example, were they in
4 an envelope? How did the -- how were the documents presented to
5 you, that you delivered between Duch and Nuon Chea?

6 [09.40.18]

7 A. No, I simply handed it over to him and I did not ask him for
8 any details or anything at all, and I simply fetched the document
9 back and I did not chat at length with him.

10 Q. I understand that; what I'm asking is: Were the documents--

11 MR. PRESIDENT:

12 I hand over to Judge Jean-Marc Lavergne.

13 JUDGE LAVERGNE:

14 I just wanted to clarify something for the transcript. Can you
15 give us the reference of the documents you are talking about? A
16 while ago, you said it was number E423, if I am not wrong. Now,
17 it would appear that the document that you are using has
18 reference D234/43; is that indeed the number?

19 [09.41.31]

20 MR. LYSAK:

21 Yes, sir -- Judge Lavergne. Though I have it, and maybe it didn't
22 come through in the translation; the original case file number is
23 D234/23. And it's the -- it's a lengthy statement that was taken
24 starting on the 2nd of December 2009, but it continued until the
25 4th of December. It's been assigned an E3 number in the recent

18

1 annexes that were submitted to us, so we've been referring to the
2 E3 number, but the original case file number is D234/23.

3 MR. PRESIDENT:

4 You may proceed.

5 BY MR. LYSAK:

6 Q. Mr. Saut Toeung, the question I am asking you now is: When you
7 received documents from Nuon Chea to deliver to Duch, or from
8 Duch to bring to Nuon Chea, were those documents in an envelope?

9 [09.42.58]

10 A. Yes, they were.

11 Q. And was there anything written on the cover of the envelopes?

12 A. Nothing, but it merely addressed to the recipient of the
13 document, namely Duch.

14 Q. And for the documents you picked up from Duch, that you were
15 to deliver to Nuon Chea, did those documents also have a name on
16 the envelope?

17 A. I don't know.

18 Q. Did you ever look inside the envelopes to see what kind of
19 documents were in there?

20 A. No, I dare not open the envelope.

21 Q. How thick were the envelopes of documents that you delivered
22 from Duch to Nuon Chea?

23 A. It was the normal envelope and it was at the thick of the
24 book.

25 [09.44.52]

1 Q. And when you received those documents from Duch, did you
2 deliver them directly to Nuon Chea?

3 A. It was sent through Pang or sometime he delivers it himself.

4 Q. Did you ever deliver those documents directly to Nuon Chea, or
5 was it always through Pang?

6 A. There were only two people, Nuon Chea and Pang.

7 Q. Do I understand then that there were occasions where you did
8 deliver these documents directly to Nuon Chea, is that right?

9 A. Yes, I did.

10 [09.46.20]

11 Q. In regards to Pang, was there a time where Pang disappeared
12 and was replaced by someone else?

13 A. I don't know.

14 Q. Do you recall a person named Lin or Ken who was Pang's deputy?

15 A. I don't know. I don't know who replaced Pang.

16 Q. Did Nuon Chea have other messengers who also delivered and
17 received documents for him in addition to you?

18 A. I don't know because I did not stay in one place, I moved
19 around so I did not know.

20 Q. How long was the period of time that you delivered documents
21 between Duch and Nuon Chea? How long did you do that for?

22 A. It was not for long, and it took me only five minutes to fetch
23 the documents.

24 Q. My question is: Do you recall the period of time that you did
25 it? Was it a matter -- was it per -- in terms of how many months

20

1 or how many years did you perform this task of delivering
2 documents between Duch and Nuon Chea?

3 [09.48.48]

4 A. It was about a month or so, but I did not -- I do not recall
5 it well, but I delivered the document for five times, so it was
6 about a month or so.

7 Q. Mr. Saut Toeung, I'd to again refer you back to the statement
8 you gave to the Office of Co Investigating Judges, which is the
9 same document as before, E3/423, also case file number D234/23.
10 And in this case, the -- I'd like to refer you to question and
11 answer 208.

12 And, Mr. President, if I can put -- put that question and answer
13 on the screen?

14 MR. PRESIDENT:

15 Yes, you may proceed.

16 [09.50.11]

17 BY MR. LYSAK:

18 Q. And, Mr. President, I'll actually read both question and
19 answer 207 and 208 in order to understand the context.

20 Starting with 207, you were asked the following question:

21 "We are not yet clear about what Duch stated in front of you on
22 the 2nd of December 2009. He said that you worked with him in
23 relation with mail delivery from [the 15th of] August 1977 until
24 you accompanied Mr. Nuon Chea during his visit to China and
25 Korea. Why did you not continue working with Mr. Nuon Chea and

21

1 Duch at S 21 anymore?"

2 Your answer to that was: "I forgot completely. What Duch stated
3 is correct but I do not recall."

4 The next question was: "Can you confirm how long it was from
5 August 1977 until the time you accompanied Mr. Nuon Chea to
6 China?"

7 And your answer was: "It was about one year; I cannot recall
8 exactly."

9 [09.51.24]

10 When you said that the estimate you gave back on the -- in
11 December of 2009 of one year, does that refresh your recollection
12 that the period that you delivered documents between Duch and
13 Nuon Chea was approximately one year?

14 A. It was not as long as one year. It was about a month or so, it
15 was not that long anyway. There were many other messengers. I do
16 not know each and every one of them, but there were many others.

17 Q. Let me ask you this: When was it that you first started
18 delivering documents between Duch and Nuon Chea? Was it when you
19 first began to work for Nuon Chea in 1975 or was it later on in
20 the regime?

21 [09.52.54]

22 A. I started in 1978; and 1979, of course, we fled.

23 Q. So you started delivering documents to Nuon Chea sometime in
24 1978. And when was it that you stopped this task of delivering
25 documents between Duch and Nuon Chea?

1 A. It was sometime in 1979.

2 Q. When you returned from your trip to China and North Korea in
3 September 1978, did you continue working for Nuon Chea and
4 delivering documents between Duch and Nuon Chea after that trip?

5 A. No. Then I had already stopped.

6 Q. Did you continue to work as Nuon Chea's bodyguard and
7 messenger after you returned from your trip to China and North
8 Korea?

9 A. I had already stopped working.

10 [09.54.58]

11 Q. What is it that you did for the approximate three month period
12 of the Democratic Kampuchea regime after you returned from China
13 and North Korea in mid September 1978 until January 1979? What
14 did you do during that time period?

15 A. I was a security guard, a normal security guard.

16 [09.55.37]

17 Q. And where were you assigned during that period?

18 A. I was guarding around his workplace.

19 Q. When you say you were guarding around his workplace, who are
20 you referring to?

21 A. Back then, there was Sin, and others I cannot recall -- I
22 cannot recall their names; Sin and others. But Pang was the head.

23 Q. I understand that. I was asking you whose workplace were you
24 guarding? Were you referring to K 1 or are you referring to some
25 other location?

1 A. Yes, it was K 1.

2 Q. During the period that you worked as Nuon Chea's bodyguard or
3 messenger, did he have other offices where he worked in addition
4 to K 1?

5 A. I don't know about that.

6 Q. Were you still working as a guard at K 1 in January 1979 when
7 the Vietnamese troops approached Phnom Penh?

8 A. I had already stopped working as a guard then, but I was
9 transferred to the transport unit.

10 [09.58.24]

11 Q. When were you transferred to the transport unit?

12 A. It was in 1979 and 1978, and my superior was Kou, alias Sin,
13 who designated me with the task.

14 Q. Where was the transport unit located?

15 A. It was located somewhere in Pursat Province, but I do not know
16 the exact location. I do not know the district in which this unit
17 is -- was located.

18 Q. I'm not sure whether I misunderstood or there was a problem in
19 the translation. Did you say that it was located in Pursat
20 Province?

21 [09.59.55]

22 A. Yes, I did, Pursat, which is near the border.

23 Q. Well, did you -- are you talking about a position that you
24 assumed before the departure from Phnom Penh when the Vietnamese
25 invaded, or was this a position you assumed in January 1979 after

24

1 the Vietnamese invaded and you fled Phnom Penh?

2 A. It was after.

3 Q. Well, up until the time that you fled Phnom Penh, did you
4 remain working as a guard at K 1?

5 A. No, I didn't.

6 Q. Let me try asking you the question this way. The day that you
7 fled Phnom Penh, when the Vietnamese arrived, who were you
8 working for at that time?

9 A. I fled with a unit. We went to the west direction and we
10 reached the border. Later on, we were assigned some tasks in the
11 military and also in the transportation unit.

12 Q. What was the unit that you fled -- fled Phnom Penh with?

13 [10.02.23]

14 A. I think it could have been the unit of K 1, and we fled all
15 the way to Battambang province.

16 Q. And when you fled Phnom Penh and K 1 in January 1979, do you
17 know what happened to the documents that were at K 1?

18 A. I don't know.

19 Q. Do you know whether documents were burned and destroyed at K
20 1?

21 A. I don't have any knowledge of this because I already fled the
22 area. Some people who were behind could have been familiar with
23 this.

24 Q. Now, Mr. Saut Toeung, I'd again like to refer you to your
25 prior statement in this case.

25

1 Mr. President, this is again the same document, E3/423 or
2 D234/23. And the question that I would like to put on the screen
3 and refer the witness to is question and answer 194, if I may?
4 [10.04.14]

5 MR. PRESIDENT:

6 You may proceed.

7 BY MR. LYSAK:

8 Q. Mr. Saut Toeung, in your last interview you were asked the
9 question: "In 1979, when the Vietnamese soldiers liberated
10 Cambodia and you ran to Thai-Cambodian border, where were those
11 documents taken to?"

12 Your answer was: "The documents were burned off. I did not
13 participate in burning those documents off but I knew they burned
14 them because when I ran away and turned back, I saw smoke. I knew
15 that they were burning documents off."

16 Is it correct that, when you fled K 1, you saw smoke and
17 concluded that they were burning documents?

18 A. I would like to reject such statement; I never made such
19 statement.

20 Q. Thank you.

21 During the time that you worked as Nuon Chea's bodyguard, did you
22 ever go with him to Borei Keila?

23 (Short pause)

24 [10.06.26]

25 Did you understand my question?

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1 MR. PRESIDENT:

2 International Co Prosecutor may repeat the question because the
3 interpreter failed to render the exact location in your question,
4 and the witness has not received the full message.

5 BY MR. LYSAK:

6 Q. My question, Mr. Saut Toeung was: During the time you worked
7 as Nuon Chea's bodyguard, did you ever go with him to Borei
8 Keila?

9 A. No, I didn't.

10 Q. Mr. President, I'd like to refer again to the witness's prior
11 statement, the same document, E3/423 at D234/23, and it is
12 question and answer 55. I'm sorry, question and answer 53 and 55.
13 If I might put those on the screen and ask the witness about
14 them?

15 [10.08.21]

16 MR. PRESIDENT:

17 You may proceed.

18 BY MR. LYSAK:

19 Q. Mr. Saut Toeung, I'm going to read to you a series of
20 questions from A53 through A55 of this interview.

21 Question: "Within the period you were Nuon Chea's bodyguard and
22 when you traveled inside the country, where did you escort him
23 to?"

24 Answer: "I used to escort him to Borei Keila, provinces and rural
25 areas."

27

1 Question: "How many times did you escort Mr. Nuon Chea to Borei
2 Keila?"

3 Answer: "About thrice."

4 Question: "What did Mr. Nuon Chea do when he went to Borei Keila
5 each time?"

6 Answer: "He went to open study session. That is all I know. But I
7 do not know what he talked about at that time because I was in
8 charge of safeguarding outside."

9 Does that refresh your recollection that you did go with Nuon
10 Chea to Borei Keila during a time you worked as his bodyguard?

11 [10.09.39]

12 MR. IANUZZI:

13 Objection, Your Honour. I think that reflects that the witness
14 said he didn't go to Borei Keila; he never went to Borei Keila.
15 So the statement won't refresh the witness' recollection; it will
16 contradict a statement he's already made. I think that's the
17 proper terminology to use here.

18 Because he's on record now, saying, according to my notes, "never
19 went to Borei Keila", and now he's been put the previous
20 statement which will contradict that if he agrees with it. I
21 don't think it will refresh his recollection. Thank you.

22 MR. LYSAK:

23 Mr. President, that's for the witness to tell us. He's -- at
24 times when he's been shown this, it's refreshed his recollection
25 and he's confirmed it, and at other times, as just happened, he

28

1 said, no, that's not correct. So it's -- it's for the witness to
2 -- to tell us -- tell us that, but not -- not for counsel to make
3 arguments at this time about -- to characterize the testimony.

4 [10.10.42]

5 MR. IANUZZI:

6 I completely agree with the prosecutor, it's for the witness to
7 tell us, so the prosecutor should say: How do you reconcile the
8 two? How do you -- what's your reaction to this -- juxtaposed
9 with this? Perhaps the prosecutor shouldn't use "refresh
10 recollection". That's argumentative in my position.

11 MR. PRESIDENT:

12 The objection is not sustained.

13 Witness is now instructed to respond to the question put by the
14 Co Prosecutor.

15 Co Prosecutor may put this question again because witness appears
16 to have forgotten the question already.

17 [10.11.43]

18 BY MR. LYSAK:

19 Mr. Saut Toeung, did you go with Nuon Chea to Borei Keila?

20 MR. SAUT TOEUNG:

21 A. Allow me to confirm this.

22 Indeed, he wanted me to go there. He worked at Borei Keila, and I
23 was -- I was guarding at the exterior of that premises. And
24 because time passed by very long, long time ago, I could have
25 been confused at times.

1 Q. What did Nuon Chea do at Borei Keila?

2 A. He conducted the study sessions.

3 Q. How often did he conduct study sessions at Borei Keila?

4 A. Although I don't remember quite well, but it could have been
5 once every three or four months.

6 [10.13.22]

7 Q. And how many people attended and participated in the study
8 sessions that he conducted?

9 A. It depends. Sometime there were ten people; sometime there
10 were 20 or 30.

11 Q. Did your unit ever participate in the study sessions that were
12 led by Nuon Chea at Borei Keila?

13 A. No.

14 Q. Who were the participants who went to these study sessions at
15 Borei Keila?

16 A. People from various sectors.

17 [10.14.32]

18 Q. Did you see any other leaders also attend and speak at study
19 sessions at Borei Keila?

20 A. No, I don't know. I don't know them.

21 Q. Did Nuon Chea ever talk about traitors or enemies during these
22 study sessions?

23 A. I didn't know anything about this because I was at the
24 outside. I did not go inside to know all details.

25 MR. LYSAK:

30

1 Mr. President, I'd again like to refer the witness to a prior
2 statement of his in this same document, E3/423, and this time it
3 is question and answer 169. If I may show that on the screen?

4 MR. PRESIDENT:

5 Could you please repeat the document number, because in Khmer it
6 appears to be the new document, because we heard that it was E43
7 or something? Are you referring to the old document or new one,
8 please?

9 [10.16.12]

10 MR. LYSAK:

11 Yes, this is the same document that we've been using, so it is --
12 the case file number is D234/23 and it's been assigned E3/423,
13 but it's the same document we've been using, and it's question
14 and answer 169.

15 MR. PRESIDENT:

16 You may proceed.

17 BY MR. LYSAK:

18 Q. In your prior statements in this Court -- to this Court, to
19 the Office of Co Investigating Judges, you were asked the
20 question -- quote: "While opening study session for bodyguards,
21 did they ever talk about traitors?"

22 And your answer -- quote -- was that: "Ta Nuon Chea talked about
23 this point."

24 My question to you, Mr. Saut Toeung, is: Do you remember Nuon
25 Chea talking about traitors?

1 [10.17.43]

2 MR. SAUT TOEUNG:

3 A. I didn't know that he talked about this, but I learned that he
4 educated us to protect ourselves from the enemy.

5 Q. Where did you learn that?

6 A. I don't remember the location.

7 Q. Did you provide and your team provide security for Nuon Chea
8 at large rallies that were held on ceremonial occasions such as
9 the anniversary of the Party or the anniversary of 17 April?

10 A. Yes, I did.

11 Q. And did you hear the speeches that were given at those
12 rallies?

13 [10.19.13]

14 A. Speeches could be heard but I don't remember because I was not
15 very interested in the speeches.

16 Q. Where were these rallies held on occasions such as the
17 anniversary of the Party or the anniversary of 17 April?

18 A. I don't quite recollect them because at times rallies could
19 have been conducted at either Borei Keila or at K 1 and other
20 places.

21 Q. Do you remember any rallies being held at the Olympic Stadium?

22 [10.20.22]

23 A. I don't remember.

24 Q. How many people would be present for these large rallies that
25 were held on occasions like the 17th of April or the anniversary

1 of the Party? How many people were present?

2 A. There were quite a lot of people, although I don't remember
3 the exact number. There were a lot of people, more than 50.

4 Q. And was it your responsibility to provide security to Nuon
5 Chea during these events?

6 A. Yes, I was, but I was assigned to provide security at the
7 outside of the premises.

8 Q. Were there also people who were assigned to guard Nuon Chea
9 inside the rallies -- inside the premises where the rallies were
10 held?

11 A. The people who were assigned to provide the security were from
12 the Y 10 Unit under chairmanship of Ta Meas.

13 [10.22.29]

14 Q. The translation of the person you identified did not come
15 through very well. Who -- who was the chairman responsible for Y
16 10 that you just referred to?

17 A. The person who was in charge of the whole office was Pang.

18 Q. Did you see other leaders of the Party present at these
19 rallies?

20 A. I don't recall it. There were quite a few cadres.

21 Q. Well, did you see Pol Pot at these rallies?

22 A. Yes, I did, indeed.

23 [10.23.59]

24 Q. Did do you see Ieng Sary at these rallies?

25 A. Yes, I sometime did, but sometime I didn't see him.

1 Q. And what about Khieu Samphan? Did you see him at these
2 rallies?

3 A. Yes, I did. I saw them all.

4 Q. Who all would give speeches at these rallies that celebrated
5 the anniversary of the Party and the anniversary of 17 April?

6 [10.24.51]

7 A. I don't know about this because I was not close enough to note
8 this.

9 Q. Were you ever able to see -- ever able to see the podium at
10 any of these rallies, or were you always outside the event?

11 A. The location was sealed by the wall, the -- so people could
12 not see inside from the outside.

13 Q. I take it then that the answer to my question is that you --
14 you were never able to see inside and see the podiums or stages
15 at these events; is that correct?

16 A. Yes, it is. But during the events I would never go inside the
17 location, but only after the events concluded I would go in.

18 Q. Why would you go in after the event had concluded?

19 A. As we were in charge of security matters we had to avail
20 ourselves to inspect the location.

21 [10.27.02]

22 Q. I want to turn to another subject now, Mr. Saut Toeung.

23 And, Mr. President, I'd like to show the witness a photograph
24 now. This photograph is in the case file in Ben Kiernan's book,
25 "The Pol Pot Regime", IS 4.25, at 00678630. Now, because -- the

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1 quality of the photocopy that's in ZyLAB is hard to see, so we
2 have a better quality copy that I'd like to put on the screen and
3 show the witness. That's the same photo, that's -- that's hard --
4 it's a little hard to see on ZyLAB. If I may proceed?

5 MR. PRESIDENT:

6 You may proceed.

7 [10.28.13]

8 MR. LYSAK:

9 And I'd like to give a copy of the photo to the witness, and also
10 put it on the screen.

11 MR. PRESIDENT:

12 Indeed, you may proceed.

13 Counsel, for Khieu Samphan, you may proceed. Counsel Kong Sam
14 Onn.

15 MR. KONG SAM ONN:

16 With Mr. President's leave, may we also be given a copy of the
17 photo so that we could really see it as the prosecutor indicated
18 that it had to be seen on the screen?

19 MR. PRESIDENT:

20 International Co Prosecutor, could you advise the Court whether
21 you got another copy available of this document to be presented
22 to the counsel?

23 MR. LYSAK:

24 I don't have another copy, but we do -- we did make a better copy
25 to show on the screen, so perhaps -- perhaps we put up the -- we

35

1 may have erroneously put up the other version.

2 [10.29.41]

3 MR. PRESIDENT:

4 As long as you can have the document be put up on the screen,
5 referring to IS 4.25 and clear enough, then please proceed.

6 BY MR. LYSAK:

7 Q. Mr. Witness, do you -- do you have the photograph that I've
8 given to you?

9 MR. SAUT TOEUNG:

10 A. I'm afraid I cannot really see this photo without my reading
11 glasses.

12 [10.30.32]

13 MR. PRESIDENT:

14 Actually, on the screen of the computer, there is no photo being
15 put up yet.

16 Co Prosecutor is advised not to put any questions to the witness
17 yet and wait until the photo is up on the screen first.

18 MR. LYSAK:

19 Yes, Mr. President. I can make sure that we have the right
20 photograph here or, since it's past 10.30, if you wish, we can
21 take our break now, and I can make sure that they have - okay.

22 I'm told they have the correct photograph on the screen now.

23 Q. And I would also ask whether the witness has his reading
24 glasses here that he can use. Mr. Saut Toeung, do you have your
25 reading glasses here with you?

1 MR. SAUT TOEUNG:

2 A. I'm afraid I haven't brought them with me. The photo here is
3 not visible enough, but I can see that Pol Pot appears in the
4 photo and some other individuals hardly to be identified.

5 [10.32.04]

6 MR. PRESIDENT:

7 Witness, could you advise the Chamber the reading glasses -- what
8 kind of reading glasses would you prefer?

9 MR. SAUT TOEUNG:

10 I am wearing the 2.7 -- 25 reading glasses.

11 MR. PRESIDENT:

12 Have you brought them with you?

13 MR. SAUT TOEUNG:

14 No, not. I haven't brought them with me.

15 MR. PRESIDENT:

16 In order to facilitate this, court officer is now instructed to
17 ensure that a pair of reading glasses is available and given to
18 the witness momentarily to ensure that he is able to read or to
19 look at the photo.

20 [10.32.56]

21 Since this is now an appropriate time, we may adjourn, and that
22 the following session will be resumed by 10 to 11.

23 The court officer is now instructed to ensure that his duty
24 counsel and the witness have a proper place to have a rest and
25 have them returned to the courtroom by 10 to 11.

1 Counsel for Ieng Sary, you may proceed.

2 MR. ANG UDOM:

3 Mr. President, Mr. Ieng Sary has requested that he be excused
4 from being in this Court proceedings -- in this courtroom,
5 rather, because he -- because of his health concerns, and he
6 would like to ask that he be permitted to observe the proceedings
7 from his holding cell instead.

8 MR. PRESIDENT:

9 Counsel, you may be seated.

10 And the Chamber has noted your request, request from Nuon Chea
11 through counsel that he be excused from the court room and be
12 permitted to observe the proceedings from his holding cell, from
13 now on until the end of today's session. The Chamber has noted
14 the request and, therefore, grants such request accordingly.

15 [10.34.35]

16 Mr. Ieng Sary is now excused and permitted to observe the
17 proceedings from his holding cell through video-link.

18 However, the Chamber would like to ask that counsels for Ieng
19 Sary present Mr. Ieng Sary's waiver immediately, the waiver
20 signed by Mr. Ieng Sary, or given thumbprint by him.

21 AV booth officers are now instructed to ensure that the
22 video-link is properly connected to the holding cell so that he
23 can observe the proceedings from his cell.

24 Security personnels are now instructed to bring Mr. Ieng Sary to
25 his holding cell.

1 The Court is adjourned.

2 (Court recesses from 1035H to 1101H)

3 MR. PRESIDENT:

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

5 We shall continue hearing testimonies of the witness, the
6 questions to be put by the prosecutor.

7 Mr. Co-Prosecutor, you may now proceed.

8 BY MR. LYSAK:

9 Thank you, Mr. President.

10 Q. Mr. Saut Toeung, were you able to find some reading glasses
11 during the break?

12 MR. SAUT TOEUNG:

13 A. Yes, indeed, I now managed to have a pair of glasses.

14 [11.03.19]

15 Q. Okay.

16 Mr. President, if we could put the photograph back on the screen
17 and have the witness look at it again with his glasses?

18 Mr. Saut Toeung, now that you have your glasses, are you able to
19 identify for us some of the people in that photograph?

20 A. I remember four individuals precisely. The rest, I don't know.

21 On the left, Pol Pot and Nuon Chea. On the right-hand side, Vorn
22 Vet in the front and Ta Mok on the second -- at the second seat.

23 And the rest of the individuals are not known to me.

24 Q. Thank you.

25 In your travels or trips with Nuon Chea when he would go to the

1 countryside, did you ever travel with him by train anywhere?

2 [11.04.39]

3 A. Yes, I did, but only on one occasion when we travelled to
4 Battambang Province.

5 Q. Do you remember approximately when it was that you travelled
6 with Nuon Chea by train to Battambang?

7 A. I don't remember the exact year. It was sometime in 1977 or
8 so.

9 Q. And who else went with you when you travelled with Nuon Chea
10 by train to Battambang?

11 A. I only went alone with him to provide security for him.

12 [11.05.49]

13 Q. What did Nuon Chea do on that trip to Battambang?

14 A. I don't know, but he met with Ta Nhim, and I was outside.

15 Q. You testified yesterday that Nuon Chea would meet with Ta Nhim
16 at an abandoned pagoda that was on the main road. Was that the
17 Wat Kandal that's on the river and main road in Battambang? Is
18 that the pagoda?

19 A. To put it simply, I don't remember the name of that pagoda and
20 I was not very interested in remembering the name of the pagoda;
21 I just followed the other people on that road.

22 Q. Thank you.

23 On these trips to the provinces, did Nuon Chea ever go to Kampong
24 Thom to meet with Ke Pauk?

25 [11.07.21]

1 A. No, I didn't see that.

2 Q. Did you ever see Ke Pauk in Phnom Penh?

3 A. Ke Pauk used to come to Phnom Penh.

4 Q. How often did he come to Phnom Penh?

5 A. Not quite often, occasionally.

6 Q. And did you provide protection to Mr. Nuon Chea? Did you serve
7 as his bodyguard when he attended meetings of the Standing or
8 Central Committee?

9 A. I provided security at the exterior of the locations.

10 Sometimes our group would be deployed. Sometimes we had to remain
11 at the office and the other team would take turns to provide such
12 security.

13 [11.08.41]

14 Q. Where were those meetings held?

15 A. I don't recollect the location. It was a long time ago.

16 Q. Thank you for your answering the questions, Mr. Saut Toeung.

17 Before I turn it over to the other parties, there's one other
18 thing that I wanted to give you an opportunity to explain to the
19 Chamber. As I think you recall, when you were first interviewed
20 by the Co-Investigating Judges on the 4th of December 2007, you
21 denied that you were a bodyguard or a messenger of Nuon Chea. And
22 two years later, on the 2nd of December 2009, you participated in
23 a confrontation with Duch, in which he identified you as Nuon
24 Chea's messenger, and it was the following day, the 3rd of
25 December, when you came back and talked about your role as his

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1 messenger and provided details about that.

2 I expect the Defence will ask you questions about this, but I
3 wanted to give you an opportunity to explain to the Judges, to
4 explain to the Chamber why, when you were first interviewed, that
5 you denied being the bodyguard of Nuon Chea. Can you explain why
6 you did that?

7 [11.10.37]

8 A. Well, back then, I was so fearful. I was traumatized by the
9 regime and I didn't want to face this event again. So I said so
10 out of fear, but now I was better aware, so I talked the truth.

11 Q. Do you understand now that you are here just as a witness in
12 these proceedings and that you are not accused of anything
13 yourself?

14 A. I don't quite understand this.

15 Q. Do you understand now that you are here in these proceedings
16 as a witness and not as a suspect, not as an accused? Do you
17 understand that?

18 A. Yes, I do. I am here in my capacity as a witness.

19 Q. And do you promise -- do you understand the importance and
20 promise to tell the truth for the questions that you're going to
21 receive from the other parties and from the Judges, if they ask
22 any questions? Do you promise you will tell the truth in this
23 courtroom in responding to all those questions?

24 [11.12.31]

25 MR. KARNAVAS:

1 Mr. President--

2 MR. PRESIDENT:

3 Counsel, you may now proceed.

4 MR. KARNAVAS:

5 It is highly improper for the prosecutor to be coaching the
6 witness and trying to extract some sort of a promise.

7 The gentleman took an oath. He took an oath before he came to
8 court. Frankly, I prefer the oath being given in court in the
9 presence of the Judges so that the witnesses understand the
10 solemnity of these proceedings.

11 [11.12.53]

12 Be that as it may, it is highly improper for any of the parties
13 to be asking a witness to promise to tell the truth. They have an
14 obligation to tell the truth, they took an oath to tell the
15 truth, and if they don't tell the truth, then they're committing
16 perjury for testifying or giving evidence under oath falsely and
17 should be prosecuted as such.

18 Now, with this particular gentleman, he lied on a couple of
19 occasions, then he told the truth. This has been brought out.

20 There's no need to extract any promises from the witnesses. It is
21 highly improper.

22 MR. LYSAK:

23 What is improper is the argument and accusations that Mr.
24 Karnavas just made.

25 I'm happy to rephrase the question. I agree the question could

1 have been worded better. The question I would like to ask the
2 witness was just to confirm whether the testimony that he's given
3 to the Chamber so far, since he has appeared here, has been
4 truthful.

5 And I think that's an appropriate question, and it is
6 inappropriate for Mr. Karnavas to stand up and start accusing
7 someone of being a liar.

8 [11.14.06]

9 MR. PRESIDENT:

10 Counsel, you may proceed.

11 MR. KARNAVAS:

12 Mr. President, first of all, the gentleman was approached by the
13 Investigative Judges, or the investigators. He understood the
14 purpose of the questioning. He was advised of his rights, he gave
15 false testimony at that point in time. He was in a gatefold
16 testimony and we know this because he was then confronted with
17 Duch; he again gave false testimony. And then, on his third
18 interview, he came clean at some point and gave reasonings for
19 providing false testimony.

20 [11.14.55]

21 Now, we can characterize it however we wish, but when you're
22 asked a question and you give false answers under oath, it's a
23 form of lying. So there's no accusations being made; I'm just
24 stating a fact. The gentleman acknowledged to having given false
25 testimony. And it's self-serving to say well have you told the

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1 truth today. He's under oath. What is he going to say, "no, I
2 lied, I lied under oath"? How useful is that to you, Your
3 Honours?

4 It is up for you to decide after hearing all of the questions
5 from all of the parties. It's improper to simply -- to ask a
6 witness, "Well, have you told us the truth today". Of course he's
7 going to say yes. How helpful is that? Thank you.

8 MR. PRESIDENT:

9 Objection by counsel for Ieng Sary is sustained. Co-Prosecutor
10 should not have put this question to the witness. If prosecutor
11 has no further questions concerning the substance of the facts at
12 issue, then the Chamber could have been advised so that the floor
13 could be handed over to other parties. Chamber itself needs some
14 time to also put some questions to the witness.

15 [11.16.35]

16 After civil party lawyers put questions to the witness, the
17 Chamber needs to put questions to the witness before handing over
18 the floor to the defence counsels. So the time left over from the
19 Co-Prosecution will be well used by the Civil Party Co-Lawyers if
20 Co-Prosecutor has no further questions to put to the witness.

21 MR. LYSAK:

22 Thank you, Mr. President. I do not have any further questions; I
23 will leave it to the Bench if they wish to explore this issue
24 with the witness any further. Thank you.

25 [11.17.30]

1 MR. PRESIDENT:

2 Next, the Chamber would like to proceed to the counsels for the
3 civil parties to put questions to the witness. Civil party
4 lawyers will have enough time until the first adjournment of the
5 afternoon session.

6 QUESTIONING BY MS. TY SRINNA:

7 Thank you, Mr. President, Your Honours. Good morning, Mr. Saut
8 Toeung. The civil party lawyers have a few questions to put to
9 you on top of what the prosecutors have already asked you
10 previously.

11 Yesterday, you already responded to a number of questions by the
12 prosecutors. Now, I would like to go back a little bit to seek
13 some clarification from you as the civil parties would like your
14 words on this for clarification.

15 Q. The first question would be: Do you still recollect who made
16 the decision to choose you as the bodyguard for Nuon Chea?

17 MR. SAUT TOENG:

18 A. It was Pang who made such decision.

19 Q. Is it correct to say that Pang was your immediate superior or
20 you were under any other supervision from other people?

21 [11.19.33]

22 A. Pang was the only person.

23 Q. When you worked as the bodyguard of Nuon Chea, were you ever
24 educated on the political policies and lines?

25 A. We were educated on how to protect the cadres and the senior

1 people.

2 MR. PRESIDENT:

3 Counsel for Khieu Samphan, you may proceed.

4 [11.20.21]

5 MS. GUISSÉ:

6 Good morning, Your Honours. Good morning to all of you. I
7 apologize for interrupting and I will express the regular
8 complaint of the French speakers, but I would simply like to draw
9 the attention to the fact that we are facing two people who speak
10 Khmer and that, in terms of translation, we need a little longer
11 time between the answer and the question. And also, in terms of
12 the speed of -- and I wanted to say this at the start, so I'm
13 sorry for interrupting, but I think it's important so that all
14 parties can be properly informed and be - be apprised of the same
15 transcripts when they will make their final statement.

16 MR. PRESIDENT:

17 Thank you, Counsel, for this.

18 Indeed, parties have already been advised on this and parties
19 have also been fully engaged in such hearings. We have been
20 already two years on the road in these trial proceedings, and the
21 Chamber shall expect that such practice could have been well
22 followed by now.

23 BY MS. TY SRINNA:

24 Thank you, Mr. President. I will try to be slower than this.

25 Q. When you were instructed on the security guard matter --

1 security matters, could you tell us why were you educated on
2 this?

3 MR. SAUT TOENG:

4 A. Indeed, we were educated on this to protect cadres from being
5 attacked by the enemies.

6 [11.22.30]

7 Q. Do you know who conducted the trainings on such policies?

8 A. We were instructed by Pang.

9 Q. After you were instructed by Pang on the policies of the
10 Party, were you immediately assigned by Pang to give protection
11 to Nuon Chea or there were some time lapse?

12 A. I was not assigned to give security to him immediately.

13 [11.23.25]

14 Q. Why was that?

15 A. Because I was a very honest person for the duty.

16 Q. When you met Nuon Chea first time, when was it?

17 A. It was in 1970 I met him, but I worked for him in 1975 or
18 1977.

19 Q. Could you take some time to think precisely when exactly you
20 had worked for Nuon Chea?

21 A. I don't remember the details but it was in 1975 or 1977. There
22 were a lot of events happening back then.

23 Q. So is it fair to say that you don't recollect the event very
24 well -- the year very well? Is that correct?

25 A. Yes, it is.

1 [11.24.32]

2 Q. When you met Nuon Chea at first, did you meet him alone or
3 with other people?

4 A. I was sent by other people to give protection to the location
5 where Nuon Chea was in. I was giving such protection from the
6 outside.

7 Q. How many people were with you back then?

8 A. There were two people, I and Sin. Later on there were other
9 group of people who would be assigned this task and I don't
10 remember their names.

11 Q. Do you still remember whether Nuon Chea had ever talked to you
12 on any particular topic?

13 A. He did not talk to me about any other things other than
14 educating me on the -- how to be good guard.

15 [11.25.30]

16 MR. PRESIDENT:

17 Counsel, could you please be slow as you indicated? Because you
18 started to be slow at the beginning and then you were fast after
19 a few questions. Please leave some pause, observe some pauses so
20 that your statements and the responses from the witness could be
21 properly rendered.

22 You may notice that the mic is on and off automatically because
23 it was meant to ensure that interpreters could render your full
24 message. Only after your question is put and that the mic would
25 then be on on the side of the witness so that he could respond,

1 and then the mic is on again when time fits for you to put the
2 question again.

3 BY MS. TY SRINNA:

4 Q. When you met him first, what was your emotion or impression
5 regarding him?

6 MR. SAUT TOENG:

7 A. I had no other impression because I was with Angkar; I just
8 had to do my job.

9 Q. When you worked as the security guard for Nuon Chea, do you
10 know what Nuon Chea's role was?

11 [11.27.07]

12 A. I did not -- I don't know anything other than his role as a
13 cadre of the division.

14 Q. I would like to repeat the question, another question. If Pang
15 assigned you to give protection to Nuon Chea, did Pang brief you
16 on the role of Nuon Chea?

17 A. I was briefed that Nuon Chea was a cadre.

18 Q. Yesterday, you already responded to questions by the
19 prosecutor, but I may wish to seek some clarification from you.
20 When you worked as the bodyguard for Nuon Chea, how long had you
21 worked for him?

22 A. I worked for him from 1975 through 1978 -- mid-1975 -- rather
23 late 1975 or early 1976. I don't really remember the exact
24 starting point.

25 [11.28.39]

1 Q. Yesterday, you testified before the Chamber that you escorted
2 Nuon Chea to some areas. Could you tell the Court which areas you
3 went to with Nuon Chea?

4 A. I'm afraid not because I don't remember the details of those
5 areas. I remember just briefly.

6 Q. Yesterday, you indicated that you escorted Nuon Chea to
7 Battambang, Kampong Chhnang, Kampong Speu and the East Zone; is
8 that so?

9 A. Yes, it is.

10 Q. When you were on the trip with Nuon Chea to each area, what
11 was your impression on the actual situation?

12 A. I witnessed people transplant rice in the cooperatives, that's
13 all.

14 Q. You said people were seen transplanting rice. How far were you
15 from the people?

16 A. People were transplanting rice just near the main road.

17 Q. Could you describe the situation of the people there?

18 A. They were normal.

19 Q. What about their physical appearance, how were they?

20 A. Some were thin, some were healthy, some suffered from not
21 having enough to eat.

22 [11.31.01]

23 Q. Did you observe any other circumstances surrounding the area
24 other than the situation of the people in general?

25 A. At that time there were a lot of rice surplus, everyone had

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1 rice but we did not know where the rice had gone.

2 Q. You said that the people did not have enough things to eat and
3 they were thin; is that correct?

4 A. Yes, that was correct because they had nothing to eat. That's
5 why they were thin.

6 [11.32.02]

7 Q. You said you had been to Battambang province. When you visited
8 – or you went to those cooperatives, what was the general
9 impression of the situation?

10 A. I did not know much about those cooperatives because I was
11 actually an outsider.

12 Q. When you accompanied Nuon Chea to the area where Nuon Chea
13 were to visit, what were the activities Nuon Chea did?

14 A. He inspected the cultivation of rice, of people in the
15 cooperative.

16 Q. To refresh your recollection, I would like to ask you to
17 describe the situation when you were accompanying Nuon Chea to
18 Battambang province. What did Nuon Chea do when he was visiting
19 the province?

20 A. He normally went there to open the training session and, other
21 than that, at the same times, he also went to visit the
22 cooperative.

23 Q. Back then, did you hear what Nuon Chea said to the people in
24 those cooperatives he visited?

25 A. No.

1 [11.34.06]

2 Q. What was the overall condition of living of people in
3 Battambang province?

4 A. People were growing rice and some of them were building canals
5 or dams.

6 Q. Did you observe the physical looks or physical conditions of
7 the people in those areas?

8 A. I did not know and I did not pay attention to it.

9 Q. When Nuon Chea was visiting those areas, who did he see?

10 A. Some time he met with the head of the cooperatives.

11 [11.35.28]

12 Q. Did he meet only one cooperative or he met with the heads of
13 many cooperatives?

14 A. Well, he met with many cooperative heads. Wherever he visited,
15 he would meet with the head of cooperatives.

16 Q. So you are saying that when Nuon Chea visited Battambang
17 province he went down to visit the cooperatives; is that correct?

18 A. Yes. When he went to any particular areas, then he would visit
19 the cooperatives in those areas.

20 Q. Do you recollect when he visited Battambang province?

21 A. It was sometime in 1977.

22 Q. When Nuon Chea visited Battambang province, did he visit his
23 relatives in Battambang?

24 A. Yes, he visited them once.

25 Q. Do you recall who was that he visited?

1 A. They were his relatives.

2 Q. When Nuon Chea was visiting the East Zone, did you accompany
3 him?

4 A. Yes.

5 [11.37.23]

6 Q. What was the overall living condition of the people in the
7 East Zone?

8 A. The situation was normal.

9 Q. What do you mean by "normal"?

10 A. It was normal in the sense that people cultivated rice and
11 they lived their normal life.

12 Q. Did people in the East Zone suffer from starvation or lack of
13 food?

14 A. Well, they were better in terms of food consumption and
15 availability.

16 Q. Yesterday, you told the prosecutor that you accompanied Nuon
17 Chea to visit the 1st January Dam. Do you stand by that
18 statement?

19 A. Yes, I do.

20 [11.38.31]

21 Q. When you got to the 1st January Dam, what was the overall
22 living condition of the people there?

23 A. They carried earth work, and the situation was normal.

24 Q. Could you describe the earth work -- earth carrying work and
25 dam construction?

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1 A. Well, I saw many people building dams and many of them carry
2 earth.

3 Q. Did you see or witness any torture inflicted on the people if
4 they, for example, failed to meet the work quota, or so?

5 A. Yes, I did.

6 Q. When Nuon Chea visited the 1st January Dam, did they stop
7 working in order to welcome him or they continue to work?

8 A. Yes, they did continue to work.

9 Q. If the dams were not constructed in the manner that it was
10 instructed, what -- did you see that?

11 A. Yes, I did.

12 [11.40.39]

13 MS. GUISSÉ:

14 Mr. President, I am intervening again; I crave your indulgence. I
15 really have to intervene again because we are losing a lot in
16 French.

17 I do not know whether counsel shouldn't observe a longer pause,
18 but she should bear in mind that the pause should be observed not
19 only between her question and the witness's answer, but also
20 between the witness's answer and the next question because we are
21 losing a lot in the French interpretation.

22 I am sorry to have to intervene and to slow down the proceedings,
23 but I have no choice but to do so.

24 [11.41.30]

25 MR. PRESIDENT:

1 Counsel, you may proceed.

2 MR. ANG UDOM:

3 Mr. President, I am of the opinion that if the Court may advise
4 not only the counsel or the witness but also the duty counsel who
5 is assisting the witness. He can give a signal to the witness
6 before he answers the question. That would help.

7 Secondly, I observe that, among the audience in the gallery,
8 there are Buddhist Monks as well, and it was the instruction from
9 the Court that it is not a requirement of all the Buddhist Monks
10 to rise when the Bench is entering the room. So I would like you
11 to once again try to observe your decision with respect to that
12 matter. Thank you.

13 MR. PRESIDENT:

14 I believe that parties understand this situation very well
15 because the civil parties as well as other parties have
16 participated in the proceedings for quite some time already, and
17 the Chamber has reminded parties many times already. And I
18 believe that the witness would respond to the question based on
19 the signal on the mic. If his mic is on, then he would respond to
20 the question.

21 And the Chamber advises the AV personnel to ensure that the --
22 there is a pause between the parties putting the question and the
23 witness answering to the question.

24 So, once again, I wish to remind the witness that you should
25 answer the question only when your mic is on.

1 And, court officer, please ensure that the seat of the witness is
2 arranged in a manner that he can see the light on his mic. Please
3 move it to the east so that the witness can easily see the light.

4 [11.45.12]

5 BY MS. TY SRINNA:

6 Q. When you witnessed that the dam was not constructed very well,
7 did Nuon Chea see that?

8 A. Yes, he did.

9 Q. When he saw that, what was his reaction?

10 A. He did not react noticeably; he simply summoned others to
11 advise them.

12 Q. Who did he invite for advice?

13 R. He would ask those who are responsible for the projects for
14 advice.

15 11.46.30

16 Q. Did you know the content of Nuon Chea's advice to the head of
17 the project?

18 A. Sometimes Nuon Chea gave advice on the spot, and sometimes he
19 invited those who were responsible for the project to come to the
20 place in order to give them advice or instruction.

21 Q. Other than summoning -- summoning the person responsible for
22 the projects, did Nuon Chea address the workers in the project,
23 concerning the dam construction?

24 A. Sometimes he invited the head of the cooperatives and
25 projects, or sometimes he addressed the mass.

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1 [11.47.24]

2 Q. When Nuon Chea addressed the mass, or he told the people of
3 the overall condition of the dams, what was the overall physical
4 condition of the people or workers over there?

5 A. I did not know. And I don't know how to respond to this
6 question. But they worked as normal. And I did not know how to
7 analyze the situation back then.

8 Q. Beside the visit to the 1st January Dam, did you accompany
9 Nuon Chea to visit any other dams in the country?

10 A. (Microphone not activated)

11 Q. Can you please answer to that question again because the mic
12 was not activated just now?

13 MR. PRESIDENT:

14 Counsel, please repeat your last question to the witness, because
15 just now the witness answered when the mic was not activated.

16 [11.49.27]

17 BY MS. TY SRINNA:

18 Q. Beside visiting the 1st January Dam, did you accompany Nuon
19 Chea to visit any other dams across the country?

20 MR. SAUT TOEUNG:

21 A. He went to visit many other dam construction sites, but I did
22 not always accompany him on those visits.

23 Q. Now I would like to turn to the -- to Nuon Chea's visit to
24 China.

25 My question is: When you accompanied him to China, did you

1 witness any signing of any agreement between Nuon Chea and the
2 leader of China?

3 A. (Microphone not activated)

4 Q. Please repeat your answer, since your mic was not on just now.

5 A. Back then I did not know much. Actually, at that time, they
6 met among the leaders and it was not my business, so I did not
7 know.

8 [11.51.23]

9 Q. I would like to turn back a bit to the question and statement
10 you made yesterday. Yesterday you testified to the question put
11 by the Prosecution that, when you first arrived in Phnom Penh you
12 stayed in B-20. Can you tell us what was the role of B-20?

13 A. B-20 was used as a place to mobilize forces on a temporary
14 basis, so new forces would be put in that office before they are
15 transferred to different places.

16 Q. Besides this place, did you know that B-20 was also a training
17 camp for the cadres of the Communist Party of Kampuchea before
18 they are designated to different posts in the regime?

19 MR. PRESIDENT:

20 Please, hold on. Before you answer the question, make sure that
21 your mic is on.

22 BY MS. TY SRINNA:

23 Q. I would like to pose the question again.

24 Yesterday, you told the prosecutor that, before you arrived in
25 Phnom Penh, you stayed in B-20. So my question is: Can you tell

1 us what the role or function of B-20 was?

2 Just now, you said that it was an interior place for labour force
3 or forces, and my question is: Did you ever hear that this B-20
4 was a training camp for the cadres of the Communist Party of
5 Kampuchea before they were designated to undertake different
6 posts in the regimes? Have you -- did you hear about that?

7 A. For B-20 - B-20 was an office where forces from the
8 countryside would stay temporarily and then they would select
9 those forces and designate them to different places, and it was
10 under the supervision of Pang. But the cadres did not stay there.
11 It was an office for mobilizing or gathering forces before they
12 are designated to other places.

13 [11.54.45]

14 Q. Were there any education or training before those forces were
15 sent out?

16 A. Yes, those who came to this office were trained before they
17 were sent out to different offices.

18 Q. Yesterday, you answered to the question posed by the
19 Prosecution concerning the "Revolutionary Flag", and yesterday
20 you said that you could not read and write very well, but Kham My
21 was the one who read the contents of the "Revolutionary Flag"
22 magazine to you. So, after he read the content of the
23 "Revolutionary Flag", did Kham My explain to you or say anything
24 -- say anything to you concerning this "Revolutionary Flag"?

25 A. He educated us. He tried to encourage us to be more patriotic.

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1 [11.56.32]

2 Q. Did you know the reason why Kham My had to read out the
3 content of the "Revolutionary Flag" to you?

4 A. Because at that time the majority of us did not read and write
5 well, so -- some of us did not even read Khmer, so the content of
6 the magazine must be read to us.

7 Q. What was the main purpose of reading this magazine?

8 A. In order to enhance our understanding and comprehension of the
9 "Revolutionary Flag".

10 Q. This morning, you testified that your security guard team was
11 assigned to provide the security guards for the commemoration of
12 the anniversary of the Party. Particularly, your team provided
13 the security for the leaders. So, after the conclusion of the
14 ceremony, did you inspect the place where the leader went to?

15 A. Yes, it was our routine work. We had to conduct inspections.

16 [11.58.34]

17 Q. Did you discover anything?

18 A. None.

19 Q. This morning, you also testified in relation to the -- to Duch
20 and Nuon Chea, so I would like to ask a further question
21 regarding this matter. Did you ever see Duch visit Nuon Chea's
22 workplace?

23 A. No, I didn't.

24 Q. So you are saying that you never saw Duch visit Nuon Chea's
25 workplace; is that correct?

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1 A. No, I didn't. And I did not know who else went there.

2 MR. PRESIDENT:

3 The time is now appropriate for lunch adjournment. The Chamber
4 will adjourn from now until 1.30 this afternoon.

5 We thank you, the Witness. And witness will continue to provide
6 testimony this afternoon, and civil parties lawyers will have
7 more than one hour more to put questions to the witness.

8 [12.00.44]

9 Court officer is instructed to arrange the place for the rest of
10 the witness and the duty counsel for this witness. Please ensure
11 that the witness is brought before the Chamber before 1.30 this
12 afternoon.

13 I note that the defence counsel is on his feet. You may proceed.

14 MR. IANUZZI:

15 Thank you, Your Honour. Briefly, for the usual reasons, Nuon Chea
16 would wish to retire to the holding cell for the afternoon
17 session.

18 And we have prepared the paper work. Thank you.

19 [12.01.31]

20 MR. PRESIDENT:

21 Counsel, please be seated.

22 The Chamber has noted that the request by Nuon Chea through his
23 counsel, he has asked that he be excused and allowed to observe
24 the proceedings from his holding cell. He has expressly indicated
25 that he waived his right to be present in this courtroom and he

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1 has indicated that he would give the Chamber the waiver signed,
2 or given thumbprint by him. The Chamber, therefore, grants such
3 request, and that Nuon Chea is now permitted to observe the
4 proceedings from his holding cell for the whole afternoon
5 session. He has waived his right to be present directly in the
6 courtroom.

7 The Chamber now would like to ask counsels for Nuon Chea to
8 present the waiver to the Chamber immediately and ensure that the
9 waiver is signed or given thumbprint by the accused person.

10 [12.02.45]

11 AV booth officers are now instructed to ensure that the holding
12 cell is well connected to the video-link so that he can observe
13 the proceedings for the whole afternoon.

14 Security personnels are now instructed to bring both Nuon Chea
15 and Khieu Samphan to his -- to their holding cells and return
16 Nuon Chea -- rather, return Khieu Samphan to the courtroom in the
17 afternoon session, by 1.30.

18 The Court is adjourned.

19 (Court recesses from 1203H to 1332H)

20 MR. PRESIDENT:

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

22 We shall then proceed with the questions by counsel for the civil
23 parties. You may now proceed.

24 BY MS. TY SRINNA:

25 Thank you, Mr. President. Good afternoon, Mr. Saut Toeung.

1 Q. Before we broke, I put a question to you whether you saw Duch
2 meeting with Nuon Chea at the office where he worked or not. Can
3 you tell the Court whether you have seen this or you just don't
4 remember?

5 MR. SAUT TOEUNG:

6 A. I have never seen them meeting together.

7 Q. However, this morning, the Co-Prosecutor asked you a question
8 concerning the letter you got from Nuon Chea to Duch and got back
9 from Duch to Nuon Chea.

10 [13.34.46]

11 Could you please clarify on this? The difference, indeed.

12 A. There is no difference in this.

13 Q. I think I have to rephrase the question; whether you knew Duch
14 very well or not.

15 A. I know him very well.

16 Q. During the time when you brought letters from Nuon Chea to
17 Duch and from Duch to Nuon Chea, had you ever seen both of them
18 meet? And, if so, how often?

19 A. No, I haven't seen them meeting one another.

20 MR. PRESIDENT:

21 Counsel Son Arun, you may now proceed.

22 MR. SON ARUN:

23 Your Honour, I do not think I understood the questions put by
24 civil party counsel.

25 She asked about the letters, whether -- how -- whether they were

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1 sent from Nuon Chea to Duch and from Duch to Nuon Chea and how
2 they meet. I just feel that the question was not really well put.

3 MR. PRESIDENT:

4 Indeed, counsel is advised to make sure that the question is put
5 in another way that it is more precise.

6 BY MS. TY SRINNA:

7 Thank you, Mr. President.

8 [13.36.46]

9 Q. I will put it this way: When you had been working as the
10 messenger, and that you were tasked with bringing letters from
11 Nuon Chea to Duch and from Duch to Nuon Chea, had you ever seen
12 these two people meet one another discussing some work?

13 MR. SAUT TOEUNG:

14 A. I don't know, and the reason that I said I don't know --
15 because I had never been close to them and I don't know what they
16 could have been talking to one another.

17 Q. Is it fair to say that you used to see these people have
18 meetings? Could you please wait until you see the red light on
19 your mic before you proceed with your response?

20 A. I used to see him - or them only when I sent the letters or
21 brought the letters from them, and I did not know whether the two
22 people met face-to-face.

23 Q. In your capacity as a messenger, when did you start delivering
24 letters from Nuon Chea to Duch and from Duch to Nuon Chea?

25 [13.38.47]

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1 A. I start doing this in 1978. It -- I had to do this in just a
2 short period of time -- too short to remember the details.

3 Q. Before 1978, had you ever noted any conversation or contacts
4 between these two people, Nuon Chea and Duch?

5 A. No, I don't know.

6 MR. PRESIDENT:

7 Counsel for Ieng Sary, you may now proceed.

8 MR. KARNAVAS:

9 Thank you, Mr. President. I just wish to point out that this
10 series of questions has already been asked and answered several
11 times, in a variety of ways. The answer is -- doesn't change.

12 [13.39.58]

13 Now, I suspect at some point they may be asking for more time.

14 Well, this is a good way of wasting time by asking the same
15 question over and over and over again.

16 The gentleman indicated his answer. Counsel should be told to
17 move on.

18 MR. PRESIDENT:

19 It is the right of party to object, but the objection should also
20 be grounded by reasoning.

21 MS. TY SRINNA:

22 I wish to respond to counsel Karnavas. The reason we put the same
23 questions -- because we feel that the statements made earlier by
24 the witness have not been clear, so we need to seek
25 clarification.

1 MR. PRESIDENT:

2 Objection by counsel Karnavas is sustained. If counsel keeps
3 putting the same questions, it is obvious that we know the
4 questions are repetitious, although you tried other ways to put
5 the questions.

6 [13.41.20]

7 Witness indicated very clearly that he did not have any knowledge
8 of the meetings between Duch and Nuon Chea. In Khmer, it is at
9 least precise to get.

10 Could you then move on with other questions? Because you can have
11 this floor until the afternoon first break.

12 BY MS. TY SRINNA:

13 Q. Do you recall you have given statements on the 4th of December
14 2007 and the 7th of December 2009? Or do you recollect the
15 statements you made before the Co-Investigating Judges?

16 MR. SAUT TOEUNG:

17 A. I don't recall those statements. I did make some statements.

18 Q. Since you have not recollected the statements, I may help to
19 refresh your memory by referring to the statement you made on the
20 2nd of December 2009, document D234/23. Mr. President, this
21 morning the document was already provided by the Co-Prosecutor to
22 the witness, and I would wish to know whether I am also supposed
23 to provide the document to the witness again.

24 MR. PRESIDENT:

25 If the document is already provided to the witness, the only

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1 thing you need to do is provide the Court with the ERN numbers in
2 three languages. That would suffice.

3 [13.43.54]

4 And this document should also be presented to the witness in --
5 to help him be on the same page.

6 BY MS. TY SRINNA:

7 Q. Mr. President, with regard to the ERN numbers, I will proceed
8 as advised later. The point that I wish witness to clarify is
9 document under ERN in Khmer 00408434, and in English 0041591; in
10 French, 00414587; question item 34.

11 The question was put in this item, and do you maintain your
12 position? Could you please wait until you see the red light
13 before you proceed with your response?

14 MR. SAUT TOEUNG:

15 A. Indeed, I still maintain what I stated in that document.

16 Q. The next item is ERN 00408437; English, 00414595; French, ERN
17 0043815; question item number 64.

18 The question is: "How was the situation of the people working
19 there?"

20 You stated that: "I saw them working very hard. I think that it
21 was the Sector committees that forced them to work that hard."

22 [13.46.57]

23 Do you still stand by your position?

24 A. Indeed, I stated as it reads in that statement. They worked
25 rather hard.

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1 Q. So it is fair to say you maintain your position; is that
2 correct?

3 A. Yes.

4 Q. On item 65, when -- you were asked:

5 "Through your understanding, they were working very hard was
6 because the Sector committees forced them to or they forced
7 people to work hard because of Mr. Nuon Chea's visit?"

8 [13.48.02]

9 And then you responded by saying that:

10 "When Ta Nuon Chea went there, he instructed people to work hard
11 but when Ta Nuon Chea left back, the Sector committees forced
12 people to work even harder. I know that Ta Nuon Chea planned to
13 provide people three meals a day and one dessert per week. But
14 the cooperative chiefs and Sector committees did not follow the
15 plan. Because he saw people becoming skinny, he went to visit
16 closely at cooperatives. For my forces were soldiers, we had rice
17 three meals -- or rather, we had rice -- or three meals per day
18 and a dessert per week. But ordinary people did not get as what
19 had been planned because the Sector committees did not follow the
20 plan."

21 [13.48.52]

22 Do you still stand by this position?

23 A. Yes, I do. It is correct.

24 Q. I may now move on to item 66: "Did Mr. Nuon Chea ever blame
25 cooperative chiefs and Sector committees in charge?"

1 And you said: "At that time he called them to study at his
2 criticism meeting."

3 Do you still stand by this statement?

4 A. Yes, I do.

5 Q. Do you still recollect whenever the study sessions or
6 criticism sessions conducted; where were they held?

7 A. We were called to the meetings once every one or two month to
8 attend this criticism sessions where we were refashioned.

9 Q. Were the meetings conducted in Phnom Penh or in the areas
10 where Nuon Chea would visit?

11 A. So far as I remember, the meetings were in Phnom Penh.

12 Q. Is it correct to say that Mr. Nuon Chea knows the situation of
13 the people in the location and in the cooperatives?

14 MR. IANUZZI:

15 Actually, Your Honours, that's a leading question.

16 MR. PRESIDENT:

17 Witness, could you please hold on?

18 [13.51.48]

19 Counsel, you may proceed. Repeat your objection.

20 MR. IANUZZI:

21 That's a leading question, Your Honour. I object to it on that
22 basis.

23 MR. PRESIDENT:

24 Objection is sustained.

25 Witness is advised not to respond to a leading question.

1 BY MS. TY SRINNA:

2 Q. After the criticism meetings, did Nuon Chea take any measures
3 regarding the people in these sectorial committees?

4 MR. SAUT TOEUNG:

5 A. I don't know.

6 [13.52.24]

7 Q. On item number 71, reads -- excuse me, I'd like to present the
8 ERN in Khmer first.

9 00408438; English, 00414596; French, ERN 0043815.

10 Question item 71: "Did you ever hear that at that time people
11 died of starvation or overwork?"

12 And you responded: "Yes, I used to hear that people died of
13 starvation and overwork."

14 Do you still stand by this statement?

15 A. Yes, I do.

16 Q. Are you aware that the leaders could have been familiar with
17 this situation?

18 A. I think they could have been aware of this. As leaders, they
19 should have been informed.

20 Q. On the same page, question 72: "When you went to the Eastern
21 Zone, what did Mr. Nuon Chea do there?"

22 You responded by saying that: "Ta Nuon Chea met with So Phim in
23 that year."

24 Do you still stand by your position?

25 A. Yes, I do.

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1 Q. Then do you still recollect that Nuon Chea met with So Phim?

2 And when was it, the last encounter?

3 A. No, I don't remember. I couldn't remember it.

4 [13.55.35]

5 Q. I would like to also move to ERN, in Khmer, 00408441; English,

6 00414591; French, 00434819.

7 Question 101: "How many forces did normally escort Mr. Nuon Chea
8 to do this work?" This is the question back then.

9 And you responded by saying that: "As I mentioned earlier, there
10 were about more than 10 forces; at most, 15."

11 And the following question, question 102: "How many people were
12 assigned to escort Mr. Nuon Chea to meet with Ta Mok?"

13 You said: "Fourteen." And you also restated the same position
14 before the Co-Prosecutor yesterday.

15 [13.57.08]

16 Before I proceed to the next question, may I ask whether you
17 still maintain your statement as it is?

18 A. Yes, I do. Since I do not remember things very well, I stand
19 by that statement.

20 Q. Could you describe the security situation back then in the
21 Khmer Rouge regime that made you have to escort Nuon Chea to
22 every visit to the cooperatives?

23 A. As security guard, we were vested with the duty to provide
24 security or protection to our cadres.

25 Q. Can you tell the Court what is the justification before people

1 could ask for security guards?

2 A. For people in the regiment, the division, and the ministers --
3 these people were entitled to have close protection.

4 Q. Are you aware of how Mr. Nuon Chea administered people or
5 things?

6 [13.59.04]

7 A. We were obliged to respect the organizational discipline and
8 we were told to keep secrets. And we only knew things we were
9 supposed to know, and that's all.

10 Q. Can you tell us the work regime in those years and Mr. Nuon
11 Chea characteristic?

12 A. He was a normal person.

13 Q. I think I may need to repeat: What kind of power Mr. Nuon Chea
14 had during the regime as opposed to your power and rights?

15 A. He did not have strong power. He just educated people normally
16 -- did not use any violence against any of us.

17 Q. I would like to proceed to the next question -- document under
18 ERN 00408445 in Khmer; English, 00414604; French, 00434322.

19 Question 144 -- rather, 43: "Regarding 'Angkar', who was the
20 leading cadres who were classified as leadership cadres?"

21 [14.01.27]

22 You said: "'Angkar' was Pol Pot and Nuon Chea. 'Angkar' referred
23 to senior leaders."

24 Do you still stand by your statement?

25 A. Could you please repeat that statement?

1 Q. Question 143: "Regarding 'Angkar', who was the leading cadres?
2 Who were classified as leadership cadres?"

3 [14.02.07]

4 And you said: "'Angkar' was Pol Pot and Nuon Chea. 'Angkar'
5 referred to senior leaders."

6 Do you still stand by this statement?

7 A. I think the question is correct, but the final part of it is
8 not fully correct, because "Angkar" could have been referred to
9 Pol Pot and Nuon Chea, not senior leaders.

10 Q. So you would agree that, if the statement were to be shorter,
11 like "'Angkar' was Pol Pot and Nuon Chea", then that would be the
12 correct statement and then you stand by it; is it so?

13 A. Yes, indeed, I prefer the first part of the statement, not the
14 remainder of the statement.

15 MS. TY SRINNA:

16 Thank you, Mr. President and Your Honours. I have no further
17 questions to put to the witness, but I would like to hand over to
18 international counsel.

19 [14.03.33]

20 MR. PRESIDENT:

21 Yes, you may proceed.

22 MS. SIMONNEAU-FORT:

23 Good afternoon, Mr. President, Your Honours, ladies and
24 gentlemen. And good afternoon, Witness.

25 Before I start my examination of the witness and to be at ease in

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1 the time allotted, may I request the Chamber to grant me 15
2 additional minutes because I fear I may run out of time and if it
3 is possible to confirm that, I will be able to assess the number
4 of questions I have? Thank you.

5 MR. PRESIDENT:

6 Your request is granted, but please try to avoid repetitious
7 questions, leading questions, or questions that may invite the
8 witness to provide his conclusion or assumption.

9 [14.04.53]

10 QUESTIONING BY MS. SIMONNEAU-FORT:

11 Thank you, Mr. President. I will endeavour to do my best.

12 Q. Witness, you have been examined for almost two days and you
13 may think that we are revisiting points that have already been
14 covered. If I do so, it is because I would like to enhance some
15 of the answers you've given and to ask some details. It is the
16 details and clarifications that witnesses provide that would
17 enable us to understand what happened between 1975 and 1979 and
18 that would also enable Cambodians to understand what happened so
19 all details are important -- all testimonies are important and
20 your testimony is particularly important. Please bear with me if
21 my questions may bother you. And I thank you for the details that
22 you will provide.

23 [14.06.05]

24 I am obliged to go through each period. I will review what you
25 said on each of the periods. You said that in 1975 you started

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1 your revolutionary life in Rattanakiri. When you were in
2 Rattanakiri, did you happen to see any of the accused persons,
3 even from afar?

4 MR. SAUT TOEUNG:

5 A. I did not know.

6 Q. Did you know Mr. Klan Fit in Rattanakiri?

7 A. No, I don't know.

8 Q. Did you already know Mr. Kham My in Rattanakiri?

9 A. Kham My, I did not know -- I do not know which Kham My you are
10 referring to, but I did not know the Kham My in -- I only knew
11 Kham My at Y-10.

12 Q. Thank you. That is, indeed, the person I am referring to.

13 [14.07.57]

14 You then went to B-20. To the best of your knowledge, can you
15 tell us on what date you left Rattanakiri to go to B-20?

16 A. I could not recall that because back then I was still very
17 young, and I could not read either. I simply followed others to
18 Phnom Penh. I did not even know Khmer language.

19 Q. Can you at least tell us what year that was?

20 A. It was in 1968. I could only remember the year.

21 Q. Yesterday, you said that in 1968 you were in a youth mobile
22 wing; can you confirm that?

23 A. Yes, I maintain this statement. I was then staying with the
24 mobile group so we were on mobile; we were transferred from here
25 and there, but the mobile unit, at that time, was differently

1 defined from that mobile unit at the later date.

2 [14.10.07]

3 Q. What was the mobile youth wing like in 1968?

4 A. It was not the mobile unit, actually, but it was like a child
5 unit, but we were moved from one place to another. We were still
6 young youth, at that time, and then we were moved from one place
7 to another, but we were not in the mobile unit.

8 Q. Thank you.

9 Regarding B-20, was it subdivided into several bases?

10 A. I do not know. I only knew, back then, that it was Office
11 B-20.

12 Q. Does the name Ly Keng alias Kan (phonetic) ring a bell to you?

13 A. I do not know. There were many peoples and many names, at that
14 time, so I cannot recall.

15 Q. While you were at B-20, did you see any of the accused persons
16 even from afar?

17 A. I did not know because I stayed there for a short while.

18 Q. You stated a while ago that you arrived at B-20 in 1968. For
19 how long did you stay there?

20 A. It was long time ago; I can hardly recollect it. I came to
21 B-20 in 1968. It was -- I'm being confused now because in 1968 I
22 came to B-20; then I went to a unit which was tasked to transport
23 ammunition and foodstuff, but I cannot recollect it well because
24 there were many events that took place at that time, and we were
25 sent back and forth, and I can hardly remember it.

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1 [14.14.16]

2 Q. That is fine.

3 You stated that you transported food and ammunition by truck from
4 the region of Kampong Cham to Kampong Chhnang; is that correct?

5 A. That is correct.

6 Q. While you were transporting such materials, were you part of a
7 military division?

8 A. Back then, I was in one unit under the supervision of Ta Kri
9 (phonetic). It was actually a transport unit.

10 Q. At the time, were any explanations given to you as to why you
11 were transporting ammunition?

12 A. We were fighting against the Lon Nol administration and the
13 American Imperialist.

14 Q. Were the boats and the trucks you were using at the time,
15 Cambodian?

16 A. Yes, they were Cambodian, but the trucks were the Chinese-made
17 trucks, but the boats were Cambodian-made boats.

18 [14.16.39]

19 Q. Did you understand why you had to transport ammunition to
20 Kampong Cham and Kampong Chhnang in late 1974?

21 A. We had to fight against the Lon Nol soldiers and we had to try
22 to seize Phnom Penh.

23 Q. Can you try to recall exactly in which period you transported
24 ammunition and in what year that was and when you stopped
25 transporting such ammunition?

1 A. I cannot recollect it well, but back then, it was sometime in
2 1974. It was in 1974 because 1975, Phnom Penh was liberated and I
3 was not the person in charge of regular transportation of
4 ammunitions and -- and other stuff. Actually, there are many --
5 there were many others.

6 Q. Does Office B-5 ring a bell?

7 A. I don't know.

8 [14.18.47]

9 Q. Let us now talk about your arrival in Phnom Penh. Where were
10 you on the 17th of April 1975?

11 A. I stay in K-7, and my direct superior was Kou.

12 Q. Did someone talk to you in advance, explaining an evacuation
13 plan for the towns?

14 A. That was not my business; I was an ordinary person so I was
15 not told or shared with any information.

16 Q. Thank you. Did you know, a little earlier, that you were going
17 to leave for Phnom Penh?

18 A. Actually, they did not tell us in advance. When we had to
19 move, then we -- we moved.

20 Q. And who issued orders that you should go to Phnom Penh?

21 A. Back then, Dim (phonetic) -- Dim (phonetic) ordered, and then,
22 when I came to Phnom Penh, I met Pang.

23 [14.20.57]

24 Q. Thank you. You stated that when you arrived in Phnom Penh,
25 while on the road to Phnom Penh, you came across people trekking;

1 who were those people? What kind of people were they?

2 A. It was a bit difficult to answer that question because those
3 people who marched out of the city, there were male and female
4 citizens and I -- if you ask me for the categories of those
5 people, I do not know and I do not know them.

6 If I try to answer that question then it would lead -- it would
7 lead me to speculating that because I did not know those people
8 who -- who moved out of the city. And, again, if -- if your
9 question deals with minor details of -- of the -- the situation I
10 did not know, but if you ask about the leaders, I would be able
11 to answer some of the question, and I do not remember many things
12 because it happened long time ago.

13 I was not a journalist and I am not a historian either, so I
14 could not record any history. Wherever I was asked to do things,
15 then I would mind my own business. If you ask me for the minor
16 detail, I could not answer the question and I find it quite
17 confusing. And if you keep asking me for the minor details, then
18 probably I may not be able to provide you the consistent answers;
19 then it may lead to speculation.

20 [14.23.06]

21 MR. PRESIDENT:

22 Yes, Witness, just try to focus your attention on the question
23 put to you; you do not have to elaborate further. If you cannot
24 recall the dates or the events, then you just say so; that should
25 be it.

1 BY MS. SIMONNEAU-FORT:

2 Q. Witness, were there elderly persons among the people you met?

3 MR. SAUT TOEUNG:

4 A. Elderly people -- how old were they, are you referring to?

5 Q. That is not important. I will move to another question.

6 [14.23.56]

7 Did you observe that there were soldiers monitoring those people?

8 A. I did not see soldiers except the resistant fighters and those
9 resistant soldiers, they were guarding around the important
10 offices within the city.

11 Q. Thank you. Did you discuss with your road mates what you saw
12 -- that is, the people you saw on the road and who were leaving
13 Phnom Penh?

14 A. When I, of course, came to Phnom Penh, I did see people
15 marching out of the city; there were a lot of them.

16 Q. Did you discuss that with your companions?

17 A. No, I didn't.

18 Q. Can you very quickly describe to us what you saw in Phnom Penh
19 on your arrival?

20 A. I cannot describe it because I do not know where to start
21 from.

22 Q. Was it a normal town or a town in chaos?

23 A. Yes, at that time, it was in chaos, and people were of course
24 leaving the cities, and there were soldiers, and it was not in
25 order, actually.

1 [14.26.31]

2 Q. Thank you.

3 You said on several occasions that, from mid-1975 up until when
4 the trip to chamber -- to China was organized -- that is, June,
5 August, and September 1978 -- you were with Nuon Chea, you were
6 his guard. Can you tell us why you were appointed his guard?

7 A. At that time, there were a roster for the security guards or
8 close protection to guard the leaders on his trip oversea so
9 there must be a representative from our security team to
10 accompany the leaders outside the country.

11 [14.27.41]

12 Q. Can you tell us in greater detail what your functions as a
13 bodyguard consisted in, on a daily basis; I am referring to your
14 assignments as a bodyguard?

15 A. I did nothing important. Actually, I simply came to guard the
16 compound. And if I was asked to go and play sport, I would go and
17 play sport with others. Otherwise, I would sit or stand guarding
18 the office. I did not do anything important.

19 Q. Thank you. There were many of you who were bodyguards, and you
20 have stated that, when Mr. Nuon Chea went on trips, there were
21 more than 10 people guarding him. Does that mean that he ran some
22 kind of a risk when he was travelling?

23 A. When was it -- when he visit -- when he went to China or what
24 particular situation; can you clarify that?

25 [14.29.12]

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1 Q. I am referring to all situations. Since he was always
2 surrounded by bodyguards when he travelled, including Peking,
3 what I want you to tell us is whether his life was in danger and
4 so he had to be guarded.

5 A. Yes.

6 Q. And what was the danger?

7 A. We were asked to be vigilant; for example, there could be some
8 kind of danger when car collide with one another and attacks.

9 Q. You also explained that you had visited the area of Battambang
10 in 1976 and 1977, and you spoke about the people who were working
11 in the rice fields. And the people working in the rice fields,
12 were there only people from the countryside?

13 A. They were mixed of people; perhaps, peasants and those who
14 were from the city.

15 Q. And how did you know that there were people from the cities as
16 well?

17 A. I just presumed because Phnom Penh city was empty and these
18 people could have been from Phnom Penh.

19 [14.31.26]

20 MR. PRESIDENT:

21 Since it is now appropriate time for adjournment, we will take a
22 20-minute adjournment.

23 Court officers are now instructed to ensure that duty counsel and
24 witness be taken to their room and have them returned to the
25 courtroom.

1 (Court recesses from 1431H to 1452H)

2 MR. PRESIDENT:

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

4 We would like now to hand over to Lead Co-Lawyer for the civil
5 parties to proceed with the questions for another 15 minutes.

6 BY MS. SIMONNEAU-FORT:

7 Yes. Thank you, Mr. President.

8 Q. I now would like to speak about the period when you were part
9 of Unit Y-10. And in this unit, who was Kham My's boss?

10 MR. SAUT TOEUNG:

11 A. I don't know. I know that Pang was the person who was overly
12 in charge.

13 Q. And above Pang, who was there?

14 [14.53.58]

15 A. I don't know.

16 Q. Witness, I now would like to show you a document; this is
17 document D121/6.2, French ERN 00408242; English, 00434340, Khmer
18 00408225. May I please display this document on the screen and
19 provide a Khmer copy to the witness?

20 MR. PRESIDENT:

21 You may proceed.

22 Court officer is now instructed to take the hard copy of the
23 document and have it handed over to the witness.

24 [14.55.14]

25 BY MS. SIMONNEAU-FORT:

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1 Q. Witness, do you prefer reading the document or would you like
2 me to read it to you?

3 MR. SAUT TOEUNG:

4 A. It would be better if you read it to me, please.

5 Q. This document is a document that was drafted by Duch, and he
6 indicates the following -- and I will quote: "Annotation: 19 April
7 1978, has spied."

8 MR. PRESIDENT:

9 Counsel, could you please hold on? Because counsel for Khieu
10 Samphan is on his feet.

11 He may proceed first. Counsel Kong Sam Onn.

12 MR. KONG SAM ONN:

13 Thank you, Mr. President. Just now, counsel for the civil parties
14 said that document belonged to Duch. My question is how this
15 document is relevant before us today, because this document is
16 not relevant to this witness.

17 [14.56.49]

18 MS. SIMONNEAU-FORT:

19 Well, then, Mr. President, if we read it out, we will see how
20 this document is relevant because it does speak about Kham My and
21 about Y-10.

22 MR. PRESIDENT:

23 Could counsel give your reasoning behind this, against the
24 objection, before the Chamber can rule on this and then you may
25 proceed after our deliberation?

1 Counsel for Nuon Chea, we noted you are on your feet. You may
2 proceed.

3 [14.57.25]

4 MR. IANUZZI:

5 Thank you, Your Honour. I just wanted to note that I think the
6 usual procedure is to first ask the witness if he's familiar with
7 the document and then we can put it on the screen, if I'm not
8 mistaken. We need to establish some -- some connection between
9 the witness and the document -- some connection in terms of
10 knowledge.

11 MR. PRESIDENT:

12 Counsel for the civil party, you are now advised to follow the
13 practices we already been following. You may ask the witness
14 whether he is familiar with the document and if not, then the
15 document will be removed and you may proceed to your line of
16 questioning, but not putting the document to the witness and then
17 questions are drawn from the document that the witness may say he
18 has not been familiar with. So it would be better if we tried to
19 follow the set rule and standard.

20 [14.58.47]

21 MS. SIMONNEAU-FORT:

22 Okay. So, then, we can remove the document, and I will put
23 questions to the witness anyway.

24 MR. PRESIDENT:

25 Court officer is now instructed to remove the document from

1 witness, and the document is requested to be removed from the
2 screen.

3 BY MS. SIMONNEAU-FORT:

4 Q. Witness, do you know if Mr. Kham My was a member of the
5 committee of S-71?

6 MR. SAUT TOEUNG:

7 A. I don't know.

8 Q. You said that people disappeared at Y-10 and, yesterday you
9 told us where they had been sent to. I would like to remind you
10 of your statements in document E3/103 and -- and I'd like to
11 remind you of your answers 7 and 8. And you said then -- and the
12 document was given to you and on question 7 -- you said -- which
13 was: "Did you know if people had disappeared at -- within Y-10?"

14 And you said:

15 "Yes, indeed people had disappeared, but these people were only
16 people who had been accused of being traitors and who were
17 brought away to be killed, but I do not know where they were
18 brought to. Back then, I thought that they had been brought away
19 to be killed, but I didn't know where they had been brought to
20 and I was so afraid that I might also be arrested. Kham My would
21 tell me that they had been assigned to another location."

22 And at question 8, which is: "Did you hear about Koy Thuon, Vorn
23 Vet's, and Hu Nim's arrests?"

24 And you said: "Back then, that is to say before 1979, I knew
25 that they had been killed, but the information was not made

1 public."

2 Do you confirm this? Do you confirm that these are your
3 statements before the Co-Investigating Judges?

4 [15.01.20]

5 A. Regarding Ta Khuon (sic) or Ta Duch -- what is the name you're
6 referring to? Could you please repeat it; the final name you
7 mentioned?

8 Q. Yes, you can just drop the names. I'm going to simply put
9 questions to you about answer 7, which -- in which you speak
10 about the people from 8 -- Y-10. You said that people within Y-10
11 accused of being traitors were brought away to be killed and you
12 said that you believed that they had been brought away to be
13 killed. Can you confirm what you had said then?

14 A. Back then, I did say so, and people -- some people were taken
15 away. Whether they were taken to be killed or they were
16 relocated, I'm not sure, but they were removed.

17 [15.02.40]

18 Q. While you were at X -- Y-10, you were Nuon Chea's bodyguard
19 and you were also Nuon Chea's messenger. Among those who were at
20 X -- at Y-10, were there people tasked with arresting others?

21 A. I did not know them because we had different designations.

22 Q. At Y-10, were there some people in charge of guarding persons
23 who were imprisoned?

24 A. I did not know it either.

25 Q. Regarding your job as a messenger, do you recall phoning Duch

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1 at the request of Nuon Chea to set appointments between them?

2 [15.04.05]

3 A. I did not have access to a telephone at that time.

4 Q. Mr. Witness, let me remind you of question and answer 117,

5 document D103 (sic), in which the Co-Investigating Judge puts the

6 following question to you -- and the Co-Investigating Judge

7 quotes what Duch said in the morning:

8 "Toeung came for three or four days to take confessions. When

9 Nuon Chea had to see me, he would ask me to leave S-21, and at

10 the time his messenger, Toeung, informed me by phone."

11 And you answered by saying: "That is quite correct."

12 Do you confirm that answer today?

13 A. I do not confirm because I am not clear. I suggest that it be

14 removed. It is not true.

15 [15.05.33]

16 Q. Mr. Witness, are you aware of the use of passwords?

17 A. I do not know.

18 Q. I am almost done. During your training sessions, do you recall

19 receiving a document of ethics containing 12 principles?

20 A. Yes. We did receive and we had to read it every day because we

21 had to understand what constituted moral quality of the people.

22 So we had to study that; it was very important because they

23 taught us to strengthen our standpoint in order to serve the

24 people and the nation.

25 [15.06.51]

1 Q. Thank you. And what happened to persons who did not abide by
2 those 12 points of ethics?

3 A. If they did not abide by or they failed to abide by those
4 moral principles, then they would be re-educated.

5 Q. And over and above the education or re-education, was there
6 something else?

7 A. No, there was nothing else. It was only re-education, and they
8 did it in respective section.

9 Q. Mr. Witness, let me remind you of the question and answer 172,
10 document D174: "What would have been done to you if you violated
11 the ethics?"

12 And your answer was: "If you violated that ethic, you would be
13 dead."

14 Can you explain what you meant by that answer?

15 [15.08.24]

16 A. I cannot explain. I cannot explain.

17 Q. But do you confirm that that is what you stated?

18 A. Yes, I do.

19 Q. Thank you.

20 I have one last question for you, sir, or perhaps two.

21 And the first question is as follows: At the time between 1975
22 and 1979, were you a free man?

23 A. At that time, the rule was very strict.

24 Q. What should I understand by that answer, sir?

25 [15.09.48]

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1 A. To my understanding, we had to respect the organization;
2 otherwise, we would be -- we would be accused of wrongdoing.

3 Q. And this is my last question, Mr. Witness, and it is as
4 follows: During that period, were you afraid?

5 A. Yes, I was -- I was afraid.

6 Q. Afraid of what?

7 A. I was afraid of committing any wrongdoing.

8 Q. And what would have happened if you committed such wrongdoing
9 or an offence?

10 A. I was afraid because, if I committed any wrongdoing, I would
11 be taken away or I would be subjected to execution also.

12 [15.11.38]

13 MS. SIMONNEAU-FORT:

14 Thank you, sir. I have no further questions for you.

15 MR. PRESIDENT:

16 Thank you.

17 I would like to ask fellow Judges on the Bench, do you have any
18 question to put to the witness.

19 If there is no question, then I would like to turn the floor over
20 to the defence counsel for Nuon Chea to put questions to this
21 witness.

22 And it would be helpful if the defence counsel for Nuon Chea can
23 indicate as to how much time they would need to put question to
24 this witness. And you may proceed.

25 MR. IANUZZI:

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1 Thank you, Your Honour. Hopefully, this will be a welcome
2 submission. Given some of the impeachment that's already been
3 accomplished today by my colleagues on the other side of the
4 stage, we will need significantly less time. I expect myself to
5 take about an hour. Major Son Arun, if he has any questions at
6 all -- he's indicating that he doesn't. So, if there's some
7 anxiety about time, I could surely complete my examination before
8 the coffee break, tomorrow morning, if Your Honours have
9 questions for this afternoon.

10 [15.13.00]

11 MR. PRESIDENT:

12 Well, if you will take only one hour or so, then you may proceed
13 from now on because the--

14 QUESTIONING BY MR. IANUZZI:

15 Thank you, Your Honour. Good afternoon, Mr. Witness.

16 Q. Mr. Witness, I'm going to start out this afternoon by
17 referring to three documents, three documents which we've
18 referred to already over the course of the last two days and that
19 I believe that you are familiar with, but just to go step by
20 step.

21 The first document I'd like to refer to is E3/103, and that's
22 English ERN 002040118 to 00204022, French ERN 00490622 through
23 00490626, and Khmer ERN 00204013 through 00204017. And that, Mr.
24 Witness, is a statement -- a written record of an interview with
25 the Office of the Co-Investigating Judges that's dated 4 December

1 2007.

2 Are you, in fact, still familiar with that document?

3 [15.15.02]

4 MR. SAUT TOEUNG:

5 A. No, I am not. I'm not.

6 Q. You've been -- you've been referring to the document over the
7 -- the course of the last two days. Perhaps you could have a look
8 at it. I believe it's in front of you already. It's one of the
9 statements that's formed the basis of quite a bit of your
10 testimony since you've come into this courtroom.

11 A. Sorry, I cannot hear the translation.

12 MR. PRESIDENT:

13 Court officer, please check his headphone to ensure that the
14 battery is -- still -- still remains and make sure that his
15 headphone is working well.

16 And we would also like to check with the defence counsel whether
17 or not you have any document to present to the accused -- to the
18 witness.

19 [15.16.18]

20 MR. IANUZZI:

21 I believe the witness has the documents; it's E3/103. He's been
22 testifying about it for the last two days. I do have a spare copy
23 if that assists.

24 MR. PRESIDENT:

25 It appears that the accused -- sorry, the witness does not have a

1 copy of that document.

2 Court officer, please take the document from the Defence and
3 present it to the witness.

4 MR. IANUZZI:

5 And perhaps, pursuant to the procedure, it should be placed on
6 the screen as well; that way, everybody else can see it.

7 [15.17.29]

8 MR. PRESIDENT:

9 Yes, please -- please proceed. Assistant, please, make sure that
10 the document is displayed on the computer screen.

11 BY MR. IANUZZI:

12 Q. Are you able to read that document, Mr. Witness? Are you able
13 to see it and to read it and to understand it?

14 MR. SAUT TOEUNG:

15 A. Could you please read it for me? It would be better if you
16 read it for me.

17 Q. Well, it's a five-page document. It's right there, in front of
18 you. Perhaps you could leaf through it and tell me if you're
19 familiar with it. It's a statement you made.

20 [15.18.37]

21 A. I do not understand your question.

22 MR. PRESIDENT:

23 Witness, can you read the document before you?

24 MR. SAUT TOEUNG:

25 I am sorry; I cannot hear the translation well.

1 MR. PRESIDENT:

2 But can you read -- can you read the document before you?

3 [15.19.07]

4 MR. SAUT TOEUNG:

5 I cannot read it well, so I -- it would be better if it is read
6 for me.

7 BY MR. IANUZZI:

8 Q. Well, I'm not quite sure I understand. You do read Khmer; is
9 that -- that's correct?

10 MR. SAUT TOEUNG:

11 A. Yes, I do, but very little.

12 Q. Okay. Okay. If -- if it's a question of being tired, Mr.
13 Witness, I'm -- I'm happy to give you a rest, and we can start
14 tomorrow.

15 MR. PRESIDENT:

16 The Co-Prosecutor, you may proceed.

17 [15. 20.00]

18 MR. LYSAK:

19 Yes, I object. Counsel is badgering this witness.

20 He's made clear that he -- that he doesn't read very well and,
21 because of that, we've been reading the relevant passages for
22 him. If counsel has some questions, he should follow that. It's
23 not a matter of the witness being tired. The witness has
24 expressed that it is easier for him if the person asking the
25 question reads from the document. That's been going on for the

1 last day and a half.

2 MR. PRESIDENT:

3 Mr. Witness, do you require that the Defence read this portion of
4 these documents for you?

5 [15.20.54]

6 MR. SAUT TOEUNG:

7 Yes.

8 MR. PRESIDENT:

9 Well, the testimony is not yet complete. There are other parties
10 -- namely, the Defence will be putting questions to you as well.
11 So, if you cannot read, then you can request that a portion of
12 the document be read to you. The defence counsel may read a
13 portion of the documents that they want to ask a question to you.
14 So other parties have already done that in the last few days.

15 [15.21.45]

16 BY MR. IANUZZI:

17 Your Honour, perhaps I can assist.

18 First of all, I'm obviously not trying to badger anyone. I don't
19 have any substantive questions about the content of this
20 document, so perhaps, if I try another route, I'll be able to
21 accomplish what I'm after.

22 Q. Mr. Witness, this purports to be a statement that you made to
23 the Office of the Co-Investigating Judges on the 4th of December
24 2007, and as I've said before, you've been commenting on this
25 document over the course of the last two days.

1 So my first question is: Do you remember making this statement to
2 the Office of the Co-Investigating Judges on the 4th of December
3 2007?

4 [15.22.37]

5 MR. SAUT TOEUNG:

6 A. I cannot recall it.

7 Q. Do you remember placing your thumbprint on any pages of that
8 document? Perhaps you could have a look at it. Your thumbprint is
9 on the document, or purports -- what purports to be your
10 thumbprint is on that document; perhaps you can look at the
11 bottom of each page and at the last page. And would that--

12 A. Yes, I remember it.

13 [15.23.21]

14 Q. Okay, so you remember making this statement -- you remember
15 giving this statement to the Office of the Co Investigating
16 Judges.

17 A. Yes, I do.

18 Q. Thank you, Mr. Witness. And do you remember affixing your
19 thumbprint to the bottom of each page and to the final page? And
20 I believe under your thumbprint on the final page is a signature.
21 Do you remember putting your thumbprint and your signature on
22 that document?

23 A. I do not remember.

24 Q. Do you remember taking an oath before you gave this statement,
25 as indicated on the second page of the document: "This person

1 took an oath in accordance with the provisions of Rule 24 of the
2 Internal Rules of the Extraordinary Chambers." Do you remember
3 taking such an oath?

4 A. I remember it, but at that time I did not want to take an
5 oath, but since they forced me -- forced me to take an oath, I
6 simply followed.

7 [15.25.10]

8 Q. Thank you, Mr. Witness. Is your testimony that someone from
9 the Office of the Co Investigating Judges forced you to take an
10 oath; is that what you've just said?

11 A. My understanding, it was not a force, but I did not know the
12 procedure of taking an oath, but at that time they asked me to
13 take an oath and I took it. But at that time they -- if they
14 asked me whether or not I had killed anyone then -- I did not
15 really understand the procedures, but since they asked me to do
16 it I had to do it. But I, at that time, promised that I, from now
17 on, I would never kill anyone. At that time, I was a bit afraid,
18 then I decided to take an oath.

19 [15.26.25]

20 Q. Just going back to the last part, "then I decided to take an
21 oath", when did you decide to take the oath?

22 A. I took an oath the first time I came here. I did not remember
23 the date, but at that time I came here for the first time and I
24 did it.

25 Q. Okay, Mr. Witness, I think I -- I think I get you clearly now.

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1 Let me move on to another document. This is document number D258.
2 Actually, strike that. Let me start with document A339 -- A339;
3 and that's English ERN 00423275 through 004232 -- it's a one page
4 document-- excuse me, Khmer ERN 0040160, in French ERN 00423552.
5 Perhaps this document, Mr. Witness, let me ask you, with respect
6 to your last statements, you -- you just mentioned that you took
7 an oath the first time you came to Phnom Penh. The document I'm
8 referring to is a written record of the swearing of the witness,
9 and that's dated 2 December 2009. That document purports to have
10 been executed at 9 in the morning, on the same day that you
11 engaged in a confrontation with Duch here in Phnom Penh.

12 [15.28.36]

13 My first question is: Is this that -- that oath that you were
14 referring to? Is this the first time you remember taking an oath?

15 A. Yes, I do.

16 Q. Thank you.

17 Going back to the -- the previous document I mentioned, document
18 D258, and that's English ERN 00413939 through 004101 -- excuse
19 me, 00413947; Khmer ERN 00410161 through 00410169; French ERN
20 00413948 through 00413955.

21 [15.29.51]

22 That, again, document D258, is a written record of a
23 confrontation between you and the accused, now convicted person
24 Duch. This is another document that you have made reference to
25 several times over the course of these last two days.

1 Perhaps that could be put on the screen and a hard copy given to
2 the witness? I think you may have one already. If not, I've got a
3 spare copy.

4 (Short pause)

5 Let me know when you've had a chance to have a look at it. Mr.
6 Witness, have you had a chance to -- to see that document?

7 A. No, not yet.

8 Q. Well, I just saw you looking at it. That's the one.

9 A. I'm not sure I have understood the document, because you only
10 show only portion of it.

11 Q. No, I've - I've given you the entire document. You've just had
12 it in your hand.

13 [15.32.29]

14 A. Yes, indeed, I have obtained the document and have it kept
15 here.

16 Q. Thank you. Again, that is a written record of a confrontation
17 between you and Duch, and that document is dated also the 2nd of
18 December 2009 at 9:15 a.m., so 15 minutes -- purportedly 15
19 minutes after you took your oath. Do you recall that? Do you
20 recall taking an oath and then beginning the confrontation?

21 A. I did not meet him until I had taken an oath first.

22 Q. Thank you.

23 [15.33.23]

24 Again, at the bottom of each of this document, and again at the
25 end, is a thumbprint, which purports to be yours. Could -- could

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1 you have a look at that and tell me is that in fact your
2 thumbprint? Did you in fact affirm this document by placing your
3 thumbprint on the bottom of each page and at the end?

4 A. I do not recognize this because people who could give
5 signature or thumbprint only those who higher educated.

6 Q. I'm sorry, Mr. Witness, I didn't understand your response. Did
7 you say that only educated people could affix their thumbprint to
8 a document?

9 A. Yes, I did say that. You know, like -- when people give a
10 thumbprint, it is really difficult to check whether the
11 thumbprint belonged to him or her unless you have something to
12 prove it. I know that the thumbprint here could be for someone
13 else, but I recognize my handwriting on that piece of document.
14 But I can presume that the thumbprints belong to me, anyway.

15 Q. Indeed, Mr. Witness, very -- very correct you are. It is very
16 difficult to recognize thumbprints. Do you -- do you agree that
17 this is your statement?

18 [15.35.38]

19 A. Yes, I do.

20 Q. Thank you very much.

21 And just one more, Mr. Witness, one more; I'm referring now to
22 document E3/423, formerly D274/2 - 23; and that is English ERN
23 00414587 through 00414611; Khmer ERN 00408429 through 00408453;
24 French ERN 00434806 through 00434831.

25 Mr. Witness, I'm quite sure you have a copy of that. You, only 20

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1 minutes ago or so, have been answering questions put to you by
2 the civil parties, but I do have a spare copy.

3 Do you have it in front of you, that document?

4 [15.36.53]

5 MR. PRESIDENT:

6 Court officer is now instructed to look at the document and have
7 it be placed on the top of the other documents so that witness
8 can have a better look at it.

9 (Short pause)

10 BY MR. IANUZZI:

11 Q. It's quite a long document, Mr. Witness. Do you recognize that
12 document?

13 MR. SAUT TOEUNG:

14 A. I don't think I remember it.

15 Q. This is the document that has a very long series of questions
16 and answers, which have been numbered, and the various counsels
17 in the room today have been making reference to those numbers and
18 asking you questions about those questions and answers. Does that
19 help you; do you remember this document now?

20 A. I do now because, when I come to this place more regularly, I
21 am quite familiar with the document; before, I didn't.

22 [15.38.39]

23 Q. Thank you, Mr. Witness. Could you look at the last -- before I
24 go on, I just might say that this is a written record of an
25 interview with you. It's dated the 2nd of December 2009. Could --

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1 could you turn to the final page of that document? Or perhaps the
2 final page could be put on the screen?

3 MR. PRESIDENT:

4 You may proceed.

5 (Short pause)

6 BY MR. IANUZZI:

7 I won't ask you about the thumbprint, but is that your signature
8 underneath the thumbprint? Is that your name written there?

9 A. I have seen the thumbprint now.

10 Q. So is that in fact your statement?

11 [15.40.05]

12 A. Yes.

13 Q. And do you also remember having taken an oath before giving
14 this statement in accordance with Rule 24 of the ECCC Internal
15 Rules?

16 A. Yes, I do.

17 Q. Thank you, Mr. Witness.

18 If I could very briefly go back to document D258, and if we could
19 have placed on the screen, please, page 4, which is English ERN
20 00413942, Khmer ERN 00410164, French ERN 00413951.

21 MR. PRESIDENT:

22 You may proceed.

23 [15.41.37]

24 BY MR. IANUZZI:

25 Q. Mr. Witness, on your screen, there is a bit highlighted in a

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1 red box. I'll read that for you. This says:

2 "Statement by the International Co Prosecutor Vincent De Wilde
3 d'Estmael. Before giving the floor to the witness, the Co
4 Prosecutors wish to impress upon him that they have absolutely no
5 intention of prosecuting him for anything he may have done during
6 the Khmer Rouge era and that he should have absolutely no
7 concerns on that matter."

8 Do you remember being told that by one of the prosecutors, one of
9 the international prosecutors?

10 MR. SAUT TOEUNG:

11 A. No, I don't.

12 [15.42.29]

13 Q. Thank you, Mr. Witness. The next bit is a statement by the Co
14 Investigating Judge You Bunleng to the witness:

15 "We are explaining to you that you will not be prosecuted for
16 events that occurred in Democratic Kampuchea and that you have
17 the right not to incriminate yourself, although you also have the
18 duty to speak the truth."

19 That's also in that red box. Do you recall that bit being told to
20 you by the Co-Investigating Judge -- the Cambodian
21 Co-Investigating Judge?

22 A. No, I don't remember it. I think I have forgotten it.

23 Q. Having heard those words I've read to you, do you understand
24 those to be cautions, to be warnings, to be advisements to
25 yourself of a certain right that you have?

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1 A. I don't understand.

2 Q. Thank you.

3 [15.44.09]

4 Mr. Witness, now I'd like to talk about a slightly different
5 topic and this, again, refers to E3/423. It was the third
6 statement that I referred to and if we could look at page 5 of
7 that document; that's ERN in English, 00414591; ERN Khmer,
8 00408432; and in French , 00434810.

9 Perhaps that could be put on the screen, shown to the witness?

10 (Short pause)

11 Mr. Witness, the bit in the red box refers to -- it's a question
12 A18, rather -- question A18, answer A18 and that appears to be
13 the last question that was given -- the last answer that was
14 given, excuse me, on that day. And then the text reads: "This
15 interview paused at 1620 hours on the same day and continued at
16 0930 hours on the 3rd of December 2009."

17 [15.46.25]

18 Do you have any recollection of that time? Perhaps, I could help
19 you first; that is when you ended one day of testimony -- your
20 first day of testimony with the Investigators from the Office of
21 Co-Investigating Judges and you took a break and you left and
22 then you came back the next morning. Do you remember that?

23 A. No, I don't remember and I don't remember having come to that
24 place.

25 Q. Which place, Mr. Witness; to Phnom Penh?

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1 A. I first was interviewed in Pailin, then in Phnom Penh; so
2 altogether there were -- on three occasions that I was
3 interviewed.

4 Q. Thank you, Mr. Witness. When you were interviewed in Phnom
5 Penh, do you remember ever being told by an investigator for the
6 Office of the Co-Investigating Judges that, if you told the truth
7 -- if you changed your original story and told the truth, that
8 you wouldn't have to come back to Phnom Penh to give an
9 appearance before the Trial Chamber? Do you remember being told
10 that?

11 A. During the first interview, I did not tell all the truth
12 because I was scared. After I was informed of the law and
13 procedures, I was familiar with these procedures and I started to
14 be more truthful.

15 [15.48.56]

16 Q. I see. So can I take that as a no that you do not recall being
17 told by OCIJ investigators that, if you changed your story, you
18 would not have to come back to Phnom Penh and give testimony
19 before the Trial Chamber?

20 A. I think everything is already clear now.

21 Q. Thank you, Mr. Witness. Did you discuss this -- this change of
22 heart that you had, Mr. Witness, your change of testimony, did
23 you discuss that with anyone?

24 A. No, I didn't.

25 Q. And apart from the two bits that I've read out to you

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1 previously, were you given any other assurances by any member of
2 the OCIJ -- assurances that perhaps you would not be prosecuted?

3 A. I don't remember.

4 [15.50.20]

5 Q. Thank you.

6 What about by the Witness and Evidence (sic) Support Unit -- the
7 WESU unit, the individuals who are taking care of you now in
8 Phnom Penh? Did they ever provide any assurances to you?

9 A. I don't know.

10 Q. Thank you.

11 One last question, Mr. Witness, and this is D -- oh, excuse me,
12 this has an E number; that's E3/423. That's D -- formerly
13 D234/23; we've referred to this already. I'm looking now at
14 English ERN 00414609, Khmer ERN 00408451.

15 Just at the bottom of the page, there, Mr. Witness, the question
16 was: "Do you recall whether in January 1979 any Chinese
17 delegation came to visit Cambodia?"

18 [15.52.29]

19 And answer 202: "I did not know. I only knew that there was a
20 circus team from China coming to perform at the Chaktomuk Theatre
21 hall. I know that because I was guarding there."

22 And the following question: "During the performance of the
23 Chinese circus team, do any senior leaders such as Pol Pot, Nuon
24 Chea, Ieng Sary, and so on go to watch that show?"

25 And your answer was: "I knew that Nuon Chea went to watch that

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1 show, but I did not know about the other leaders because I was
2 outside."

3 Do you remember making or giving those answers?

4 A. Yes, I do.

5 [15.53.09]

6 Q. Thank you, Mr. Witness.

7 Just turning back to a topic that I was on a moment before about
8 assurances given to you by -- any assurances given to you by the
9 Prosecution, WESU, or anyone; what have the WESU unit -- the WESU
10 people told you since you've come to Phnom Penh? What kinds of
11 things have they told you prior to your testimony?

12 A. I was not told anything.

13 [15.54.06]

14 Q. And what about your meeting with them in December 2011 that
15 Judge Lavergne referred to previously; what -- what did they tell
16 you then?

17 A. No, they did not tell me anything.

18 MR. IANUZZI:

19 Thank you, Mr. Witness, I have no further questions.

20 MR. PRESIDENT:

21 Thank you, Counsel. Thank you, Mr. Witness, and duty counsel for
22 witness.

23 The Court hearings on the testimonies of witness Saut Toeung has
24 come to an appropriate end today. However, the Chamber will have
25 another session for the whole morning so that the remaining two

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1 counsels for Mr. Khieu Samphan and Ieng Sary have opportunities
2 to put questions to the witness.

3 We have already been noted that counsels would need one hour each
4 so we may now ask -- or we are asking witness to come back
5 tomorrow and that his duty counsel is also invited to come to
6 assist Mr. Witness for another morning session for tomorrow.

7 Court officers is now -- are now instructed to ensure that
8 witness is well-coordinated by the WESU unit so that he can be
9 properly accommodated.

10 The Court is now adjourned. Tomorrow's session will be resumed by
11 9 a.m.

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

15 The Court is adjourned.

16 (Court adjourns at 1556H)

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