



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

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

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CMS/CFO: **Kauv Keoratanak**

15 December 2011
Trial Day 11

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

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
MR. ANG UDOM	Khmer
JUDGE CARTWRIGHT	English
MR. KARNAVAS	English
MR. IANUZZI	English
JUDGE LAVERGNE	English
MR. LONG NORIN (TCW-395)	Khmer
MR. LYSAK	English
MR. NHEM SAMNANG	Khmer
THE PRESIDENT (NIL NONN, Presiding)	Khmer
MR. NUON CHEA	Khmer
MR. PESTMAN	English
MR. SMITH	English
MR. SON ARUN	Khmer
MR. VERCKEN	English

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

2 (Court opens at 0900H)

3 (Judges enter courtroom)

4 MR. PRESIDENT:

5 Please be seated. The Chamber is now in session.

6 [09.01.40]

7 As we scheduled, this morning, the Chamber will continue to hear
8 the testimony of the witness, Long Norin, through
9 videoconferencing from his residence.

10 Before the adjournment, yesterday, it was the Defence counsel for
11 Nuon Chea asking questions to the witness, and the team still
12 have 10 more minutes.

13 Good morning, Mr. Long Norin.

14 MR. LONG NORIN:

15 Good morning.

16 MR. PRESIDENT:

17 Mr. Long Norin, today, we will continue to hear your testimony,
18 and if everything is as we planned, your testimony shall conclude
19 this morning.

20 I'd like now to give the floor to the international co-lawyer for
21 Nuon Chea to continue his questions to this witness. You have 10
22 remaining minutes.

23 [09.03.17]

24 MR. PESTMAN:

25 Good morning. I can't see the witness. Good morning, Mr. Long

2

1 Norin.

2 MR. LONG NORIN:

3 Good morning.

4 QUESTIONING BY MR. PESTMAN RESUMES:

5 Q. Yesterday afternoon, I asked some questions about a meeting
6 that took place in B-1, at which Ieng Sary told colleagues of
7 yours that he would not allow arrests during his absence.

8 And my last question yesterday was: Who told you about the
9 meeting?

10 (Short pause)

11 [09.04.43]

12 MR. LONG NORIN:

13 A. The -- it was -- the message was delivered during the
14 ministerial meeting. Everybody was aware of that.

15 Q. But my question was: Who told you about the meeting? Because I
16 understand that you were not present. Do you remember who that
17 was?

18 A. The word "arrest" were not used. The word was in this similar
19 phrase, that nobody shall be taken out when he is not in. The
20 message was delivered during the ministerial meeting.

21 Q. In 2007, you told the investigators that you were not present
22 at that meeting and that Koy Thuon told you about the meeting
23 afterwards. Do you remember?

24 MR. PRESIDENT:

25 The prosecutor, you may proceed.

1 [09.06.23]

2 MR. LYSAK:

3 Thank you, Mr. President. We just have an objection.

4 Counsel has misstated -- counsel has misstated the-

5 Sorry, Mr. President. The objection is that counsel has misstated

6 the prior testimony. We're fine with Mr. Pestman asking the

7 witness about his prior statement, but he should read the actual

8 statement, which is not - broader, much broader in terms of the

9 possible people that he acquired this information from.

10 So we would simply ask that, when counsels are using prior

11 statements, that they read the actual statement.

12 BY MR. PESTMAN:

13 Q. Mr. Long Norin, in 2007, you spoke to the investigators, and

14 -- I counted -- you mentioned Koy Thuon five times. You were

15 interviewed last week and yesterday, and you didn't mention him

16 once.

17 My question is: Do you feel free to testify?

18 [09.08.11]

19 MR. LONG NORIN:

20 A. I do not understand the question. What was the question?

21 MR. NHEM SAMNANG:

22 (No interpretation)

23 MR. LONG NORIN:

24 A. No, I am not pressured by anybody.

25 BY MR. PESTMAN:

4

1 Q. Have you been approached by people, after 2007, about your
2 testimony in court?

3 MR. LONG NORIN:

4 A. No, nobody.

5 Q. What is Koy Thuon's present position in Cambodia?

6 A. I do not know his current position and I haven't met him for
7 so long already. When we were there, sometimes we went together.
8 For example, I went to the United Nations headquarters with him.

9 Q. You don't know that he's the Minister of Finance and a Deputy
10 Prime Minister of Cambodia?

11 A. No, I do not know that.

12 Q. Do you know why he refused to testify before the
13 Co-Investigating Judge?

14 [09.10.27]

15 MR. PRESIDENT:

16 Your question is not on the facts being debated. The witness is
17 instructed not to respond.

18 And, Defence Counsel, you are reminded that your time is almost
19 running out, so please use your time wisely, as the Chamber has
20 given instructions many times, that questions shall only focused
21 on the facts before the Chamber, and try to avoid any questions
22 not related to the current facts, avoid repetitive questions, or
23 leading questions, or questions which you wish to get the
24 assumption made by the witness.

25 MR. PESTMAN:

5

1 I have no further question. Thank you.

2 [09.11.34]

3 MR. PRESIDENT:

4 Thank you.

5 Next, the Chamber will give the floor to the co-defence lawyers
6 for Mr. Ieng Sary.

7 Before the Chamber gives the floor, the Chamber would like to
8 inquire how much time that the team needs to put questions to
9 this witness.

10 MR. ANG UDOM:

11 Good morning, Mr. President, Your Honours. Good morning, everyone
12 in and around the courtroom.

13 As we notified to the Chamber earlier, we need approximately
14 between 15 to 45 minutes, and we try to make our questions as
15 short and precise as possible.

16 [09.12.38]

17 MR. PRESIDENT:

18 You may now proceed with your questions.

19 MR. ANG UDOM:

20 I'd like to make some observations.

21 We have heard the tape of the interview of Mr. Long Norin with
22 members of the Office of the Co-Investigating Judges. We also
23 have to use our best ability for the interest of my client. I
24 compared the tape to the transcript, and then I will use the
25 document as a reference for my question. The document is D91/3.1.

6

1 [09.13.56]

2 I observed that the transcript, which only been given to us
3 recently and which has not been translated into English or
4 French, we compared the entire transcript to the voices on the
5 tape. Also, we compared the transcript to the interview by the
6 OCIJ office with Long Norin, document D91/3, and this document
7 has been referred to by the prosecution when they conducted their
8 direct examination.

9 I have compared the -- what is on the tape and the transcript in
10 order to see if there is any inconsistency and in order to find
11 any exculpatory evidence which might be excluded from the
12 official record of interview. We would like Your Honours to pay
13 attention to the following points.

14 The written record of the interview is not completely accurate.
15 Upon our thorough review against the transcript, this record of
16 interview with the OCIJ, there are -- there appears some
17 mistakes. However, they are not fundamental.

18 [09.16.42]

19 What is the most concerned regarding the transcript and the tape:
20 the interpreter not only interpreted, but also asked questions
21 and answered questions, and sometimes the interpreter also read a
22 text for the transcriber to write down. It appears on almost
23 every single page of the transcript, and the transcript itself is
24 98 pages long. We are of the view that this is very
25 inappropriate.

7

1 For instance, on page 7 of document D91/3, there were eight
2 occasions where the interpreter also participated in the
3 discussion, and on page 8, there are two occasions; page 9,
4 three; page 10, six; page 11, four; and page 12, five times, etc.
5 [09.18.21]

6 Another example from the transcript, and which also is our great
7 concern, is on page 94 of the transcript. Let me read this
8 example to you, Mr. President, just to highlight our concern.
9 I'll start from page 92:

10 "Interpreter: Teacher, did you ever go to B-30?"

11 And Mr. Long Norin responds: "I do not know where B-30 is."

12 Then the interpreter asked: "What about B-31, B-32?" That's on
13 page 93.

14 And Mr. Long Norin responds: "B-31, B-32, I do not know where
15 they were."

16 Then the interpreter asked question: "Had you ever heard about
17 B-31, 32 or 33?"

18 [09.20.06]

19 And the last line of page 93, the investigator tries to reverify:

20 "Hor Namhong, at B-32?"

21 And on page 94, the investigator asked the question: "Don't you
22 know that?"

23 And Long Norin responds: "Hor Namhong."

24 Then the interpreter butts in: "Hor Namhong was in charge of B-32
25 at that time."

8

1 And Mr. Long Norin responds: "No. No, Hor Namhong was not there.
2 Was it at Boeng Trabaek? I believe Hor Namhong was in charge of
3 Boeng Trabaek."

4 Then the investigator asked question: "What is the name of B-30
5 (sic)? Was it Heng Un (phonetic)? There is no need to write it
6 down because he doesn't know either."

7 [09.21.32]

8 This is just an illustration of our concerns. In fact, this
9 practice is really a concern reflecting the process taken by the
10 OCIJ during their investigation in Case 002 and it also
11 illustrates the fact that the request for the judicial
12 investigative action by us shall be considered seriously, as well
13 as other motions that referred before this very Chamber, that we
14 request a hearing on the investigative -- on the judicial
15 investigative actions.

16 [09.22.33]

17 It also supports our submission and motions on all these requests
18 for investigative actions.

19 In order to assist the Chamber and also ask additional
20 information regarding our concerns as how these issues impact
21 upon us on the fundamental right of our client, Mr. Ieng Sary, to
22 receive a fair trial, I'd like the Chamber to refer to the
23 request made by Mr. Ieng Sary for a third investigative action.

24 MR. PRESIDENT:

25 The Co-Prosecutor, you may proceed.

1 MR. LYSAK:

2 Thank you, Mr. President. We certainly don't have any problem if
3 counsel wants to ask questions to the witness about this
4 transcript, but this is not the time to be making motions and
5 making speeches. There's -- we will have plenty of time to have
6 these - have these matters addressed. It certainly is important
7 that we have full transcripts and address this, but this is
8 simply not the time, and I would ask that counsel turn to asking
9 questions to the witness if he wishes.

10 [09.24.12]

11 MR. PRESIDENT:

12 Thank you, prosecutor, for your observation.

13 The Chamber would like to ask the Defence team for Mr. Ieng Sary
14 if they have questions for this witness. If you do not have any
15 questions, then you are not allowed to make a statement during
16 this time.

17 The discussion on the legal issues will be taking place at a
18 later stage, not during this time. If you don't have questions,
19 then we will hand the floor to another defence team.

20 MR. ANG UDOM:

21 Mr. President, as our questions are related to three documents
22 which are inconsistent, that's why we'd like to draw your
23 attention to these three documents, that is: one, the written
24 record of interview of Mr. Long Norin with the OCIJ; and, two,
25 the transcript; and, third, the tape of the interview. These

10

1 three documents are inconsistent. For that reason, I draw your
2 attention to that before I put questions to the witness.

3 [09.25.56]

4 My colleague and I will have questions for the witness, and we
5 will proceed with the questions after I draw your attention to
6 these inconsistencies in these three documents, which are the
7 base for our questioning of this witness. If we are not allowed
8 to draw your attention to these inconsistencies, then there will
9 be a gap.

10 MR. PRESIDENT:

11 You are not allowed to proceed with your statement. You can put
12 questions. Otherwise, the time will be allocated to another team.

13 [09.26.40]

14 MR. KARNAVAS:

15 Good morning, Mr. President. Good morning, Your Honours. Good
16 morning, Mr. Long Norin, and good morning to everyone in and
17 around the courtroom.

18 I do have some questions. And I don't wish to revisit the issue
19 that just my colleague was talking about, but basically, we
20 concur with the prosecution. Everything should be translated in
21 all three languages so all Judges have access to what was
22 actually said, as opposed to relying on the summaries that were
23 prepared by the OCIJ. This will give all Judges equal access to
24 all the information lest there be any problems.

25 QUESTIONING BY MR. KARNAVAS:

11

1 Mr. Long Norin, first of all, let me introduce myself: my name is
2 Michael Karnavas, and I represent, along with Mr. Ang Udom, Mr.
3 Ieng Sary.

4 Q. After you were interviewed -- and I believe your interview
5 took place over a period of two days -- did the investigators
6 give you an opportunity to either hear your answers or read the
7 transcription of what you had said during the interview?

8 (Short pause)

9 [09.28.33]

10 MR. LONG NORIN:

11 A. Was there a question for me? I did not know.

12 Q. Let me repeat my question. I'll repeat it. You were
13 interviewed on two particular days: one day for approximately
14 eight hours, and the following day for approximately 45 minutes.
15 After this interview, were you given an opportunity to either
16 hear the tape or read the transcription of the tape?

17 A. No.

18 Q. Before testifying - before testifying here, were you given an
19 opportunity to read the 98 pages or so of transcription of your
20 interview?

21 [09.29.44]

22 A. No, I did not read the transcript.

23 Q. All right. Thank you. And one final question -- and I think
24 you've already answered it, but let me ask it anyway: Did you
25 have an opportunity to compare the transcript with the selected

12

1 portions of what you said that was prepared by the Investigating
2 Judges in their summary?

3 (Short pause)

4 [09.30.44]

5 Did Mr. Long Norin understand the question, or should I repeat
6 it?

7 A. No, I don't understand your question.

8 Q. I'll ask it again. From your 98-page transcription of the
9 statement that you -- of the answers, questions and answers, the
10 investigators prepared a summary of nine pages.

11 [09.31.23]

12 Were you given an opportunity to compare the 98 pages of
13 discussions that you had with the investigators against the
14 nine-page summary that they prepared?

15 A. No, I was not.

16 Q. Thank you. Now, would it be fair to say, Mr. Long Norin, that,
17 after 1979, you were able to learn quite a bit of information as
18 to what might have occurred between '75 and '79?

19 A. I do not understand the question.

20 Q. I'll go about it a different way. Can you tell us whether,
21 after 1979, you read anything about the period of '75 to '79?

22 [09.33.33]

23 A. No, I did not read anything about that.

24 Q. And are you saying here, today, that you never talked to
25 anybody about that period between '75 and '79?

13

1 A. I did not talk -- I don't remember that.

2 Q. Would it be fair to say, Mr. Long Norin, there are a lot of
3 things that you do not remember?

4 A. I don't remember.

5 Q. You allow for the possibility, Mr. Long Norin, that you may be
6 confused with some of the facts.

7 A. I don't know what kind of confusion that could be.

8 Q. All right. Now, let me bring you back to when you went to
9 Peking. You told us that you left Prague and you went to Peking.
10 Do you recall telling us that?

11 (Short pause)

12 [09.36.47]

13 Mr. President, at this time, I would make an application that we
14 re-hear Mr. Long Norin at some other point in time. It is obvious
15 that the gentleman is unable today to answer questions, perhaps
16 due to fatigue. He certainly did not have a problem, yesterday,
17 in answering some rather simple questions.

18 MR. LYSAK:

19 Mr. President, I would object to this characterization by
20 counsel. I do not - if we're making observations, I don't see any
21 difference in the situation before.

22 It is difficult to conduct this examination through video link.

23 We've all been doing that. We've been doing the best that we can.

24 But it's inappropriate for counsel to make observations like
25 this.

14

1 [09.37.46]

2 MR. KARNAVAS:

3 Well, then, perhaps, Mr. President, you can inquire as to whether
4 Mr. Long Norin is able today -- I know physically he's there, but
5 is he able today to concentrate, listen, comprehend, and answer?

6 MR. PRESIDENT:

7 Mr. Long Norin, could you understand the question asked by the
8 counsel?

9 [09.38.21]

10 MR. LONG NORIN:

11 No, I don't. I don't understand. I understand your question, but
12 I do not understand the question of the counsel.

13 MR. PRESIDENT:

14 If you understand the question, we continue hearing your
15 testimony. Can you pay attention to the questions by the counsel?
16 We do not envisage that your testimony will be more than this
17 morning. Can you continue answering the questions for this
18 morning, Mr. Long Norin?

19 MR. LONG NORIN:

20 I have a headache. I feel pain in my neck.

21 MR. PRESIDENT:

22 Perhaps we can continue, and the counsel is directed to put short
23 questions. And for the interpreters, make sure you try to
24 translate short questions. And Mr. Samnang can also assist the
25 witness for him to understand the questions so that he can answer

15

1 those questions.

2 There could be the problem of the equipment, that the mic is
3 positioned far away from the mouth of the witness, so perhaps
4 technician over there can adjust the mic and make sure that the
5 witness's voice can be transmitted.

6 [09.40.46]

7 Counsel, you may proceed. You can put again your last question.

8 BY MR. KARNAVAS:

9 Thank you, Mr. President.

10 Q. Mr. Long Norin, do you recall leaving Prague and going to
11 Peking? I believe it was in 1971.

12 MR. LONG NORIN:

13 A. When I left in Cambodia -- when I left Cambodia to study
14 abroad, it was in 1960 and 1961.

15 [09.41.46]

16 I graduated -- after I graduated, I left Czechoslovakia and I
17 went to Beijing. At that time, the King appealed from Beijing.
18 That was why I went there.

19 MR. PRESIDENT:

20 Mr. Long Norin, the question asks whether you remember leaving
21 Prague to -- for Beijing in 1971. If you can recall that, perhaps
22 you can confirm it. You need to answer what is asked. Do you
23 understand this, Mr. Long Norin?

24 I know you are tired, but if you do not answer the question, it
25 will take longer time, and this will prolong your testimony. We

16

1 will try our best to put short questions so that it is easy for
2 you to answer.

3 Counsel, you may proceed.

4 [09.43.09]

5 BY MR. KARNAVAS:

6 Thank you, Mr. President.

7 Q. Now, while you were in Peking, you had contact with the King;
8 did you not? And at the time, he was the Prince, actually.

9 MR. LONG NORIN:

10 A. Yes, I did.

11 Q. And during that time, the King had lavish banquets for guests
12 and his entourage, and you participated and witnessed those
13 lavish banquets; did you not?

14 [09.43.48]

15 A. I do not remember that.

16 Q. All right. Do you remember the Prince calling you all hours of
17 the day and night to play sports, in particular football?

18 A. No, I don't remember that.

19 Q. All right. Do you recall speaking to a Philip Short, who wrote
20 a book about Pol Pot?

21 A. I don't understand the question. Can we have the name of the
22 author again, please?

23 Q. Philip Short. Philip Short.

24 A. I do not remember that.

25 Q. And I take it that you would not remember then you discussing

17

1 matters about B-15, and not B-20.

2 A. I left B-15.

3 MR. NHEM SAMNANG:

4 Could we please have the question again?

5 BY MR. KARNAVAS:

6 Q. Okay. Well, in the discussions with Philip Short, Mr. Long
7 Norin, you only discussed B-15, and not B-20.

8 MR. LONG NORIN:

9 A. I don't know where B-27 is. I do not remember that.

10 [09.47.40]

11 Q. Do you allow for the possibility, Mr. Long Norin, that you may
12 be mixing up B-15 with B-20?

13 A. No, I am not confused among the two.

14 Q. All right. Do you recall, then, speaking to him about B-15?

15 A. I do not know who Philip Short is.

16 [09.49.10]

17 Q. Thank you. If I understand your testimony, you were merely a
18 typist when you were working for the Ministry of Foreign Affairs;
19 is that correct?

20 A. It is correct.

21 Q. Would it be fair to say that you did not have access to a lot
22 of information as a mere typist?

23 A. I do not understand that.

24 Q. All right. Well, for instance, as a typist, were you called
25 upon to attend meetings and participate in policy matters?

18

1 A. I do not understand it. I don't understand the question.

2 Q. Did you attend any meetings where policy issues were being
3 discussed as far as, for instance, relations that Cambodia should
4 have with another country?

5 A. I had to go along with others, to listen to them.

6 Q. All right. Are there others who worked at the Ministry of
7 Foreign Affairs who might have more accurate and more complete
8 information than you?

9 [09.52.25]

10 MR. LYSAK:

11 Mr. President, we would object to that question. I'm not sure how
12 this witness can look into the minds of other people and answer a
13 question about who may have more information. If he wants to
14 rephrase, there may be proper way to ask that, but to ask him to
15 speculate like that, I think, is inappropriate.

16 BY MR. KARNAVAS:

17 I'll be - I'll be happy to rephrase.

18 Q. Did you have any superiors, Mr. Long Norin?

19 MR. LONG NORIN:

20 A. Yes, I did.

21 Q. And how many levels were there above you, between you and,
22 say, Mr. Ieng Sary?

23 A. It was Suong Sikoeun who was my immediate supervisor.

24 Q. And did he have an immediate supervisor?

25 A. Yes, there was. It was Suong Sikoeun. Suong Sikoeun's

19

1 superior, I'm not sure that there was a superior above Suong
2 Sikoeun. I am not sure about that. Perhaps we have - we have to
3 ask him himself to know whether there was a superior above him.
4 [09.54.56]

5 Q. What about Pol Pot's nephew? Was he working for the Ministry
6 of Foreign Affairs?

7 A. No, he did not work at the Ministry of Foreign Affairs. There
8 were -- he had two nephews, one called Hong, but I could not
9 recall the other one's name.

10 Q. Okay. Well, Hong, So Hong, was he working at the Ministry of
11 Foreign Affairs?

12 A. His name was there, but we never saw him to come to work
13 there. We did not see him to come, and sit, and work at the
14 Ministry.

15 Q. So your testimony today is, if I understand it correctly, that
16 So Hong never worked at the Ministry of Foreign Affairs?

17 A. No, he did not come to work at the Ministry of Foreign
18 Affairs. He did not come to sit in the office.

19 Q. Do you allow for the possibility -- this is my very last
20 question, Mr. Long Norin -- do you allow for the possibility that
21 perhaps too many years have gone by, and you simply are confused
22 about many of the facts that you are being asked to answer?

23 [09.57.34]

24 A. There may be some confusions.

25 MR. KARNAVAS:

20

1 Thank you very much. On behalf of Mr. Ieng Sary, Mr. Ang Udom and
2 I would like to thank you for participating here today. Thank you
3 very much for giving us your evidence. Thank you.

4 I have no further questions, Mr. President, Your Honours.

5 [09.58.23]

6 MR. PRESIDENT:

7 Thank you.

8 And it is now appropriate for us to take a short break because
9 the Accused is tired now, so the Chamber announce a 20-minute
10 break. We will resume at 10.20 to continue testimony.

11 Counsel, you may proceed.

12 MR. VERCKEN:

13 Thank you very much, Mr. President. May I speak out? Because I
14 believe that this is in the interest of the Court to know that
15 Mr. Khieu Samphan's Defence team does not have any intention to
16 prolong the witness's suffering. He should be able to rest and
17 alleviate his headache. Once again, to be clear, we have no
18 questions to put to the witness, Mr. President.

19 MR. PRESIDENT:

20 Thank you, Counsel, for such a clear indication so that we can
21 avoid any misunderstanding. I believe that counsels should make
22 things clear.

23 (Judges deliberate)

24 [10.00.42]

25 Mr. Long Norin, can I have you stay for one other -- another

21

1 while? Because the Chamber would like to put some questions to
2 you.

3 I would like to hand over to Judge Lavergne.

4 [10.01.02]

5 QUESTIONING BY JUDGE LAVERGNE:

6 Thank you, Mr. President.

7 Q. I seek a clarification. At the very end of your written record
8 of witness interview that was conducted by the investigators of
9 the Office of the Co-Investigating Judges, there are the
10 following mentions.

11 It is indicated that the written record of witness interview was
12 read aloud and the witness had no objections and agreed to sign
13 or emplace the thumbprint. In addition, the record reads that one
14 copy or one of several originals of the written statement was
15 provided to this witness. It is further indicated that this
16 interview was completed, and it is signed with the thumbprint of
17 Mr. Long Norin.

18 Mr. Long Norin, can you please confirm that this did indeed
19 happen?

20 MR. LONG NORIN:

21 A. I cannot recall the event in 2007.

22 Q. Can the -- does the WESU representative have a copy of this
23 document? Was a copy of this document made available to Mr. Long
24 Norin before the hearing so that he was able to read the document
25 referenced D91/3, his written record of witness interview?

1 [10.04.07]

2 MR. KARNAVAS:

3 Your Honour, I don't mean to interrupt, but that's not the
4 98-page -- that's the--

5 JUDGE LAVERGNE:

6 Counsel Karnavas, if you were listening to what I said, you would
7 understand that I'm not talking about the 98-page transcript, I'm
8 talking about document D91/3.

9 Can the Witness and Expert Support Unit obtain a copy of this
10 very document, a hard copy of document D91/3, the written record
11 of witness interview that was prepared by the Office of
12 Co-Investigating Judges?

13 MR. NHEM SAMNANG:

14 Your Honour, on the 6th, last week, I read that interview record
15 to him since he could not read. I have it in my hand now. It's a
16 nine-page document, D91/3. Thank you.

17 [10.05.27]

18 JUDGE LAVERGNE:

19 Very well. On the last page of this document, the original has a
20 signature as well as the thumbprint of the witness.

21 BY JUDGE LAVERGNE:

22 Q. Does Mr. Long Norin recognize his own signature? He may not
23 recognize his thumbprint, but at the very least, does he
24 acknowledge that he signed the document?

25 MR. LONG NORIN:

23

1 A. The signature and the thumbprint are mine.

2 Q. For the sake of clarity, he does not recall that this record
3 was read aloud at the time, at the end of the interview, he
4 doesn't recall that the record was read aloud; is this correct?

5 A. No, I cannot remember that.

6 Q. Does he remember being forced to sign this written record of
7 witness interview?

8 A. No, nobody forced me, I put my thumbprint voluntarily. And,
9 yes, I recall that.

10 [10.07.37]

11 Q. And by signing this document, he was aware that he was signing
12 off on his own statements?

13 A. Yes, because I (recording malfunction).

14 Q. And one last question: In the view of Mr. Long Norin, the
15 statements are a faithful and accurate reflection of what he told
16 the investigators.

17 A. I cannot recall when I made that statement with those people.

18 Q. I did not ask if and when he remembered these statements, but
19 I'm asking if these statements reflect what he said or could have
20 said and told the investigators.

21 In other words, does this record contain any errors?

22 A. Everything was written in this statement. I cannot exactly
23 recall when I gave the statement to the Office of the
24 Co-Investigating Judges; I have lost a lot of memory.

25 [10.11.11]

1 JUDGE LAVERGNE:

2 Thank you very much, Mr. Long Norin.

3 MR. KARNAVAS:

4 Mr. President, based on those questions, because I don't want to
5 have the record reflect that this gentleman actually had an
6 opportunity to compare the 98 pages versus the summary, and in
7 particular because of the question whether this is "an accurate
8 reflection", I would like to ask the witness some questions.
9 Otherwise, I would ask that the entire transcription be
10 translated both in French and English so we can make some
11 comparisons. I am troubled, and that was the whole reason why Mr.
12 Ang Udom brought these matters to your attention.

13 [10.11.52]

14 It appears that, if we are going to be relying on summaries and
15 then say: "Is this an accurate reflection", when the witness was
16 never given an opportunity to actually read or hear the -- what
17 he said, I think we are going to be introducing evidence or
18 relying on evidence that is highly unreliable and not reflective
19 of what exactly was said, particularly if dealing with witnesses
20 who have problems with memories and events. Thank you.

21 So I would like to ask a couple of questions to the witness.

22 [10.12.39]

23 MR. LYSAK:

24 Thank you, Mr. President. We would object to this that the record
25 is very clear that the witness did not have an opportunity to

25

1 review the 98-page transcript and compare. There is no need for
2 further questions on that.

3 And just so it's clear, unless I misunderstood, I heard Mr. Ieng
4 Sary's national counsel say there were no fundamental differences
5 between the two.

6 [10.13.08]

7 Now, we support the idea that the transcripts -- there should be
8 full transcripts, and they should be made available to the
9 witness. We have no objection to Mr. Karnavas's suggestion, in
10 the future that witnesses be provided those transcripts. But
11 there's no need to have a debate or argument about this in front
12 of the witness. He's made very clear that he didn't - he didn't
13 review that transcript.

14 Judge Lavergne has asked some questions about the summary, and
15 this is a practice -- this is the standard practice in the civil
16 law system that counsel has been aware of.

17 So I see no reasons for further questions from counsel at this
18 time.

19 [10.13.53]

20 MR. KARNAVAS:

21 I'll take the concession, Mr. President and Your Honours, from
22 the prosecution. And while they may have -- may be slight
23 inconsistencies, nothing to worry about, what is worrying to us
24 is the fact that they have investigators who are feeding the
25 answers and manipulating the witnesses, and then they come up

26

1 with a summary, and then we come here, and now we are going to
2 pretend that this summary is an accurate reflection; that's the
3 problem.

4 And so, while we agree with the prosecution, let's have
5 everything translated, so where there are occasions where the
6 answer is actually fed to the witness by the investigator, we can
7 call into question as to what, if any, weight should be given to
8 those sorts of answers. That's my primary concern.

9 [10.14.41]

10 I understand the practice. However, we're dealing with
11 investigators from different cultures who don't understand the
12 language -- only one of them may understand the language -- and
13 we have judges who certainly do not have access to the complete
14 Khmer version of the actual transcription.

15 And so, therefore, I'm gladdened by the - by the prosecution's
16 joining our request to have everything translated.

17 And I apologize if I seem to be getting agitated, but I do want
18 to stress that we are concerned that, throughout this trial,
19 we're going to be dealing with summaries, summaries that were
20 prepared by -- God knows who, because whoever prepared the
21 summary would have had to have listened or understood the entire
22 -- the entire -- interview in their own language. Thank you.

23 MR. NHEM SAMNANG:

24 Mr. President, the witness would seek your permission to relieve
25 himself.

27

1 (Judges deliberate)

2 [10.16.29]

3 MR. PRESIDENT:

4 The Chamber decides the objection by the prosecution is valid.

5 The Defence counsel for Mr. Ieng Sary is therefore not allowed to
6 question the witness further.

7 Mr. Long Norin, the Chamber would like to thank you for your
8 testimony during these few days, and we grateful for your
9 endeavour to do it despite your health. We thank you for that.

10 Now, your testimony is concluded, so you can go wherever you
11 wish. Thank you.

12 The time is also appropriate for a break. We will have a
13 25-minute break and we shall resume after that. When we resume,
14 we will question the Accused.

15 (Judges exit courtroom)

16 (Court recesses from 1017H to 1040H)

17 (Judges enter courtroom)

18 MR. PRESIDENT:

19 The Court is now back in session.

20 Before the break, the Chamber already informed the parties that
21 we continue questioning the Accused.

22 Detention personnel are now instructed to bring the accused Nuon
23 Chea to the dock.

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

25 [10.42.08]

1 Mr. Co-Prosecutor, you may proceed.

2 MR. LYSAK:

3 Thank you, Mr. President. While Mr. Nuon Chea is being brought to
4 the dock, just one follow up on the morning's testimony. We
5 wanted to make sure -- and I assume this was counsel's intention,
6 but we wanted to make sure that the -- both D91/3, the written
7 record of Long Norin's interview, and D91/3.1, the complete
8 transcript, were both put before the Chamber.

9 The latter document is one that was posted fairly recently, so
10 it's not on any of the parties' document list, but we do agree
11 with Mr. Karnavas that this should be part of the record. And we
12 also, as I've said, support his proposal that, in the future,
13 witnesses do be provided the opportunity to look at both the
14 written record and the transcript where it is available.

15 MR. KARNAVAS:

16 Well, the proposal also went--

17 [10.43.19]

18 MR. PRESIDENT:

19 Can we talk about the order, counsel Karnavas? The Chamber notes
20 that you just stand up without seeking permission from the
21 Chamber before you speak. So do you still want the floor? Please
22 go ahead.

23 MR. KARNAVAS:

24 Apologies, Mr. President. The request went even further, which is
25 to have the entire transcript translated in both English and

1 French. And therefore, in the preparation, Judges who may wish to
2 look at the entire transcription as opposed to relying on the
3 selective summary have that available. It also allows the parties
4 to also bring out inconsistencies and also allows the Chamber to
5 see where investigators may have suggested answers to the
6 witnesses. So that was our entire submission, Your Honour, and
7 that's why we wanted to point it out this morning. Thank you.

8 [10.44.38]

9 MR. PRESIDENT:

10 Thank you for the observations put forward by the parties.

11 The Chamber would like to inform the parties that it will issue
12 -- it will issue a memorandum in due course.

13 And next, the Chamber would like to hand over to the prosecutors
14 to continue their questionings to the accused Nuon Chea.

15 [10.45.26]

16 QUESTIONING BY MR. LYSAK RESUMES:

17 Good morning, Mr. Nuon Chea.

18 Q. I wanted to, first, go back to something that happened
19 yesterday and ask you that: During the time you were the Deputy
20 Secretary of the Communist Party of Kampuchea, did you receive
21 biographies of cadres and interrogate them regarding their
22 political tendencies, as you did yesterday with Long Norin?

23 [10.46.10]

24 MR. NUON CHEA:

25 A. Mr. President, that was not my job. The interrogation on

1 others was not my job because I was in the legislation, and the
2 interrogation was part of the administration job.

3 Q. What was the purpose of having Party members prepare
4 biographies?

5 A. As far as I know, for those who entered the Party, had to
6 write biographies so that they can be known -- so that their
7 characters could be known, so that their tendencies, their stands
8 can be known by the Party to assist the Party and for the parties
9 to give directions, to give education that needs to be given to
10 those people in accordance with their characters.

11 Q. When you say "tendencies", what do you mean by that, Mr. Nuon
12 Chea? Could you explain what that means?

13 A. "Tendency" means the preference, whether the preference was to
14 the leftists or the rightists or the neutralists. That's what we
15 mean by "tendency".

16 Q. Were biographies also used to determine if Party members had
17 the proper class background?

18 A. Regarding this issue, Mr. President, this could be long, but
19 I'll try to summarize the point.

20 Concerning entering the Communist Party of Kampuchea, there were
21 criteria. The class was one of them, but it was not the classism,
22 it was the vision and the stance of the non-capitalism, the
23 stance to sacrifice personal gain and for the purpose of
24 collective gains. No use of power, no engagement in wine, in
25 women, and in other bad behaviours.

1 [10.50.19]

2 Q. Were biographies also used to determine if Party members had
3 any connections to enemies of the Party?

4 A. Mr. President, there were some. However, most of them did not
5 include that. For those who include that part, we would remind
6 them to abandon that idea and to embrace the revolutionary class.

7 Q. Did I hear you correctly as saying that all Party members were
8 required to do biographies?

9 A. Yes, it is correct.

10 Q. Was the practice of requiring biographies something that
11 started prior to April 1975? And, if so, when did you start the
12 practice of requiring Party members to prepare biographies?

13 A. As I remember, we needed to write biographies from the day
14 that we applied to be Party members.

15 [10.52.15]

16 Q. Just go be clear, then, this was a practice that was used in
17 the 1960s, then?

18 A. As I remember, it was even before the 1960s.

19 Q. Thank you, Mr. Nuon Chea. I'd like now to turn to ask a few
20 questions regarding the Party Statute that Judge Cartwright put
21 before the Chamber the other day, which is document D366/7.1.187.
22 I'm not sure if you still have a copy, so we have a copy, here,
23 that can be brought to you if you need one.

24 (Short pause)

25 [10.53.54]

1 I'd like to specifically refer you to Khmer ERN 00442268, which
2 is also English ERN 00184037 and French ERN 00292926. And, Mr.
3 President, I request permission to put the Khmer version on the
4 screen so the witness and the Court can see it there also.

5 MR. PRESIDENT:

6 Court officers, please.

7 BY MR. LYSAK:

8 So I wanted to ask you a couple of questions about Article 6.
9 Article 6 of the Party Statute starts as follows -- quote: "The
10 Communist Party of Kampuchea takes the principle of democratic
11 centralism as its organizational foundation."

12 [10.55.17]

13 My first question is: What was the principle of democratic
14 centralism?

15 MR. NUON CHEA:

16 A. Mr. President, the democratic centralism refers to collection
17 of ideas, and visions, and knowledge from the Party members and
18 also the Central Party, and this democratic centralism was
19 practised broadly, or generally.

20 That applied also to the Party branches in villages and communes.
21 They also practised this democratic centralism that is to gather
22 all the ideas of the Party members, and if there was no -- there
23 was wrong ideas, the Party members at the district levels might
24 correct or might add to that ideas.

25 Q. I would also like you to refer to Article 6.2 which provides -

1 quote -- "all of the various decisions of the Party must be made
2 collectively" - end of quote.

3 [10.57.18]

4 Was the principle of collective decisions part of the principle
5 of democratic centralism?

6 A. Mr. President, Article 2, "all of the various decisions of the
7 Party must be made collectively", that means all decisions of the
8 Party must be made collectively, and not individually.

9 Q. The -- was the principle of collective decisions and
10 democratic centralism part of the Party Statute that was adopted
11 at the First Party Congress, in 1960?

12 [10.58.59]

13 A. Mr. President, the democratic centralism was part of the
14 collective leadership, and the collective leadership was part --
15 also part of the democratic centralism.

16 Q. What I was asking, Mr. Nuon Chea, is whether this was a
17 principle that was adopted and approved by the Party at the
18 congress, in 1960.

19 A. The principle was adopted and implemented in every meeting of
20 the Party's congress. The Party held on to that principle firmly.

21 Q. So this was a principle that was in effect the entire time
22 that you were Deputy Secretary of the Party; is that correct?

23 A. Mr. President, that is correct.

24 [11.00.26]

25 Q. And this was a principle that applied to decisions of the

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1 Central and Standing Committee; is that correct?

2 A. Your Honours, all the appointments and assignments shall
3 adhere to this principle. Allow me to add.

4 It cannot be implemented a hundred per cent all the time. In some
5 cases, there are gaps, depending on the individual who did the
6 implementation.

7 Let me give you an example. If the implementer has the idea of
8 self-ego or individualism -- let me just use a simple word in
9 Khmer, "anh niyum" (phonetic), or in English, "self-ego", that is
10 everything is about oneself.

11 [11.01.42]

12 So if there is a self-ego then there will be an individualism,
13 and then there will be private ownership, and then one would only
14 speak to that own idea or opinion. And that was the very point
15 that the Party tried to eliminate, these individualism, or
16 self-ego and to build up the collectivism.

17 Q. Was the principle of collective decisions followed at the
18 meetings of the Standing and Central Committee that you attended?

19 [11.02.32]

20 A. Yes, Your Honours, it was implemented.

21 Q. And could you describe or explain to the Chamber the process
22 by which party organizations such as the Standing or Central
23 Committee made collective decisions?

24 A. Your Honour, "collectivity" means everybody would participate
25 in a meeting to express the ideas. Every meeting adhered to this

1 principle, and not only at the Central Committee - Central or
2 Standing Committees' level. And then the Secretary of the Party
3 would consolidate all those ideas and opinions, and if members of
4 the Party are not satisfied, then all together would be able to
5 express their objections or opposal until they reach a unanimous
6 agreement, then it would become official. Otherwise, if there is
7 no complete agreement, discussion needs to continue.

8 Q. Is it correct, then, that all decisions of the Standing and
9 Central Committee, during the period that you were Deputy
10 Secretary, were made in accordance with the collective decision
11 process you just described?

12 [11.04.47]

13 A. Mr. President, I do not understand the question.

14 MR. PRESIDENT:

15 Prosecutor, please rephrase your question.

16 BY MR. LYSAK:

17 Q. This practice that you've described, of reaching collective
18 decisions, this was a practice that was followed by the Standing
19 and Central Committee during the time that you were Deputy
20 Secretary of the Party; is that correct?

21 MR. NUON CHEA:

22 A. Not only during the time that I was the Deputy Secretary, it
23 was at every stage, at all the times. It was implemented
24 generally. It was a universal principle of the Party. It was
25 implemented from the Party's branch up to the Central Committee,

1 and it was not only during the time that I was the Deputy
2 Secretary.

3 [11.05.55]

4 Q. Thank you for clarifying that, Mr. Nuon Chea.

5 I wanted to turn now to a couple of follow-up questions regarding
6 your training in Vietnam from 1951 to 1953.

7 Could you tell us: How many different locations or schools did
8 you study at in Vietnam during that 1951 to '53 time period?

9 A. Your Honour, 1951 -- in 1951, I did not yet go to Vietnam, not
10 even in 1952. I actually went there in 1953. Actually, the study
11 that I participated was in the forest, not in a proper wooden
12 class in a proper school.

13 There were Vietnamese cadres who returned from their studies in
14 China to give us lessons on the new studies. They would
15 distribute document to each member of the Party: to review; two,
16 to discuss the document; three, to relate the content of the
17 document to oneself.

18 [11.08.30]

19 For instance, if a member is liberal, selfish or individualist
20 and does not respect the organization or the leadership, etc.,
21 they -- that person must speak about those issues at the meeting,
22 and then there would be discussions amongst members of the
23 meeting, and then they would conclude.

24 However, through my observation, not everything was that clean
25 because some Party members were loyal, too, and focused on their

1 study. They expressed their views -- self view -- completely
2 about the mistakes they made so that they could be assisted by
3 the collective.

4 However, there were some members who had two views. One is the
5 open view that they expressed to the meeting. They only touched
6 slightly on their personal actions, and regarding their other
7 half, that is about womanizing, corruption, selling rubber or
8 other stuff belonging to the Party. They would not reveal them to
9 the collective meeting until thorough questioning, and, probably
10 a fortnight later, they would reveal.

11 [11.10.24]

12 So this type of study, as you put it, is a psychological attack,
13 because it is difficult for them to literally attack. It is easy
14 as you see the enemy and you could sleep at night when it's over,
15 but to combat these matters psychologically, it was difficult.
16 And whether the person would speak or not, the person would be
17 honest or not, it will be difficult to judge.

18 For example, about womanizing and drinking, about money, etc.,
19 about lacking in implementing the Party's lines or in their
20 relationship or liaison with the Party -- with the enemy to
21 betray the Party, all these matters needed to be analyzed
22 thoroughly. We needed to dig deeper in order to find its -- the
23 root cause of the issue.

24 [11.11.46]

25 Q. Just so we are clear, you went to Vietnam in 1951, but you're

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1 saying you did not start studying at any of the Party --

2 Vietnamese Party schools until 1953; is that correct?

3 A. From my recollection, that is correct.

4 Q. Did you study guerrilla warfare at a school in Central

5 Vietnam, in Thai Nung?

6 A. Mr. President, what do you mean by the "guerrilla warfare"? I

7 never heard of such name.

8 Q. Did you tell Mr. Thet Sambath that you studied guerrilla

9 warfare at a school in Central Vietnam, where you also met Son

10 Ngoc Minh, the leader of the Khmer Issarak Movement?

11 A. We did engage in the study of the militia warfare, not

12 guerrilla warfare.

13 [11.13.22]

14 I actually did not attend any proper or systematic training on

15 the militia warfare, but I listened to those who did attend the

16 training that is the principle of the militia warfare.

17 Militia warfare is the war of the people, and they had their own

18 principles.

19 With the permission of Mr. President, I can elaborate further on

20 this point, because it is rather long, Mr. President.

21 MR. PRESIDENT:

22 Yes, you may proceed.

23 MR. NUON CHEA:

24 Point one: What is a militia warfare, or a militia war?

25 In militia war, all the population, men, women, children joined

1 in the war in every aspect as they could.

2 [11.14.38]

3 And the first principle of the militia war is to use small force
4 to attack bigger force.

5 And we do not fight directly; we use the quality to attack the
6 quantity, and to attack rapidly, and to win rapidly as well, and
7 then to collect the war spoils, and to withdraw rapidly.

8 These are the main principles of militia warfare that I have
9 heard of, although I did not attend such a training, because I
10 did not attend any military school training.

11 [11.15.34]

12 BY MR. LYSAK:

13 Q. Who were the people who did attend?

14 MR. PRESIDENT:

15 The Defence Counsel, you may proceed.

16 MR. SON ARUN:

17 Mr. President, I wish to object the question by the prosecution
18 that he relied on the document of Thet Sambath, because that
19 document cannot be used and the document only exists in the
20 English and does not exist in the Khmer or the French, and we do
21 not really know the cause -- the source of this book, and they
22 probably purchased this book from a market somewhere in Phnom
23 Penh.

24 I once again object to the use of the book of Mr. Thet Sambath by
25 the prosecutor.

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1 [11.16.30]

2 MR. PRESIDENT:

3 The objection by the Defence counsel is valid, so the prosecutor
4 cannot use the book of Mr. Thet Sambath, as the Chamber has yet
5 to decide whether that book will be put before the Chamber.

6 Previously, Judge Cartwright already informed you of that.

7 In order to clarify the personal relationship, but when it comes
8 down to the content of the book, you are not allowed to use it
9 for your questioning, unless the document of that book is put
10 before the Chamber.

11 MR. LYSAK:

12 Thank you, Mr. President. I was just asking a question, but I
13 will not use that book until a ruling is made on that.

14 And I would -- just to inform counsel that we did not actually
15 get this at a bookstore, although, when we did learn of it, I
16 went immediately to the Monument Book Store, and they did not
17 have it in stock. But fortunately someone at the library had
18 ordered it a few months ago, and it was in the Court's library,
19 not checked out. So that's how the document -- the book was
20 obtained and then put immediately onto the case file.

21 But I will proceed and not use the book until a ruling is made.

22 [11.18.13]

23 BY MR. LYSAK:

24 Q. Mr. Nuon Chea, the schools that you attended in Vietnam, was
25 -- were you taught in Vietnamese?

1 MR. NUON CHEA:

2 A. Mr. President, it was taught in the Khmer language because
3 those trainees knew some Vietnamese language. Sometimes we would
4 have the Vietnamese teachers, but during our discussion, all the
5 trainees would discuss in the Khmer language.

6 Q. While you were attending these schools, were you able to
7 either speak or read Vietnamese?

8 [11.19.23]

9 A. I spoke some Vietnamese and I read some, but for the -- in the
10 political context of the language, I understand some, but for the
11 everyday language, I do not have a -- that familiar.

12 Q. When did you learn to speak and read Vietnamese, Mr. Nuon
13 Chea?

14 A. Mr. President, of course I can recall that.

15 Let me put it this way. When I joined the revolution, in 1951, at
16 all offices and bureaus, there were Cambodian and Vietnamese
17 working together. The Vietnamese would study the Khmer language,
18 and likewise the Khmer would study the Vietnamese language.

19 In early morning, after we finished the assigned tasks, we would
20 spend one hour to study, and who wanted to study the Vietnamese
21 language would do so, and those Vietnamese would also study the
22 Khmer language.

23 Q. Do you recall, when you returned to Cambodia from Vietnam,
24 whether that was before or after the 1954 Geneva Accord?

25 [11.21.29]

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1 A. From my recollection, it was after the Geneva Accord.

2 Q. And in 1955 or '54, after you had returned from Vietnam, were
3 you appointed Secretary of the Phnom Penh Committee of the Khmer
4 People's Revolutionary Party?

5 [11.22.20]

6 A. No. At that time, upon my return, the Secretary of the Party
7 was already appointed; that was Vorn Vet. I myself had no regular
8 task or assignment.

9 I met Saloth Sar, so I lent my hand to him and also to Tou
10 Samouth.

11 Tou Samouth, at that time, was at the Central Committee and he
12 needed some assistance, so Saloth Sar and I went to assist him,
13 as I stated previously. So there is no need for me to say it
14 again, otherwise it is repetitious and time consume.

15 Q. Why don't you tell the Chamber about the first time you met
16 Saloth Sar, who later became known as Pol Pot?

17 A. Mr. President, from my recollection, I think I already said
18 about that, about Saloth Sar or Pol Pot.

19 [11.24.10]

20 Q. Mr. President, I have no recollection of that, so I would ask
21 that the witness tell us when he first met Saloth Sar and explain
22 circumstances.

23 A. Mr. President, I met Saloth Sar around '54 or '55.

24 Q. How did you meet Saloth Sar? How were you introduced?

25 A. The person who introduced me to Saloth Sar was Chan Saman

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1 alias Khmao. He worked in Phnom Penh before me.

2 Q. What was Mr. Chan Saman's position with the Party at the time
3 he introduced you to Saloth Sar?

4 A. From my recollection, Mr. President, Chan Saman was a member
5 of a city branch of the Party.

6 [11.26.31]

7 Q. Did you and Saloth Sar work together on the Phnom Penh
8 Committee of the Party?

9 A. Mr. President, Saloth Sar and I worked together as assistants
10 to Tou Samouth. There was yet no organization or assignment.

11 Q. Just so we're very clear, Mr. Nuon Chea, was there any point
12 at which you were appointed Secretary of the Phnom Penh
13 Committee?

14 A. As I recall it, I was not appointed as the Secretary of the
15 Phnom Penh Committee of the Party.

16 Q. Were you -- were you and Saloth Sar later joined by Ieng Sary
17 in working with the Phnom Penh Committee of the Party?

18 A. At first, I did not know Ieng Sary; I only knew Saloth Sar and
19 Tou Samouth. I only heard of the name Ieng Sary, but I never met
20 him or knew him in person.

21 Q. Well, did Mr. Ieng Sary join you, and Pol Pot, and the other
22 people who worked in the city branch, on his return from France,
23 in 1957?

24 [11.29.01]

25 A. As I already stated, I did not know him, I only heard of his

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1 name. However, when Sieu Heng -- was the Secretary of the Central
2 Committee of the Party -- left the Party to confess to Lon Nol,
3 in 1959, the Party had to be restructured because there was no
4 longer a Party secretary, and only Tou Samouth, who was senior,
5 was appointed in - in 1960. And by 1961, the Party held its First
6 Congress near the "mei pleung" (phonetic) area, where Ok Sakun
7 was the host.

8 So the Party restructuring, from that day onward was a time that
9 I meet Ieng Sary.

10 Q. Mr. Nuon Chea, in the notes of the discussion you had with
11 Khem Ngun in 1988, it is indicated that Ieng Sary joined you and
12 Pol Pot on the Phnom Penh Committee; is that not correct?

13 I'm sorry, for Your Honours, for the record, the reference is--
14 [11.31.41]

15 A. Mr. President, I never knew Khem Ngun.

16 Q. Mr. President, at this time, if the - if the witness still has
17 the documents from yesterday, I'd like to refer him to IS 20.28,
18 which is the document he identified yesterday, and specifically
19 to pages Khmer ERN 00078190, English ERN 00184660 and French ERN
20 00596183. And if we can show on the screen the Khmer page,
21 0078190, Mr. President?

22 MR. PRESIDENT:

23 Your request is granted.

24 [11.33.24]

25 MR. NUON CHEA:

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1 Mr. President, I only came to know Khem Ngun at a later stage. He
2 worked with Ta Mok. And for the history of Khem Ngun, as I said
3 before he was a spy of the Prime Minister Hun Sen. He went into
4 the revolutionary group in order to obtain information. That was
5 who Khem Ngun was, but I did not realize who he was in the first
6 place, and so we exchanged some talks. And his code name was 09,
7 as I said before.

8 BY MR. LYSAK:

9 Q. I'm not asking you who Khem Ngun was, I'm asking you whether,
10 when you had your chit-chat with him, you told him that Ieng Sary
11 had joined you and Pol Pot on the Phnom Penh Committee.

12 MR. NUON CHEA:

13 A. Mr. President, I do not recollect that because we talked a lot
14 at that time. I do not remember what we were talking about at
15 that time.

16 Q. You indicated you were truthful in your conversation with him;
17 is that right?

18 A. As far as I know. I told Khem Ngun that what I was talking at
19 that time was unofficial and that could not be used as official
20 document.

21 And as for whether I was truthful or not, it depended on the
22 situation at that time, it depended on what I saw Khem Ngun as a
23 person. At some point, I talked truthfully, but at some other
24 point, I refrained from saying things. As I said, I did not know
25 who Khem Ngun was at that time, because I only knew that he was

1 Ta Mok's personnel.

2 [11.36.27]

3 Q. Well, let me refer you, Mr. Nuon Chea, to the next page of
4 this document, which is Khmer ERN 00078191, English ERN 00184661,
5 and French ERN 00596184. In this document, the following
6 statement is attributed to you, regarding Mr. Ieng Sary -- quote:
7 "Ieng Sary, he was what they called a leftist, what they called
8 unruly, had gone way off to the left."

9 Do you recall saying those things about Ieng Sary? And what did
10 you mean by calling him "leftist" and "unruly"?

11 [11.37.32]

12 MR. PESTMAN:

13 Excuse me. I object to this question. We cannot assume that our
14 client has told this particular person these things about Ieng
15 Sary. We do not know whether these notes are an accurate
16 reflection of the conversation my client had.

17 MR. LYSAK:

18 Mr. President, that's why I am asking the witness whether he said
19 these things about Ieng Sary.

20 MR. PRESIDENT:

21 The objection is not sustained. Mr. Nuon Chea, you have to answer
22 this question.

23 MR. NUON CHEA:

24 A. Mr. President, I do not remember that because for the internal
25 affairs of the Party, sometimes, there were leftists, there were

1 rightists, so there was a mix of these people. Even for myself,
2 at times I was towards the leftists, and at other times I was
3 towards the rightists.

4 [11.39.02]

5 Happens meetings regarding re-educating people, so people were
6 drawn to other directions. There were no pure people. And there
7 were people who were leftists, there were people who were
8 rightists, and never people who were centralists.

9 BY MR. LYSAK:

10 Q. And did you consider Ieng Sary a leftist?

11 MR. NUON CHEA:

12 A. Mr. President, I never consider Mr. Ieng Sary as a leftist. He
13 was a Party member. But if at times he was toward the leftists,
14 we try to re-educate, tried to bring him back. That is if there
15 was, but if there was not, we did not do anything.

16 [11.40.09]

17 Q. Did you consider Mr. Ieng Sary to be stubborn and unruly?

18 A. Mr. President, I never consider him stubborn or of any other
19 kind, because it was the internal affairs of the Party. We were
20 not supposed to talk about the internal affairs. We were not
21 supposed to criticize one another.

22 But if for those who were stubborn, we were supposed to share our
23 comments only within the Party, we were not supposed to talk to
24 outside the Party.

25 MR. PRESIDENT:

1 Counsel Son Arun, you may proceed.

2 MR. SON ARUN:

3 Mr. President, I would like to oppose the question the
4 Co-Prosecutor put toward my client. It appears that the
5 Co-Prosecutor is trying to encourage my client to point fingers
6 at each other.

7 MR. LYSAK:

8 Mr. President, I am not trying to do anything of the sort.
9 There's statements that have -- are made in this interview
10 regarding a relationship between Mr. Ieng Sary and Mr. Nuon Chea
11 in the late 1950s, while they were in Phnom Penh, that I am
12 asking him the questions about the information that's contained
13 in this document.

14 (Judges deliberate)

15 [11.42.32]

16 MR. PRESIDENT:

17 The objection is not sustained. Mr. Co-Prosecutor, you may
18 proceed with your questions concerning this issue.

19 BY MR. LYSAK:

20 Q. Thank you, Mr. President. At this time, I move onto the next
21 subject, which is the 1958 defection of Sieu Heng that you've
22 mentioned.

23 When your uncle in-law, Sieu Heng, defected from the Party in
24 1958, did you immediately become the acting Deputy Secretary of
25 the Party or were you not appointed to that position until the

1 1960 congress?

2 [11.43.37]

3 MR. NUON CHEA:

4 A. Mr. President, as I remember, Sieu Heng did not defect in
5 1958, it was in 1959, it was when he defected. And at that time
6 there was no new appointment of the Secretary of the Party. At
7 that time, Tou Samouth was the deputy.

8 I did not know how the appointments were done. It was the
9 Vietnamese who took charge over the appointments. They brought
10 them here, to Cambodia. So we came only later – we came to know
11 only later that Sieu Heng was the Secretary and Tou Samouth was
12 the Deputy. It was only our speculation. We did not know for sure
13 whether it was really Sieu Heng who was the Secretary of Party.
14 And we did not know whether there was any dispute between Sieu
15 Heng and other; that's why Sieu Heng was to be removed. But what
16 we knew, or what we thought, probably because he had no money and
17 he was afraid that his family and he could be arrested, or
18 perhaps he was connected to the Lon Nol's people.

19 [11.45.35]

20 He used to tell me that, when the situation was difficult, we
21 need to duck down, we need to stay low, and I said this was not
22 correct, that, if the situation was difficult, we had to try our
23 best to work so that the Party members did not become
24 discouraged. So we were in conflict with regard to our ideology
25 -- so I am telling you the truth here -- even though we were

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1 relatives, but here we were discussing the matters of the Party.

2 [11.46.24]

3 Q. I understand from your answer, then, that it was not until the
4 1960 Congress that you were appointed Deputy Secretary of the
5 Party; is that correct?

6 A. Yes, it is correct.

7 Q. Going back again to the document IS 20.28, in this document
8 you are quoted as saying that, following Sieu Heng's defection --
9 quote: "I was in charge of all contacts with the rural areas,
10 while Saloth Sar was in charge of the cities and the East." End
11 of quote.

12 And then you go on to add -- quote: "Tou Samouth was not useful
13 because he was old and not so knowledgeable. Therefore, there
14 were only Saloth Sar and me."

15 And for the record, this is contained in both the handwritten
16 notes, D366/7.1.410 at Khmer 00062306 to 07, English ERN
17 00716419, French ERN 00721004, as well as in IS 20.28, at Khmer
18 ERN 000781919 to 78192, English ERN 00184661 to 62, and French
19 ERN 00596184 to 85.

20 [11.48.41]

21 My question, Mr. Nuon Chea, is: Why did you refer to Tou Samouth
22 as not useful or knowledgeable, in your statement, in your
23 chit-chat discussion with Khem Ngun?

24 MR. PESTMAN:

25 Excuse me, I have to object again. This question presupposes that

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1 my client actually said so, and we cannot be sure that, as I
2 said, the statement is accurate and reflects what my client said
3 during the conversations.

4 Maybe the prosecution can ask whether my client actually said so
5 or not.

6 BY MR. LYSAK:

7 Q. Do you -- do you recall, Mr. Nuon Chea, telling anyone that
8 Tou Samouth was not useful or knowledgeable?

9 MR. NUON CHEA:

10 A. Mr. President, I did not say that Tou Samouth was not
11 knowledgeable. I did not use that word because I respected him;
12 he was a senior.

13 I said: For the situation in Phnom Penh, Tou Samouth did not
14 understand very much about that. That was why Saloth Sar was
15 tasked to monitor the situation in Phnom Penh.

16 [11.50.24]

17 However, all Party members respected the morality, the
18 revolutionary morality, the revolutionary character, and other
19 qualities of Tou Samouth. At that time, he stayed in South
20 Vietnam, so he did not grasp the situation in Phnom Penh, and so
21 we agreed together that we had to help tell him about the
22 situation in Phnom Penh. Otherwise, he would not be informed.
23 And at the time, if we did not have Tou Samouth as a senior in
24 order to coordinate the secret party with the people's party, we
25 would be dispersed. So Tou Samouth was a person who tried to

1 reunite the secret party and those people who worked openly.

2 [11.51.47]

3 At the time there was also Mey Mann and also Saloth Sar. We all
4 respected the morality of -- the moral of the person of Tou
5 Samouth, but the fact was that we acknowledged that he did not
6 grasp the understanding of the situation, at that time, very
7 well.

8 Q. Thank you. And referring to another statement from IS 20.28,
9 which is at Khmer ERN 78190, English ERN 184660 and French ERN
10 596183, there is a statement indicated as follows, that at the
11 time your Party leadership did not have strategic or tactical
12 lines, and so you were working on rebuilding the forces,
13 especially rural forces. And it is indicated that you contacted
14 two people in each province of Battambang, Kampong Chhnang,
15 Kampot, Takeo, Koh Kong, Svay Rieng, Prey Veng, and Kampong Cham
16 to help rearrange the Party branches.

17 My question is: As the person who is responsible for rural --
18 contacts with the rural areas, as you have already testified, how
19 did you select the people, in each of those regions, who would be
20 asked to help rebuild the Party branches?

21 [11.53.44]

22 A. Your question is a bit long, so I may not be responding to
23 your question completely, but I'll try my best.

24 Mr. President, at that time, as I remember, we contacted good
25 cadres. Let's talk after the Geneva Accord. After the Geneva

1 Accord, there was -- there were attacks. There was a lot of
2 attacks, and so the Viet Minh struggled, were only living in the
3 forests and they moved from province to province.

4 And as for me, I did not contacted people from a lot of provinces
5 as like what you have said. I contacted people from Kampong
6 Chhnang, that was Ma Mang, and I contacted the people from the
7 East Zone, and that was Ta Mok. He was a good guy. He were
8 collecting logs in the forest at that time.

9 [11.55.23]

10 I contacted him through So Phim, because So Phim went to work as
11 a construction worker in Phnom Penh, and later on we contacted
12 other people, but I do not really remember where they were. But
13 then, later on, it was not me who went to contact other people
14 like people from Stung Treng. I did not contact these people. The
15 point is, how could I, alone, contact all these people.

16 Q. My question, Mr. Nuon Chea, is you've indicated a couple of
17 times already that there were two existing branches of the Party,
18 the two places you just referred to, which was Ta Mok's branch or
19 base in the Southwest Zone, in Takeo, and Ma Mang's base in
20 Kampong Chhnang.

21 [11.56.30]

22 My question is: What did you do to rebuild the Party bases in
23 other regions?

24 A. Let me make this clear. Mr. President, there were two
25 remaining Party branches at that time: one in the East, it's Tram

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1 Kak village Party branch, and another one was in Kampong Chhnang,
2 Peam Commune Party branch. And there were three people who
3 prepared the establishment of these Party branches. And in order
4 to do so, we contacted senior people who were good people. They
5 included Ma Mang and Ta Mok. These people were honest.

6 And as for the establishment of the Party, that work was not done
7 immediately, we began from -- we did that step by step. It began
8 from the association of health care, the association of helping
9 hands, associations of burning corpses. So we began our work from
10 this very small work because at that time we were poor. And after
11 that we began to collect all those good people to be Party
12 members.

13 So this is the processes that we went through in order to
14 establish a party. We did not just take people and put them into
15 the Party. We began from very small jobs and we created the small
16 associations that we helped each other.

17 [11.59.13]

18 Q. Let me ask you this, Mr. Nuon Chea: Peam commune was in
19 Kampong Tralach district, in Kampong Chhnang province; is that
20 correct?

21 A. What commune are you referring to?

22 [11.59.40]

23 Q. I'm asking about the district that Peam commune was in.

24 A. I don't think we had Keam (phonetic) commune. I never knew
25 Keam (phonetic) commune. We had Peam commune.

1 Q. And what district was that located in?

2 A. Peam commune -- Mr. President, Peam commune was located in
3 Kampong Tralach district, in Kampong Chhnang province.

4 Q. Did that remain one of the Party's strong bases through the
5 1960s and 1970s?

6 [12.00.48]

7 A. That Party branch remains strong, but not very strong, because
8 the situation was chaotic at that time. But if you compared that
9 Party branch with other Party branches, this Peam commune Party
10 branch remains the strongest because Ma Mang was a correct
11 leader. He was a good leader, so he had influence over people in
12 that area. He also had influence in the Party. He was respected
13 by people. He was a senior struggle. He endured difficulty. He
14 never met his family.

15 One day, he complained to me that one day he went to live with a
16 poor family and he heard his wife's voice that his wife went to
17 beg for rice, and so he peeped. He saw his wife was carrying a
18 basket to beg for rice, but he could not do anything to help her.

19 MR. PRESIDENT:

20 Thank you, Mr. Co-Prosecutor. Thank you, Mr. Nuon Chea.

21 It is now appropriate for us to adjourn for lunch. So the Chamber
22 is now adjourned and will resume at 1.30.

23 Detention personnel are now instructed to bring the Accused to
24 the holding cells downstairs and to return them to the courtroom
25 by 1.30.

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1 The Court is now adjourned.

2 (The accused Nuon Chea leaves the dock)

3 (Judges exit courtroom)

4 (Court recesses from 1203H to 1330H)

5 (Judges enter courtroom)

6 MR. PRESIDENT:

7 Please be seated. The Chamber is now back in session.

8 For this afternoon session, we will continue questioning the

9 Accused relating to the facts for the first segment of the trial.

10 [13.31.25]

11 Before I hand the floor to the prosecution, the Chamber would

12 like to inform the parties, the general public, and the

13 Administration Office, as well as the staff assisting the Chamber

14 during the trial proceedings that, yesterday, the Chamber

15 informed the parties, the public, the relevant officials, and the

16 Administration that the Chamber intend to have a morning session

17 on Friday, tomorrow, as there are a number of other pending

18 issues that Judges of the Chamber need to convene, meetings

19 amongst ourselves, and also to put in place the plan for the

20 upcoming hearings for 2012 starting from the 10th of January. The

21 Chamber decides that the proposed morning session on Friday will

22 not be held. Therefore, please be informed of this change.

23 Counsel, you may proceed -- the Defence Counsel.

24 [13.33.15]

25 MR. VERCKEN:

1 I apologize, Mr. President. As I understand it, therefore,
2 there's no hearing tomorrow morning.

3 I just wanted to ask for a clarification about the question of
4 the submission of documents requested by the prosecutor for the
5 purposes of evidence, such as the book "Behind the Killing
6 Fields" and the video.

7 When the question came up the first time, it seemed to me that
8 the point had been resolved by the explanation we heard from the
9 prosecutor's bench, namely that this was not being cited as
10 evidence. And then it seemed to me that a request was in fact
11 submitted by the prosecutor, and Judge Cartwright then said that
12 a decision would be handed down on the matter.

13 [13.34.35]

14 I'm just asking, really, if the Court feels that this discussion
15 is complete now or if, Mr. President, you were thinking of
16 opening the floor to the question, during which time, both on the
17 prosecution and on the Defence time, we would hear the differing
18 positions.

19 MR. SMITH:

20 If I may, Your Honour's, it's the prosecution's understanding,
21 certainly through the written pleadings put forward by the
22 prosecution, and even some of the Defence, as well as through
23 some of the statements you've made in your decisions, that
24 arguments in relation to the admissibility of evidence is to be
25 separated in a way from the questioning of the witnesses, and the

1 reason being is that, if we argue the admissibility of every
2 document through whilst the witness or the Accused was present,
3 the flow of the testimony would be lost. And as Your Honours are
4 aware, we've put forward about -- over 6,000 documents. And
5 motions are pending on that.

6 [13.36.04]

7 And I think Your Honours have said a decision will be handed down
8 soon. And also Your Honours have advised us that there would be
9 some sort of documentary hearings at a further date. We've put a
10 proposal forward, but we're in Your Honours' hands, and we would
11 assume that days would be set aside to argue admissibility so
12 that doesn't stop the flow of the evidence.

13 And so, when the prosecution puts forward a document, it's just
14 to identify the document, not to say: Your Honours, please have
15 it admitted now. We accept arguments are required and we believe
16 that Your Honours have advised us that those arguments would be
17 at a later date, at documentary hearings. Thank you.

18 [13.37.01]

19 MR. VERCKEN:

20 Thank you, Mr. President. I think this is quite a complicated
21 question. The Defence, when the Co-Prosecutor is putting a
22 document to a witness, may feel duty-bound to raise the question
23 of the relevance or validity of the document in question.
24 So I think that the sooner your Bench does set some clear rules
25 about documents which may be debated and turn out to be a

1 foundation for a decision-

2 I note in passing that Judge Cartwright had referred to the 5th
3 of December, when all the footnotes concerning the Closing Order
4 and the paragraphs of the Closing Order that we're talking about
5 now in the historical background context. She said they were to
6 be considered documentary materials before the Court. That could
7 substantiate a decision.

8 So, sir, I'm wondering when we're going to talk about this issue.

9 [13.38.39]

10 Then there is Internal Rule 87, which concerns requests to add
11 documents during the trial from different parties, even though
12 they may not appear in the Closing Order footnotes or in the
13 lists that have been submitted by the parties, those documents,
14 too, which have not yet been discussed.

15 I just want to put this issue before you, Mr. President; it is
16 very important. Obviously, we don't want to have our debates
17 interrupted by disputes on the issue, and it would help us a
18 great deal to know what the position of the Chamber is, so that
19 we can be clear when we come to talk about these matters.

20 (Judges deliberate)

21 [13.43.57]

22 JUDGE LAVERGNE:

23 Thank you, Mr. President. I speak, of course, under your
24 authority and that of the other Judges, who are of course welcome
25 to correct any of my statements if they seem to be inaccurate.

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1 The Chamber must point out that it has received a certain number
2 of requests to see documents that are considered to be before
3 this Chamber. They have also received notes from parties that
4 contest the admissibility of certain documents. We, therefore,
5 have to decide on these various requests, and it's very time
6 consuming. For the moment, we haven't been able to take all the
7 decisions, and we hope to be able to do so at the start of next
8 year.

9 Moreover, the Chamber is looking at the trial timetable for next
10 year, and we have planned special hearings that are going to be
11 devoted to the submission of documents or evidence that are
12 relevant to the parts of the Closing Order that we have before
13 us.

14 During those hearings, the Chamber will hear the arguments put
15 forward by the parties on the subject of admissibility. But it's
16 important to distinguish between admissibility and the question
17 of the assessment of the value of a document or item as evidence,
18 in probative terms.

19 [13.46.00]

20 At the moment, what we are concerned with is the question of
21 whether there are objections, for example with the way that
22 confessions are submitted or this or that category of document. I
23 hope that makes things a little bit clearer for you, but at this
24 particular juncture, I think it's rather hard to give any wider
25 answer than that. Thank you.

1 MR. VERCKEN:

2 Thank you, Your Honour. I merely wanted really to draw your
3 attention to the fact, Mr. President, that currently things are a
4 little bit hazy when it comes to precisely what will be used by
5 the Bench to substantiate decisions, in other words the question
6 of what credibility is granted to this or that document.

7 [13.47.13]

8 So I wanted to bring forward the discussion on this question of
9 when we were going to talk about the questions that have been
10 raised, about items added, documents referred to in Closing Order
11 footnotes, and so forth, and the question of whether these were
12 automatically considered as put before the Chamber or not or
13 whether it was a matter for discussion.

14 And now I have understood that we will be having this debate. And
15 there are certain problems that can come up with the documents
16 that are attached to the Closing Order, and I now know that we
17 will have a chance to talk about this in full. So thank you very
18 much.

19 JUDGE LAVERGNE:

20 One point: I did not say that we were going to wait 'til the very
21 last minute before you were able to raise objections. When we
22 said that the evidence contained in the footnotes would be
23 considered before the Chamber, it was because there was an
24 assumption of admissibility. And if there are no objections,
25 fine.

1 [13.48.33]

2 MR. VERCKEN:

3 Ah! That's precisely the clarification I was wanting to hear.

4 Now, let's not go into this at any great length, but let me say

5 that there are documents that are appended to the Closing Order

6 that have not been translated into all of the working languages

7 of the Court and for which we have considerable trouble in

8 reaching a decision on the admissibility criteria. And I'm

9 hoping, therefore, that that issue will be included in our

10 forthcoming discussion.

11 (Judges deliberate)

12 [13.49.58]

13 MR. PRESIDENT:

14 The issue of having the documents considered placed before the

15 Chamber has now been resolved, and there is also another issue

16 that just raised regarding the issue of translating those

17 documents.

18 The issue of documents being considered put before the Chamber is

19 also mentioned in the latest memorandum issued by the Chamber.

20 The Chambers (sic) are invited to submit to the Chamber all the

21 relevant documents for segment 1 and 2 of the trials. So please

22 refer to the latest memorandums that we issued.

23 And other matters we will deal with in due course because the

24 matters have been raised repeatedly already.

25 MR. VERCKEN:

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1 Mr. President, they haven't been raised by me. And I'm not really
2 aware of the legal status of a memorandum, but what I have
3 understood is that it appears to require that all documents
4 parties need for the hearing should be translated into three
5 languages.

6 [13.51.49]

7 And the Memorandum puts the onus on the Defence and the other
8 parties to fulfil the translation requirements, which should not
9 be on their shoulders. Some of the documents that we want to use
10 for hearings are documents which figure already in the Closing
11 Order footnotes and which are, nonetheless, not translated. And
12 so, with this memorandum, or decision, or whatever it may be, the
13 parties are being shouldered with an obligation which, in fact,
14 befalls the Co-Investigating Judges, namely the translation into
15 all of the working languages of documents which could well be
16 used as evidence on one side or the other before the Accused. I
17 don't think that's acceptable. It's simply diverting that
18 official obligation onto the parties who are present here, who
19 express themselves in three different languages, and there are
20 items in the Closing Order that are in one of those three
21 languages.

22 [13.53.27]

23 And it seems to me that, when I hear from the Bench that the
24 subject is already settled, I don't entirely agree. I think that
25 this needs a proper hearing in front of the public so that people

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1 who are here can know precisely what difficulties the parties are
2 having to face in the course of this trial. Thank you.

3 MR. PRESIDENT:

4 I mentioned two separate issues just then.

5 One is the documents to be placed before the Chamber -- that is,
6 those documents related to the first and second segment, of all
7 the facts mentioned in the Closing Order.

8 Of course, we did not talk about the translation, the issue of
9 translation, but I mentioned that the issue of translation has
10 been raised many, many times already, and we will not deal with
11 this matter at this moment. So there are two separate matters.

12 You have to be clear on that.

13 Security guards, you are now instructed to bring Mr. Nuon Chea to
14 the dock.

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

16 [13.55.01]

17 MR. VERCKEN:

18 (Microphone not activated)

19 MR. PRESIDENT:

20 You are not allowed. We will continue with our proceeding.

21 MR. VERCKEN:

22 (Microphone not activated)

23 MR. PRESIDENT:

24 You are not allowed to take the floor.

25 Judge Lavergne, you may proceed.

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1 JUDGE LAVERGNE:

2 Let's take things calmly. Counsel Vercken, before you were Mr.
3 Khieu Samphan's official counsel, the Chamber did take a certain
4 number of decisions set out in memoranda. Perhaps you're not
5 familiar with all of them, but before we continue our debate on
6 this subject of translation, this Chamber has already set down a
7 certain number of positions on the subject, and at no point did
8 the Chamber say that, to be admissible, a document has to be
9 translated into three languages. It would be simply wrong to
10 believe that.

11 [13.56.20]

12 The best thing would be for you to look at those statements that
13 we have drafted on the subject before we take up this matter
14 again.

15 MR. PRESIDENT:

16 The Chamber would like now to give the floor to the prosecution
17 to continue questioning the accused Nuon Chea.

18 BY MR. LYSAK:

19 Thank you, Mr. President.

20 [13.57.07]

21 Q. Mr. Nuon Chea, when we broke for the lunch break, we were
22 talking about two of the bases that had been established, that
23 were the strongest bases that the Party had. And we had already
24 talked about Ma Mang's base in Peam commune. I want to now ask
25 you about Ta Mok's base in Tram Kak.

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1 Is it also true that the Tram Kak base was one of the Party's
2 strongest bases throughout the period of the 1960s and 1970s? Is
3 that correct?

4 MR. NUON CHEA:

5 A. My respects to the monks. Good afternoon, Mr. President, good
6 afternoon everyone.

7 I could not really catch the question. Could you please repeat?

8 Q. Certainly. My question was whether Tram Kak district, Ta Mok's
9 base, was also one of the Party's strongest bases during the
10 1960s and 1970s.

11 [13.58.48]

12 A. Mr. President, the Tram Kak Party's branch is not the
13 strongest. It was in the moderate size. It was operational.

14 Q. Well, is it not the case that, in 1976, the Central Committee
15 awarded Honorary Red Flags to three model districts in the
16 country, two of which were Tram Kak and Kampong Tralach, the two
17 bases that you were just discussing? Is that not correct, Mr.
18 Nuon Chea?

19 A. Mr. President, I cannot recall that. I can't recall whether
20 the Red Flag or whatever flag was given. It has been so many
21 years already.

22 Q. Mr. President, at this time, I'd like to submit to the Accused
23 document D2-15.4.

24 MR. PRESIDENT:

25 You are permitted. Court officers, please bring the document to

1 the Accused.

2 BY MR. LYSAK:

3 Q. Mr. Nuon Chea, I've handed you a "Revolutionary Flag",
4 document D2-15.4, and I want to direct you to the following
5 pages: in Khmer, ERN 00062792 through to 627928 -- sorry, to
6 62798; in English, ERN 00446848 through to 446852; and in French,
7 ERN 00487709 to 714.

8 [14.01.46]

9 And I have asked you -- particularly, I would like to direct you
10 to those pages which contain the following, the "Letter
11 Presenting the Honorary Red Flag" of the Central Committee of the
12 Communist Party of Kampuchea to all "cadres, combatants, and
13 peasants and people in the cooperatives in Prasaut District from
14 the East Zone, Kampong Tralach Leu District from the West Zone,
15 and Tram Kak district from the Southwest Zone.

16 Is it correct that the Central Committee awarded Honorary Red
17 Flags to those three Districts?

18 [14.02.36]

19 MR. NUON CHEA:

20 A. Mr. President, I could hardly read this document because the
21 letters are too small and it -- dark. But I can say that, if
22 those Party branches were operational, the Party could have
23 provided Red Flags to those branches. But as for this document, I
24 could hardly read them.

25 Q. Could you tell the Chamber what the Honorary Red Flag Award

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1 was? What was the significance of a district receiving an
2 Honorary Red Flag?

3 A. Mr. President, Honorary Red Flags were given to any Party
4 branches who accomplished something in order to resolve the
5 living standards for -- the living standard problems for the
6 people. And it was also given to the branches for helping the
7 Party or for doing good for the Party.

8 Besides this, the Flags could also be provided to the branches
9 for good coordination among the parties. They were given for the
10 good faith, they were not just simply given to the Party
11 branches.

12 It was also provided on the basis of the requests made by the
13 zones.

14 [14.05.11]

15 Q. That was going to be my next question, Mr. Nuon Chea. How did
16 the Central Committee determine which districts would receive the
17 Honorary Red Flag?

18 A. Mr. President, I do not remember that. It had been a long
19 time.

20 Q. I'd like to turn to some questions regarding your
21 responsibility for political education of Party members.
22 You've already testified about that, but the first question I
23 wanted to clarify: whether this is a responsibility you had both
24 before and during the period of Democratic Kampuchea. So my
25 question, Mr. Nuon Chea, is whether you were responsible for

1 political education of Party members prior to April 1975?

2 [14.06.25]

3 A. Mr. President, I was responsible since 1975. In other words,
4 after the Geneva Accords, I was tasked with only this one job,
5 that was the education, and the reason was the situations were
6 changing.

7 From the very beginning, before the Geneva Accords, there were
8 armed struggles, and we relied on both political struggles and
9 armed struggles. However, after the Geneva Accords, soldiers were
10 to be dispersed, and we were to integrate into the Royal
11 Government, and it was difficult for everyone to integrate and
12 live in the unified nation.

13 And how was it difficult? It was difficult because for -- those
14 who did not join the struggle were looked down and they were
15 considered Khmer Viet Minh, they were said to be bad people. And
16 so there was a need to provide education. So education was an
17 important issue in order to deal with these controversial ideas
18 among people, to avoid any possible conflicting ideas and to
19 continue to promote the spirits of nationalism and to teach
20 people to be tolerant.

21 [14.09.05]

22 Another reason was to educate peoples to increase their product
23 so that there was enough support to support themselves, because
24 no other countries would help them. They needed to be
25 self-reliant, they needed to support themselves. So that was the

1 education about.

2 Q. I need to just clarify one point because perhaps the
3 translation was incorrect. The translation indicated at first
4 that you had this -- were assigned this responsibility after
5 1975, but I gather from your answer that -- is it correct that
6 you were assigned the responsibility for political education
7 after 1955? Is that correct?

8 A. In short, Mr. President, there was always education, not only
9 from 1950s but it was after the Geneva Accords.

10 [14.10.41]

11 After they dissolved -- after the army was dissolved, those
12 people had to integrate into their former society, the corrupt
13 society, the womanizing society, the society with alcohol. That's
14 why, for us who used to live in the forest, for us who were
15 clean, for us who used to help each other; when we went to live
16 in the society like that, there was conflict.

17 And as for me, I had to understand the situation, I had to
18 provide education -- people from the Party, so that they would
19 not be influenced by people in that society, that we would not
20 give in, ourselves, to the society that is to drink, to corrupt
21 or to try to be rich. But of course we could do in order to
22 survive; we could do in order to support ourselves.

23 And as I remember, the most important thing is that we had to
24 avoid the three bad behaviours: womanizing, the gambling, and the
25 alcohol things. And if we had -- we were able to avoid the three

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1 bad things, we could build ourselves into a revolutionary people.
2 But the problem was we were not able to gain or achieve it one
3 hundred per cent. And the problem was we had people who tried to
4 persuade us, or sometimes their wives or relatives tried to
5 persuade us.

6 And there were a lot of problems during that time. And especially
7 the wives of the cadres tried to persuade those good cadres to be
8 bad. They tried to persuade their husbands to do bad jobs, and as
9 a result, such a kind of fighting -- I use the word "fighting" or
10 "combatting" -- was not very easy. It was very difficult.

11 It was like what they would have preached. It was not possible
12 for us to tell them what we want them to do, and there were -
13 there were many, many bad people.

14 As I told you, Mr. President, there were only two Party branches
15 remaining. Only two Party branches remained to be strong; the
16 rest went corrupt. So that was the issue.

17 So this kind of battlefield required our close engagement, and no
18 matter if we were arrested, no matter if there were only two or
19 three people, we had to educate them and we had to help them, and
20 we tried whatever it took in order to maintain them as
21 revolutionary people.

22 [14.15.37]

23 Q. Was the "Revolutionary Flag" publication used for the
24 political education of Party members?

25 A. The "Revolutionary Flag" were not published and distributed to

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1 everybody. Some were able to obtain a copy and so learn from it,
2 but other were not.

3 Like why some people liked to study, other did not like to study.

4 It is not wrong. Some people are lazy to study, some are not.

5 Some do not want to re-educate themselves, some do. And we do
6 have people who do not want to change; they want to maintain who
7 they are.

8 [14.16.51]

9 Q. Who was "Revolutionary Flag" distributed to?

10 A. Mr. President, the "Revolutionary Flags" were distributed to
11 the zone committees, and it was then up to the zone committees to
12 decide who to be distributed.

13 Q. Did you teach Party members about those documents in the
14 political training sessions that you - that you had?

15 A. Mr. President, besides the "Revolutionary Flag", there were
16 also other documents.

17 For example, the (unintelligible) documents, documents which talk
18 about these class divisions, documents about the quality of the
19 revolutionary people.

20 There were many documents, but I could not recollect all of them.

21 There were documents about the biography or the vision of the
22 biography of individual, and there were documents about the
23 nationalism and revolution. There were many kinds of documents.

24 [14.18.58]

25 Q. Well, were the "Revolutionary Flag" publications, then, one of

1 the documents that you used to provide political education to
2 Party members?

3 A. Allow me to ask: Are you talking about the "Revolutionary
4 Flag" before or after the liberation? This is my question. I want
5 you to confirm whether it is after or before the liberation.

6 Q. Well, let me ask you first before: Before liberation, did you
7 explain or use "Revolutionary Flag" as one of the documents to
8 give political education to Party members?

9 MR. NUON CHEA:

10 (No interpretation)

11 [14.20.03]

12 THE INTERPRETER:

13 The microphone was cut off.

14 MR. NUON CHEA:

15 A. There was education. There was publication of the
16 "Revolutionary Flag", but it was done secretly. We use some kind
17 of paper to write on. There were only two people who could make
18 this kind of "Revolutionary Flag". They were couple. And those
19 documents were distributed to the zones. And there was also a
20 technique to number those documents, and there was a printing
21 house to publish those documents. We could publish; we could
22 publish up to hundreds of documents per time.

23 BY MR. LYSAK:

24 Q. And did you receive copies of the "Revolutionary Flag"?

25 A. I used to receive them. The ones who made the "Revolutionary

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1 Flag" were the Standing Committee, especially the Secretary of
2 the Party. And me, myself, were the one who wrote it.

3 [14.21.58]

4 Q. I'd like now to show you part of the September 1977

5 "Revolutionary Flag", which Judge Cartwright put before the
6 Chamber the other day, and that is document D243/2.1.12. And the
7 page reference that I would like to ask you about is Khmer
8 00063141, English ERN 00486230, and French ERN 00492816.

9 And Mr. President, I'd ask permission for us to put that -- the
10 quote that I'd like to show Mr. Nuon Chea on the screen.

11 MR. PRESIDENT:

12 The Chamber permits that.

13 BY MR. LYSAK:

14 Q. Mr. Nuon Chea, we're going to show you a statement from the
15 September 1977 "Revolutionary Flag". And let me read the
16 statement I want to ask you about -- quote:

17 "The contradictions generated hatred, but, in the past the
18 contradictions were buried. Why were these contradiction buried?
19 Because the landowner class, the mandarin holders of power, and
20 the spiritual leaders of the exploiting classes disseminated
21 information to bury these contradictions. The belief that bad and
22 good deeds from another life resulted in present conditions,
23 etc., served to deceive the peasants and prevent them from seeing
24 the contradictions."

25 [14.24.21]

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1 This statement was made as part of the explanation of the Party
2 lines that were adopted at the 1960 congress.

3 So my first question to you, Mr. Nuon Chea, is whether the
4 reference to "spiritual leaders of the exploiting classes" was a
5 reference to Buddhist leaders.

6 MR. NUON CHEA:

7 A. Mr. President, may I first read the document?

8 [14.25.00]

9 MR. PRESIDENT:

10 Do you have the hard copy of this document? We can provide it to
11 Mr. Nuon Chea through the court officer.

12 (Short pause)

13 [14.26.09]

14 MR. NUON CHEA:

15 The "Revolutionary Flag" was not in this kind of format. The
16 "Revolutionary Flag" was made into a format of a book. It was a
17 book. The "Revolutionary Flag" was a book. Do you have that copy?
18 Anyone can make this kind of document.

19 BY MR. LYSAK:

20 Q. Mr. Nuon Chea, this is - this is a photocopy, that's why it
21 does not appear the same as the book. However, if you look at the
22 start of this document, you will see that this is a very
23 well-known speech that was given by Pol Pot on the anniversary,
24 the 17th anniversary of the Party, in September 1977, at which
25 the existence of the Communist Party of Kampuchea was officially

1 announced to the world.

2 So I would ask you again to refer to that quote that is on the
3 screen, which appears at page 44 of this speech by Pol Pot, and
4 answer my question: The reference to "spiritual leaders of the
5 exploiting classes", was that a reference to Buddhist leaders?

6 [14.27.44]

7 MR. NUON CHEA:

8 A. Mr. President, I insist that the document I request be
9 provided.

10 MR. PRESIDENT:

11 Counsel Son Arun?

12 MR. SON ARUN:

13 I am of the same view as that of my- In order to prove that the
14 document is authentic, I request that the original document be
15 provided to him. We cannot tell where they can get this document
16 from.

17 [14.28.20]

18 MR. LYSAK:

19 Well, Counsel, this document was put before the Chamber by Judge
20 Cartwright on Tuesday, and there were no objections or complaints
21 from Mr. Nuon Chea or you when it was shown to him on that day.

22 So Your Honour, I would -- Mr. President, I would like to proceed
23 and that you ask the Accused to answer the question.

24 MR. PRESIDENT:

25 In general, the documents that we use in this information

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1 technology is in this format; we cannot have it in hard copies.

2 All documents, including authored books, have been digitized and
3 put into the ZyLAB software, which controls the documents. And
4 the prosecutor is basing on the document available in the case
5 file. Previously, Judge Cartwright put this document before the
6 Chamber.

7 As a result, we may proceed with this document.

8 If we are to find the original copies of all documents placed in
9 the case file, we will need to find new technologies, because we
10 have now up to half a million documents in the case file. So this
11 is a technical issue when it comes to management of the case
12 file.

13 Mr. Son Arun?

14 [14.30.34]

15 MR. SON ARUN:

16 It is fine for you to say so, but this is the Court, and the
17 Court is very important. For anything that we cannot have in a
18 complete form, for anything that we do not have specifically, it
19 cannot be possible.

20 So can I ask whether this document is authentic or it is a
21 falsification? If it is an authentic document, for me, as a
22 lawyer, for my client, I would like to request for the authentic
23 material, and my client can trust this document.

24 MR. PRESIDENT:

25 This document has been put before the Chamber by Judge Cartwright

1 when she finished her questioning to the Accused, and this
2 document is now available in the case file.

3 [14.31.47]

4 For the authenticity of the document, counsel should have raised
5 the issue when the Closing Order was issued.

6 MR. NUON CHEA:

7 Let me make this clear for everyone. The principle of this Court
8 is to ascertain the truth, justice, and, I would add, advantages.
9 Anyone can make any kind of document. That is why I insist again
10 and again that I have the original document for me to read in
11 order to decide who wrote the document and how the document was
12 written.

13 By doing so, we can say that this Court is really seeking the
14 truth and justice, and not a false Court.

15 If the Court cannot provide the original documents to me, I do
16 not accept this document. I reject it.

17 (Judges deliberate)

18 [14.34.54]

19 MR. PRESIDENT:

20 The document is in the case file and it has been referred to in
21 every stage of the proceedings since the investigative stage. And
22 lately there have been a number of documents, and the process is
23 the same.

24 For that reason, the document is valid to be debated before this
25 Chamber, as it is already in the case file, and it can be

1 referred to by any party. Except in the case of a new document;
2 then, a request has to be made to the Chamber for each to be
3 considered put before the Chamber.

4 If you are not sure of its authenticity when you look at one page
5 or two pages, please refer to and look at other pages before you
6 can say whether the document is authenticated or not.

7 MR. NUON CHEA:

8 That document is not the "Red Flag" document.

9 MR. PRESIDENT:

10 Defence Counsel, you may proceed.

11 [14.36.40]

12 MR. PESTMAN:

13 Thank you, Your Honours. I think my client is raising a very
14 important point. The question is not whether this document has
15 been put before the Chamber, but whether it is authentic. And my
16 client is, at this moment in time, unable or unwilling to
17 authenticate this document, and which goes to the value of this
18 evidence.

19 I think it's a very reasonable request. Somebody must have copied
20 this document. He would like to have a look at the original in
21 order to establish the authenticity of the document. So I think
22 it's more than reasonable to ask for the original documents. They
23 must be somewhere.

24 (Judges deliberate)

25 [14.37.28]

1 MR. PRESIDENT:

2 Court officer, can you show the entire document of the magazine
3 of 1977 on the screen, that is from the first page to the last
4 page? And after that go back to the page that is referred to by
5 the prosecution.

6 MR. LYSAK:

7 Mr. President, before we do that, may I ask a couple of general
8 questions of the witness and then come back to the document?

9 [14.38.16]

10 MR. PRESIDENT:

11 Yes, you may.

12 BY MR. LYSAK:

13 Q. One of the reasons, Mr. Nuon Chea, I wanted to ask you about
14 this reference is that I had noted that, in your opening
15 statement, you had started your comments by paying respect to the
16 Venerable Monks and that you did so also today.

17 I have reviewed a number of your speeches from the time you were
18 a Khmer Rouge leader and did not find any speech in which you
19 paid respect to the monks at that time.

20 Can you explain why that was to the Court? Why is it that the
21 speeches you made as a Khmer Rouge leader contain no respect to
22 the Venerable Monks?

23 [14.39.27]

24 MR. NUON CHEA:

25 A. Mr. President, a speech could be a political one. I do not

1 want to mix religion with politics.

2 However, at that time, at that particular time, there was no monk
3 participating. For example, during a demonstration, if you mixed
4 a monk with politics, it's going to be confusing. For that
5 reason, I never used a line to pay my respects to Venerable
6 Monks.

7 But the question is: Did we really reject the monks? Of course
8 not.

9 And why is that? Because, in order to understand Buddhism, you
10 need to understand its content.

11 What is the root course of Buddhism? It is the morals, the
12 meditation, and your intelligence, and that we shall practise
13 these on a daily basis.

14 So some people who accuse that Democratic Kampuchea destroys the
15 religion are wrong, they don't understand the real meaning of
16 religion, of Buddhism.

17 [14.41.22]

18 During the era of Buddha, there was no monk's residence. He was
19 awakened in the forest. So we -- it's better not to use religion
20 as a pretext to attack Democratic Kampuchea. You actually need to
21 understand first what Buddhism is.

22 Pagoda; what is a pagoda? Pagoda is merely a place where people
23 pay respect to.

24 And besides that, you need to learn to adhere to some principle,
25 for example the loving kindness, the compassions, the empathetic

1 joy and the equanimity. These are the four immeasurables of
2 Buddhism, and of course they are in the heart of the Buddhist
3 followers.

4 Therefore, the physical being is different from the actual
5 meaning of the religion. Although someone does not have a chance
6 to do a physical respect to the Buddha, for example, in their
7 heart they can maintain all those four immeasurables of the
8 principle, and that would be the real nature of Buddhism.

9 [14.43.07]

10 Of course, I was not a monk, but I learned a little bit about
11 Buddhism and religion.

12 MR. PRESIDENT:

13 The time is now appropriate for a break. We will have a 20-minute
14 break, and then we shall resume.

15 Security guard, you are instructed to take the Accused back to
16 his seat behind his Defence counsel and bring him back to the
17 dock when the Court resumes.

18 (The accused Nuon Chea leaves the dock)

19 (Judges exit courtroom)

20 (Court recesses from 1443H to 1511H)

21 (Judges enter courtroom)

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

23 MR. PRESIDENT:

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

25 MR. VERCKEN:

1 Thank you very much, Mr. President. Very briefly, may I
2 re-address the issue of the photocopied document that was
3 presented to Mr. Nuon Chea?

4 We are the lawyers for the accused Mr. Khieu Samphan, but I
5 believe that this is an issue that is of concern to all of us.
6 After some very quick research on this situation, I was able to
7 get my hands on a decision that was issued by Your Honours in
8 case file number 1. It is a decision dated the 26th of May 2009,
9 document E43/4.

10 In this decision, Your Honours have indicated that irregularities
11 or procedural defects that are raised by parties with respect to
12 documents to be placed before the Chamber are not provided for
13 under Internal Rule 77.7 (sic).

14 Now, based on correct understanding of what I heard, just prior
15 to the interruption, you stated the contrary; you said, Mr.
16 President, that, so long as documents are not contested prior to
17 the confirmation of the Closing Order, they are no longer subject
18 to discussion.

19 In order to support counsel for Nuon Chea, I simply want to point
20 out that, in the Duch affair, your Chamber expressed the
21 contrary: it is expressly indicated that this does not cover
22 documents that may be put before your Chamber.

23 Therefore, in the interests of clarity, I simply seek to ask you
24 what exactly the position of this Chamber is. Does the same
25 principle that was pronounced during the Duch affair still apply?

1 [15.15.17]

2 And allow me to add as well, it was recalled earlier, and
3 that's-- Perhaps I was not fully apprised of all of the memoranda
4 and all of the requests and motions that may have been filed in
5 that -- I wasn't fully aware of all the issues surrounding
6 translation.

7 Yet there's a public document entitled "Memorandum Emanating from
8 the Trial Chamber", dated the 26th (sic) of October 2011, which I
9 have taken the liberty of placing on Judge Lavergne's desk. On
10 page 3, it is clearly written that the parties are duty-bound to
11 request translation of documents that they intend to submit
12 before the proceedings in all three languages of the Court, and
13 if they are unable to do so, then their ability to use the
14 document would be reduced.

15 And this is exactly the point I was trying to make earlier, when
16 we are put in such a position -- that is, to place the burden on
17 the Defence, or on the prosecution, or on the civil parties --
18 the task, the impossible task of translating documents that
19 should have been translated from the very start. Thank you, Mr.
20 President.

21 MR. PRESIDENT:

22 The Co-Prosecutor, you may proceed.

23 MR. SMITH:

24 Your Honours, if I can briefly remind Defence counsel that, in
25 relation to the Duch trial and now, the rules of document

1 presentation have in fact changed. Since the Duch trial, the
2 plenary has amended the Rule, and Your Honours have implemented
3 it in that the parties that want to put documents before the
4 Chamber do so in written pleadings. And Your Honour has asked all
5 of the parties to provide any objections to those documents.

6 [15.17.43]

7 In relation to this phase of the trial, those objections were
8 placed by the 1st of November.

9 In relation to the "Revolutionary Flags", there's no objection by
10 the Defence of Nuon Chea that the "Revolutionary Flag" photocopy
11 was in fact not a copy of the "Revolutionary Flag". The -- this
12 is the first that we've heard today, that somehow or another they
13 are disputing that the copy is in fact not a copy of the genuine
14 original.

15 [15.18.13]

16 Secondly, in relation to the next phases of the case, Your
17 Honours have asked the Defence and the prosecution to file the
18 documents that they seek to use and the Defence to respond -- and
19 the other parties -- by the 5th of January, after which, as Judge
20 Lavergne has said, the Chamber will make decisions on the
21 admissibility of documents. And Your Honours have said today that
22 you would set-up a session in the next Trial Chamber -- in the
23 next session of this case, where document admissibility would be
24 discussed in detail.

25 So the idea that this issue can keep arising again and again only

1 slows down the trial.

2 As far as the use of photocopies is concerned, obviously we'll
3 save our argument for that later date. But it cannot be, Your
4 Honours, that photocopies cannot be allowed as evidence if the
5 Defence -- their only ground of objection is the fact that it's a
6 photocopy. It must be something more than that; it must be
7 something substantive, on the basis that the copy is in fact not
8 a copy of the original. Otherwise, these cases will never be able
9 to move forward.

10 [15.19.29]

11 All of the international courts have operated on this basis, that
12 photocopies are acceptable because the number of documents in
13 these cases are so large. The Defence, the Nuon Chea Defence,
14 have had an opportunity to specifically state that the
15 "Revolutionary Flag" copy is not, in fact -- in fact, a copy of
16 the "Revolutionary Flag" and they have not stated so in their
17 response. Your Honours, the Defence, in this case, have had years
18 to look at the "Revolutionary Flags" to determine whether or not
19 they believed they were authentic or not, and they still haven't
20 raised that objection until today.

21 Your Honours, if the Defence -- if the Defence have a serious
22 objection to a photocopy, stating that they believe it is not
23 authentic and -- that's when it should only be addressed, and it
24 should be addressed at the hearings that Your Honours have
25 decided to hold in a month's time. Thank you.

1 [15.20.56]

2 MR. PRESIDENT:

3 Counsel, you are reminded to seek permission from the President
4 of the Chamber first, before you speak. You cannot just only
5 stand up and then push the button.

6 MR. PESTMAN:

7 How can I ask for permission without pushing the button? It's a
8 serious question. How can I ask for permission without standing
9 up and pushing the button? What am I supposed to do?

10 MR. PRESIDENT:

11 You may now proceed, Counsel.

12 MR. PESTMAN:

13 Just to briefly respond to the points raised by the prosecutor,
14 we have filed, on numerous occasions, general objections to the
15 documents which the prosecutor presented or wanted to put before
16 the Chamber.

17 [15.21.50]

18 We think -- and we've taken this position on more than one
19 occasion -- we think that a procedure should be established to
20 establish the authenticity of documents. And we have raised it as
21 a general point, and my client, today, raised a specific
22 objection to one document which has been put before him. I think
23 that should be enough and I think that the authenticity of this
24 document has to be established before we continue questioning my
25 client on this particular issue.

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1 And we support the suggestion made by the prosecution to reserve
2 a week to discuss all issues related to the admission of
3 documents, but not only to the admission of documents but also to
4 the authentication of documents.

5 [15.22.44]

6 MR. PRESIDENT:

7 Thank you for the observations raised by various parties. The
8 Chamber will consider all the issues and deliberate in due
9 course.

10 Now, we will proceed with the schedule as planned.

11 The prosecution is now given the floor again to continue
12 questioning Nuon Chea, if you have any other questions not
13 related to the '77 "Revolutionary Flag" magazine; before we took
14 a break, there was a debate regarding the validity of the "Flag"
15 magazine issued in 1977.

16 BY MR. LYSAK:

17 Thank you, Mr. President.

18 Q. When we left off, Mr. Nuon Chea, I had asked you the reason
19 your speeches as a leader of the Khmer Rouge did not contain
20 references or pay respects to the Venerable Monks. The truth, Mr.
21 Nuon Chea, is that the reason for that is that the Party had
22 banned Buddhism and defrocked all the monks; isn't that the case,
23 Mr. Nuon Chea?

24 MR. NUON CHEA:

25 A. Mr. President, the Party did not have any measure to ban

1 Buddhism.

2 [15.25.27]

3 Q. When Judge Lavergne was questioning you yesterday, Mr. Nuon
4 Chea, you were discussing some of the principles of Buddhism that
5 you believed were compatible with the Party.

6 The truth is that there also were many principles of Buddhism
7 that were not consistent with the Party, including the principle
8 of karma, the belief that bad and good deeds from another life
9 resulted in present conditions.

10 Is it not correct, Mr. Nuon Chea, that the principle of karma was
11 fundamentally inconsistent with the Party lines?

12 A. Mr. President, the karma, in Buddhism, as I understand it, is
13 that there is no karma from the previous life; karma exists in
14 the present life and karma at present will yield results at
15 present. Bad karma will be bad, good karma will be good, as well.

16 [15.26.56]

17 Who would know about the karma in a previous life? Everybody was
18 dead in a previous life. But if he asked human beings living at
19 present then we will know. If we commit bad karma, we will
20 receive bad result, and that is my strong belief. Whoever commits
21 a bad karma, that person will -- really deserves bad result.

22 Q. My question, Mr. Nuon Chea, was whether the Party regarded the
23 principle of karma as inconsistent with the principles of
24 communism?

25 A. I do not understand your question.

1 Q. Well, Mr. Nuon Chea, what is your response to the thousands of
2 witnesses who have given statements in the case file, who all
3 consistently say that the pagodas were closed, the monks
4 defrocked, and the practice of Buddhism banned during the period
5 you were the Deputy Secretary of the Communist Party? How do you
6 explain that?

7 [15.28.26]

8 MR. PESTMAN:

9 Can I -- I'm sorry, I would like to object to this question.
10 First of all, I'm not familiar with the thousands of statements
11 which say that monks were defrocked and pagodas had to be closed,
12 but most importantly I don't understand the relevance of this
13 question for the segment we are discussing today.

14 MR. LYSAK:

15 Mr. President? Mr. President, it is clear, from the case file,
16 that the decision to ban Buddhism was made prior to April 1975.
17 There are numerous - numerous statements, on the case file, from
18 witnesses who testify to that practice in areas that were
19 liberated by the Khmer Rouge prior to then.

20 [15.29.21]

21 In order to establish that, all -- we were incidentally touching
22 on that practice, but the point here is to confront the witness
23 with the truth, and the truth that every single witness who has
24 testified in this proceeding is that the Khmer Rouge closed the
25 pagodas and defrocked the monks.

1 MR. PRESIDENT:

2 The Chamber gives the floor first to the Defence for Nuon Chea.

3 MR. PESTMAN:

4 Thank you. I'm afraid I do not share the truth the prosecutor is
5 trying to present.

6 If the prosecutor wishes to confront my client with certain
7 statements, the easiest thing to do is just to show the
8 statements or refer to the statements so that my client can
9 react. It's impossible for my client to react to statements he
10 doesn't know about.

11 MR. KARNAVAS:

12 Mr. President, I haven't reacted earlier, and perhaps for the
13 reason because Mr. Nuon Chea is not my client, but for some time,
14 now, the prosecution has gone way beyond the scope of the first
15 phase.

16 [15.30.40]

17 Now, I realize that this is a trial and that at some point we
18 will get to these issues. However, I think, if we're going to be
19 touching on these issues as they are trying to do, it is best to
20 just simply try the entire first trial than to try to
21 compartmentalize it the way we're doing, because obviously it
22 will impact from the way we will prepare for our questioning.
23 The prosecution took the advantage because Judge Cartwright read
24 from a document dated 1977 and from then began asking questions
25 on matters that were outside the first phase. It was rather

1 clear.

2 As I said, we have no objection as long as we know exactly where
3 the parameters are. So either we try the entire first trial, and
4 so that every witness that gets on, including the Accused, who
5 choose to give evidence, are subjected to questions on all phases
6 of the first trial, or whenever a party goes beyond the strict
7 parameters that you've laid out, that they be told that they
8 could get to that issue at a latter date.

9 And if I may finish, simply standing up and saying: Well, we're
10 trying to get to the truth, is insufficient. I don't think that's
11 the answer when the objection is: How is it relevant to the first
12 phase?

13 So either we try the entire case or we limit the questioning at
14 this phase to the first phase that you've set out; one or the
15 other. Thank you.

16 [15.32.54]

17 MR. PRESIDENT:

18 Thank you. The Chamber has observed the objections of the Defence
19 counsel in regards to the question posed by the Co-Prosecutor
20 concerning the religion matter.

21 If you look at the memorandum that the Chamber has issued, we do
22 not have a clear limitation on the -- on this issue. That is, we
23 look at on only the persecution on political ground, but not on
24 the religious ground.

25 And in fact, the objection of the Defence is sustained, and the

1 Co-Prosecutor is advised to refrain from asking this kind of
2 question.

3 Again, parties are reminded to put questions concerning the facts
4 that have been set for the first segment of the trial.

5 The Co-Prosecutor may now proceed with another question except
6 those concerns the religious matters.

7 [15.34.24]

8 MR. LYSAK:

9 I am happy to proceed, Mr. President, but first, if I may just
10 answer the question that counsel has asked, the reason that I was
11 asking this is because the statements that were made regarding
12 Buddhism that I initially started to ask Mr. Nuon Chea about were
13 part of a discussion by Pol Pot of the analysis of Cambodian
14 society that was made in 1960, at the First Party Congress. That
15 is a direct issue that is part of this first proceedings. It is
16 something that the Accused has talked about at length, which is
17 the analysis they made of Cambodian society in 1960, as to who
18 were the enemies. And in this speech by Pol Pot, which I would
19 add is a very well-known speech that was broadcast on the radio,
20 for them to deny its authenticity is specious. This will be one
21 of the easiest things this Court can do.

22 But to be clear, the reason I was asking this is because in Pol
23 Pot's speech, it is clear that, as part of the analysis that the
24 Accused was talking about as to which parts of society were
25 considered the enemy, that there were references and discussions

1 to the Buddhists. And that is why – why I am asking about these
2 questions, Mr. President.

3 [13.35.55]

4 MR. KARNAVAS:

5 Mr. President, if I could be heard for just one second, what we
6 heard is pleading. Counsel is testifying. If that was the
7 intention of counsel, then he should do it by presenting
8 evidence, putting the questions or putting the documents to the
9 witness as opposed to making a closing and final argument before
10 the witness and before the public and thus trying -- attempting
11 to taint the evidence.

12 What he believes or what he thinks is irrelevant. Maybe he will
13 be able to prove it, but the proper way of doing it is to simply
14 go step-by-step, putting forward the evidence from 1960, and
15 letting the answers to his questions lead us down the road to
16 which he claims he will get us to, as opposed to simply standing
17 up and giving a closing argument.

18 I find that objectionable. I did not interrupt the gentleman, but
19 I would ask Your Honours that perhaps some guidelines be laid out
20 for all of us. Thank you.

21 MR. PRESIDENT:

22 This issue has been ruled -- ruled on, and I'm not sure whether
23 Mr. Co-Prosecutor has further questions to put to the - to the
24 Accused.

25 [15.37.20]

1 Once again, the issue that you have just raised is not one of the
2 facts that as in the memorandum distributed.

3 If you do not have any further questions, we will proceed with
4 another party.

5 BY MR. LYSAK:

6 Mr. President, I certainly have other questions. I simply wanted
7 to make sure our position on this issue was on the record. Thank
8 you.

9 Q. Mr. Nuon Chea, do you recall the speech that Pol Pot gave in
10 September 1977, where he announced to the world the existence of
11 the Communist Party of Kampuchea? Were you present at that
12 speech?

13 MR. NUON CHEA:

14 A. Mr. President, it has been many years; I do not recall it. If
15 you have documents, please show me. Please show me the document,
16 the speeches of Pol Pot. Do you have that document? If you do,
17 please show me.

18 [15.38.46]

19 MR. LYSAK:

20 Just so the record is clear, Your Honour, this is the same
21 document that we've been going through, which start -- which
22 announces at the start that it is a speech by Pol Pot announcing
23 the existence of the Communist Party of Kampuchea. But if the
24 Accused would like to see it, I'm happy to provide it to him
25 again.

1 (Short pause)

2 [15.39.25]

3 MR. PRESIDENT:

4 Could Mr. Co-Prosecutor identify the document number?

5 MR. LYSAK:

6 Mr. President, this is document number D243/2.1.12.

7 And I would simply ask you, Mr. Nuon Chea, to look at the very

8 start of the document, on probably what is the third page in the

9 Khmer version, where there is a description of the speech, which

10 reads as follows -- quote:

11 "The presentation of the party representative on the occasion of

12 the 17th anniversary of the great victory of the founding of the

13 Communist Party of Kampuchea and on the occasion of the official

14 domestic and international public announcement of the Party."

15 [15.40.24]

16 BY MR. LYSAK:

17 And my question to you is: Do you recall that Pol Pot made this

18 speech a few days before the 30th September anniversary, and then

19 he, and Ieng Sary, and a number of others flew off to Beijing for

20 their first official foreign visit as leaders of the Communist

21 Party? Do you remember that event?

22 MR. NUON CHEA:

23 A. This is also the "Revolutionary Flag" document. I already

24 rejected in the "Revolutionary Flag" to be -- there was no

25 content about the religion, and now you present to me this same

1 document.

2 [15.41.29]

3 Q. It was you that asked for the document, Mr. Nuon Chea.

4 My question is very simple. Do you remember a speech -- Pol Pot
5 giving a speech, in September 1977, that officially announced to
6 the world the existence of the Communist Party of Kampuchea?

7 A. I do not remember, Mr. President. It has been many years.

8 Q. If you don't remember, Mr. Nuon Chea, how is it that you
9 believe this document is not, in fact, a copy of that speech?

10 A. I do not understand your question.

11 MR. PRESIDENT:

12 Can you pause, Mr. Co-Prosecutor? Court officer is instructed to
13 show the "Revolutionary Flag" of 1977 on the screen, one page --
14 page by page, and then move back to the page that the
15 Co-Prosecutor wishes to put question, so that Mr. Nuon Chea could
16 examine the document.

17 (Short pause)

18 [15.44.00]

19 The document has not yet been shown. I have just instructed the
20 court officers to put it up on the screen so that you and your
21 counsel could see this document page by page, from the beginning
22 'til the end, and then we can proceed.

23 (Short pause)

24 (Microphone not activated)

25 [15.45.19]

1 Can it be slower? Some part of the document was not shown on the
2 screen. Can we show the complete page on the screen?

3 MR. IANUZZI:

4 Excuse me, Your Honour. If the point of this exercise is for Mr.
5 Nuon Chea to read the document, perhaps he could indicate the end
6 of each page when he's finished reading that document instead of
7 just flipping through page by page by page. Thank you.

8 MR. PRESIDENT:

9 Can the document be put up on the screen? We can spend the rest
10 of today's time just to flip over the pages of this document. And
11 after that the Chamber can review how we can proceed in
12 subsequent trials, because after this week we will not have any
13 more hearings, but the Chamber will convene in order to discuss
14 how we could conduct our future hearings by referring to our
15 amendments of the Internal Rules.

16 [15.46.53]

17 We note the observation from the Defence counsel for Mr. Khieu
18 Samphan, and so we will discuss on this matter and we will come
19 up with a solution to this problem. We will try to avoid that
20 this kind of question will be raised again in the future trial.
21 Mr. Co-Prosecutor, you may proceed.

22 MR. LYSAK:

23 Yes. Thank you, Mr. President. I would agree. And if I'd make a
24 suggestion, rather than spending the last time just having the
25 document on the screen, that I'll move on to a different line of

1 questioning, and we'll - we will address these issues about these
2 documents during the break, so that when we resume we won't have
3 these interruptions.

4 Is that acceptable to -- Mr. President?

5 [15.47.52]

6 MR. PRESIDENT:

7 I have said from the very beginning, I have already informed the
8 parties who raised this issue, and I want to make it clear, and
9 now the Co-Prosecutor even does not understand me. If you intend
10 to discuss the question that is not related to the facts that we
11 intend to be discussed in this segment of the trial, this is not
12 possible.

13 And now we want to show this document to the Accused and to ask
14 him whether he accept this document, and after that we will see
15 how we can proceed. It appears that you do not understand this
16 issue, and you come up with the same question, and now the
17 problem persists.

18 Now, what the Chamber wants is to show this document to Mr. Nuon
19 Chea so that he can examine page by page until the end of the
20 document, and then we will ask Mr. Nuon Chea to provide comments
21 on this document, what he think about this document. And after
22 that we will end today's session. The Chamber will move to
23 discuss together after that.

24 [15.49.21]

25 Court officer, you are instructed to put up this document on the

100

1 screen so that Mr. Nuon Chea can read this document.

2 Mr. Nuon Chea?

3 MR. NUON CHEA:

4 Again, I do not accept this "Revolutionary Flag" document. As a
5 result, even if this document is shown to me, I still do not
6 accept it. How could I accept it, as I do not know anything about
7 this document?

8 [15.50.17]

9 MR. PRESIDENT:

10 Thank you for your firm position, but before that you informed
11 the Court that just now the Co-Prosecutor showed you the hard
12 copy. That is why the Chamber asked the court officers to display
13 the document in soft copy, and we retrieved this document from
14 the ZyLAB software, which is used to manage the entire case file.
15 We have never encountered such a problem as to how documents were
16 placed into the case file using ZyLAB system, but as of now, we
17 encounter this problem and we are trying to show you that this
18 document is controlled by this kind of information technology,
19 and we are here showing you this document using this software,
20 and we just - and expect that you may not object to this document
21 once it is shown to you. But now that you show your objection
22 even though the document is shown, we are thankful.

23 [15.52.03]

24 And it is now appropriate for us to adjourn for today's session.

25 I now announce this session closed--

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1 Counsel Ianuzzi?

2 MR. IANUZZI:

3 Thank you, Your Honour. Just one last point before we all go
4 home. This relates to something that happened this morning,
5 during the questioning of Long Norin.

6 We are all quite interested, I'm sure, in preserving a proper
7 record of appeal, so I would just like to make it very clear that
8 we take objection to the Chamber's ruling on Mr. Pestman's
9 question regarding Keat Chhon.

10 Our position is that political interference is always relevant,
11 at any point of the proceeding, no matter what the topic is. That
12 will certainly be our position going forward.

13 And if I may just end on a lighter note, I'd like to thank our
14 colleagues on this side of the room today for their support, and
15 perhaps I could buy them a drink tonight, if they don't mind.

16 Thank you.

17 [15.53.13]

18 MR. PRESIDENT:

19 Judge Cartwright, please go ahead.

20 JUDGE CARTWRIGHT:

21 Your objection was noted. The final comments you made were
22 inappropriate for a court. That is a social matter, and you can
23 deal with it socially. Thank you, Mr. Ianuzzi.

24 MR. PRESIDENT:

25 Once again, today's session has now come to an end.

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1 And we will resume on the 10th -- on Tuesday, the 10th of January
2 2012. So this is the information to the parties and concerned
3 units of the Office of Administration.

4 Detention personnel are now instructed to bring the Accused back
5 to the detention facility and return them to the courtroom on the
6 morning of the 10th of January 2012, by 9 o'clock.

7 The Court is now adjourned.

8 (Judges exit courtroom)

9 (Court adjourns at 1555H)

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