



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

17 October 2016
Trial Day 465

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 01-Feb-2017, 09:07
CMS/CFO: Sann Rada

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

The Accused: NUON Chea
KHIEU Samphan

Lawyers for the Accused:
Victor KOPPE
LIV Sovanna
SON Arun
Anta GUISSSE
KONG Sam Onn

Trial Chamber Greffiers/Legal Officers:
Evelyn CAMPOS SANCHEZ
SE Kolvuthy

For the Office of the Co-Prosecutors:
Joseph Andrew BOYLE
Nicholas KOUMJIAN
SONG Chorvoin

Lawyers for the Civil Parties:
Marie GUIRAUD
LOR Chunthy
PICH Ang
VEN Pov

For Court Management Section:
UCH Arun

I N D E X

Mr. CHEAL Choeun (2-TCW-960)

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2-TCW-1037

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List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
2-TCW-1037	Khmer
Mr. BOYLE	English
Mr. CHEAL Choeun (2-TCW-960)	Khmer
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KOPPE	English
Mr. KOUMJIAN	English
Judge LAVERGNE	French
Mr. LIV Sovanna	Khmer
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer
Ms. SONG Chorvoin	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0905H)

3 MR. PRESIDENT:

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

5 Today, the Chamber continues to hear testimony of witness Cheal

6 Choeun and begins hearing testimony of <the witness,> TCW-1037.

7 Ms. Se Kolvuthy, please report the attendance of the parties and
8 other individuals to today's proceedings.

9 THE GREFFIER:

10 Mr. President, for today's proceedings, all parties to this case
11 are present.

12 Mr. Nuon Chea is present in the holding cell downstairs. He has
13 waived his right to be present in the courtroom. The waiver has
14 been delivered to the greffier.

15 The witness who is to conclude his testimony today, that is, Mr.

16 Cheal Choeun, and his duty counsel are present in the courtroom.

17 The upcoming witness, 2-TCW-1037, confirms that, to the best

18 knowledge, the witness has no relationship, by blood or by law,

19 to any of the two accused, that is, Nuon Chea and Khieu Samphan,

20 or to any of the civil parties admitted in this case. The witness

21 will take an oath before the Iron Club Statue this morning, and

22 the witness has Mr. Moeurn Sovann as duty counsel.

23 Thank you.

24 [09.07.32]

25 MR. PRESIDENT:

2

1 The Chamber now decides on the request by Nuon Chea.

2 The Chamber has received a waiver from Nuon Chea, dated 17
3 October 2016, which states that due to his health, that is,
4 headache, back pain, he cannot sit or concentrate for long. And
5 in order to effectively participate in future hearings, he
6 requests to waive his right to be present at the 17 October 2016
7 hearing.

8 He advises that his counsel advised him about the consequence of
9 this waiver, that in no way it can be construed as a waiver of
10 his rights to be tried fairly or to challenge evidence presented
11 to or admitted by this Court at any time during this trial.

12 Having seen the medical report of Nuon Chea by the duty doctor
13 for the accused at the ECCC, dated 17 October 2016, which notes
14 that, today, Nuon Chea has a numbness to the left side of the
15 body and has a lower back pain and cannot sit for long and
16 recommends that the Chamber shall grant him his request so that
17 he can follow the proceedings remotely from the holding cell
18 downstairs.

19 [09.08.55]

20 Based on the above information and pursuant to Rule 81.5 of the
21 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
22 follow today's proceedings remotely from the holding cell
23 downstairs via an audio-visual means.

24 The Chamber instructs the AV Unit personnel to link the
25 proceedings to the room downstairs so that Nuon Chea can follow.

3

1 That applies for the whole day.

2 And before I hand the floor to the parties to put questions to
3 the witness, the Chamber wishes to remind the parties of the
4 following.

5 When there is replies to a party who is standing or replies to
6 the Bench, please leave adequate pause so that interpreters can
7 do a proper interpretation <and please speak slowly.>

8 [09.09.58]

9 In relation to E319/52.3.3 and a subsequent document,
10 <E319/58.2.4,> that is, in relation to the written records of
11 witness 2-TCW-1066, these are the disclosures from Case 004,
12 please reminded that if these two documents are referred to,
13 please refer to only the pseudonym, that is, 2-TCW-1066, and not
14 the full names.

15 The Bench put questions to this witness rather extensively, and
16 now the Chamber hands the floor to the Co-Prosecutors and the
17 Lead Co-Lawyers. And you have one session. And the same thing is
18 for the defence teams, that is, one session for both.

19 Co-Prosecutor, you have the floor.

20 QUESTIONING BY MR. KOUMJIAN:

21 Thank you. Just to be clear, Your Honour is saying we have one
22 session combined, together. Thank you.

23 Q. Good morning, Mr. Witness. I just wanted to ask you some
24 questions to clarify what you told us last week, and I appreciate
25 that you've been very clear and only have told us what you

4

1 remember that you saw and heard, so I'd like to continue to do
2 that.

3 You told us that you had been a monk. Can you tell us when you
4 studied to be a monk?

5 [09.11.46]

6 MR. CHEAL CHOEUN:

7 A. I ordained as a monk in 1970.

8 Q. Now, prior to being ordained, did you study in a pagoda?

9 A. I studied in a pagoda school, and then in 1970, when the war
10 broke out, I ordained in the pagoda where I studied.

11 Q. How many years of schooling did you have, prior to being
12 ordained?

13 A. I studied for three years.

14 Q. Do you still consider yourself a Buddhist?

15 A. I do not understand your question.

16 [09.13.01]

17 MR. PRESIDENT:

18 Witness, do you still follow the Buddhist religion?

19 MR. CHEAL CHOEUN:

20 Yes, I am still a Buddhist.

21 BY MR. KOUMJIAN:

22 Q. Thank you, Sir. Sir, can you explain to us what happened that
23 you stopped being a monk?

24 MR. CHEAL CHOEUN:

25 A. I left the monkhood in 1975, that is, after the country had

5

1 peace. The Ministry of Religion went to hold meetings in various
2 pagodas and instructed monks to work in the rice fields and to
3 plant cotton for self-service since there -- we would no longer
4 receive support. And for that reason, I left the monkhood.

5 [09.14.10]

6 Q. When you talk about the Ministry of Religion, this was the
7 Ministry of what government or force?

8 A. The Ministry of Religion on the Khmer Rouge side.

9 Q. So between 1970 and the end of the war in 1975, where were
10 you?

11 A. From 1970 to 1975, that is, during the period that I ordained
12 as a monk, I stayed at Boeng Khnar pagoda. And in 1972, my mother
13 was evacuated by the Khmer Rouge to live in a forest, and I
14 missed my mother, so I went to look for her. And I met by members
15 of the Ministry of Religion, and I was not allowed to return.
16 Then I was put in <Prey Kantuot> (phonetic) pagoda <>.

17 However, I did not meet my mother when I was sent to reside in
18 <that> pagoda.

19 [09.15.37]

20 Q. So correct me if I don't understand you. What I understood
21 from your answer is that in 1972, you went to look for your
22 mother and the Ministry of Religion of the Khmer Rouge stopped
23 you and kept you in one place and did not allow you to go to
24 where your mother was. Is that correct?

25 A. Yes.

6

1 Q. Where was it that they kept you?

2 A. When I left the pagoda to that area, which was about three
3 kilometres from my mother's village, I went to look for my mother
4 there. Then I was questioned and I said I came from Boeng Khnar
5 pagoda. They did not allow me to return, and they let me live at
6 Prasat village and then took me to Prey Kantuot (phonetic)
7 pagoda, which was about 30 kilometres away from the village.

8 Q. So is it correct that, for the years from '72 to '75, while
9 the Khmer Rouge restricted your movement, you were still robed
10 and you were still a monk? Is that correct?

11 A. Yes.

12 Q. Now, after -- you've told us that you were called to a meeting
13 and told that you would no longer receive support and had to work
14 in the rice fields. Did that happen to other monks, to your
15 knowledge? Were any exempted from that?

16 [09.17.46]

17 A. At the location where I lived, that is, <> in Bakan district,
18 all the monks were treated the same.

19 Q. Did any of the monks protest or refuse to disrobe?

20 A. No monk dared to do that. All monks kept quiet and, monk was
21 disrobed <one after another until there was no monk in the
22 pagoda>.

23 Q. For the years from the Khmer Rouge victor in April 1975, until
24 their fall in 1979, did you see any monks who were allowed to
25 practise their religion during the regime?

7

1 A. No, there was none at that time. There were no monks.

2 Q. What about other practices of Buddhism and traditions --
3 Buddhist traditions in your area? Were people allowed to do
4 whatever traditions you had regarding prayers, regarding
5 funerals, regarding weddings?

6 [09.19.32]

7 A. I did not witness any of such thing. I did not see any monks
8 at a funeral or any wedding ceremony.

9 Q. Do you know if the regime -- and if you don't know, say so --
10 allowed the practice of religion, for example, Buddhists praying
11 or Muslims praying?

12 A. No, not at the time.

13 Q. Thank you.

14 So let me move on a little bit and talk to you -- you've talked
15 about this in some depth, so I won't repeat all the questions,
16 but I want to ask you about the time that you were given a gun
17 and put into Platoon 35 of Battalion 18.

18 You told us that you were sent to guard Lon Nol soldiers or
19 officers. Can you tell us, did you ever learn what had been said
20 to those soldiers and officers that were among the group?

21 A. They didn't say anything.

22 [09.21.23]

23 Q. Do you know if the soldiers were told where they were going?

24 A. I did not know about that. I did not know whether they were
25 told where they were to go to.

8

1 Q. You said something about Samdech Sihanouk. Can you explain the
2 relationship with Samdech Sihanouk to that incident?

3 A. I did not know about that because I did not see him, nor did I
4 hear people talking about Samdech.

5 Q. Were the soldiers that you saw -- you said that they were
6 disarmed, they didn't have weapons. Is that correct?

7 A. Yes, they did not have any weapon.

8 Q. Were they tied in any way?

9 [09.22.50]

10 A. No, they were not tied. They <were> walked as usual.

11 Q. You said it was a group of over 50. To be clear, did any of
12 them survive the shooting, to your knowledge?

13 A. At the time, maybe about three of them fled away, though I did
14 not know whether they survived, although they were not chased
15 after, after they fled.

16 Q. And the others, is it -- do you know if the others all were
17 killed other than the three?

18 A. Yes, they were killed, at least those who remained there.

19 Q. Were all of these -- were all of these men, or were there any
20 women in the group?

21 A. <The military side?> Which side are you asking me?

22 Q. Thank you. That's a good question.

23 I'm asking about the Lon Nol soldiers. Were there any women in
24 that group that was brought to be shot?

25 A. There was no woman. They were all men.

1 Q. You said -- you talked about uniforms. Were they all in
2 uniforms, or only some of them?

3 A. They were all in military uniform.

4 [09.25.04]

5 Q. Now, at that time, could you distinguish from the uniform
6 insignias on the uniform officers from regular soldiers?

7 A. The uniform belonged to the Lon Nol para soldiers.

8 Q. Did you recognize any of the people in that group?

9 A. No, I did not.

10 Q. You said you were kicked and forced to fire your gun. Is that
11 correct?

12 A. Yes.

13 Q. Did you ever fire your gun again?

14 [09.26.30]

15 A. After I was kicked and I was ordered to fire my gun, in fact,
16 those soldiers had fallen because they were shot by people behind
17 me. At that time, I -- my body was shaking because I was so
18 shocked to witness such an event.

19 Q. Okay. Thank you. My question wasn't clear. Let me try to
20 rephrase it.

21 After that incident where these men were killed, that you
22 witnessed, did you ever shoot your gun at another human being or
23 were you involved in any battles after that as a soldier?

24 A. No. Later on, my group was sent to live and work at Moun
25 <district>. And since I witnessed that incident, it reminded me

10

1 of why they did that because we wanted to make a revolution. And
2 I questioned Doeun, whom I knew, and Doeun told me -- rather, I
3 asked him why they did that to those soldiers, why didn't they
4 use their labour, and I was told why I wanted to know about that.
5 Then I thought back why I had put that question to him, and I
6 knew that it was a mistake. Since then, I stopped questioning him
7 again. And I was afraid that maybe one day, I would be being
8 monitored. And I still had that feeling constantly at that time
9 until about a month later when I was transferred to work as a
10 railroader worker.

11 [09.29.18]

12 Q. Okay. Thank you. There's a couple things in your answer that I
13 would like to -- you to explain a bit more.

14 First, you said your unit was then transferred to work somewhere.
15 I thought you said Moug. I probably didn't -- I'm not
16 pronouncing it correctly.

17 Which unit are you speaking about, and can you tell us about
18 where you were transferred to work?

19 A. At that time, it was not only my unit, but other members of
20 other units were combined or reintegrated, and we were sent to
21 work as rail workers.

22 Q. So the whole -- is it correct that the entire group that was
23 sent to work with you on the railroad were former soldiers or
24 Khmer Rouge troops?

25 [09.30.26]

11

1 A. They selected people whom I used to work, and they separated
2 some. And as for us, we were sent to work for railroad, and when
3 we arrived at the railway station, we saw other people who also
4 arrived at that railway station.

5 Q. Was the station in Battambang, or where was it?

6 A. It was <a station> in Battambang.

7 Q. Was Doeun also sent to the railroad?

8 A. Later on, I didn't know where Doeun was sent to.

9 Q. Can you tell us a little bit about what you know about the
10 biography of Doeun?

11 A. I met Doeun for a short period of time, and I did not dare at
12 the time ask him about his origin. And later on, we separated and
13 we have been separated until now.

14 Q. Okay. Thank you.

15 Is it correct that Doeun was the head of unit or Battalion --
16 excuse me, of Unit 35, rather?

17 A. That is true.

18 Q. Okay. Thank you.

19 Now, the railroad. Can you tell us what you know about how that
20 railroad was working during the years that you worked there? You
21 said you were there all the way until '79 when the Vietnamese
22 arrived. Where did the trains run from; from where to where?

23 [09.32.53]

24 A. I did not know where the train ran from and to. I was told to
25 build a railroad from Ou Salao (phonetic) to Battambang and <from

12

1 Battambang> to Kbal Khmaoch. My group was in charge of building
2 the bridge and the railroad.

3 Q. Did you see the trains go by?

4 A. I saw the train running on a daily basis. And I did not know
5 the last station -- where was the last station of the train.

6 Q. Would you see the train stop in Battambang?

7 [09.34.03]

8 A. The train stopped at a station in Battambang.

9 Q. Did you ever see things loaded or unloaded from the train?

10 A. I did not see <the loading>, but I did see things unloaded.

11 Q. Did you ever see people come off the train?

12 A. No, <I did not see passengers on> the train. In fact, I saw
13 the <carriages> of the train doors closed. <> In fact, I saw only
14 the workers on the train, and there were no passengers like in
15 the previous regime, that is, Sangkum Reastr Niyum.

16 Q. Did you ever meet people in your region who had been
17 transported by the train from the East Zone or other areas of the
18 country?

19 MR. PRESIDENT:

20 Please hold on, Mr. Witness.

21 You may now proceed, Koppe.

22 [09.35.40]

23 MR. KOPPE:

24 Thank you, Mr. President, and good morning.

25 I object to this question. Whatever happened to either East Zone

13

1 people or Khmer Krom people transferred in 1978, from the East
2 Zone is outside the scope of Case 002/02.

3 It's the same, in our opinion, that goes to the fate of Lon Nol
4 soldiers in the immediate aftermath of the evacuation of Pursat
5 and Battambang, but in relation to Khmer Krom and East Zone
6 people, I believe there's a specific ruling from the Chamber for
7 sure when it comes to Khmer Krom people.

8 So all these questions from the Prosecution are relating to
9 topics, which are outside of the scope of 002.

10 [09.36.48]

11 MR. KOUMJIAN:

12 Your Honour, I haven't mentioned Khmer Krom. I'm talking about
13 the railroads and the strategic importance of the railroads.

14 That's actually the topic that I'm addressing.

15 As for the killing of Lon Nol soldiers being within the scope of
16 Case 002/01, there was only one massacre of Lon Nol soldiers,
17 that being Tuol Po Chrey that was part of Case 002/01. The rest
18 is part of Case 002/02.

19 So my question, if I recall it, was simply whether he had seen
20 people transported or heard from people that they had been
21 transported on the trains, and it's up to you, but it's going
22 only to the strategic significance of the trains.

23 MR. PRESIDENT:

24 The Chamber overrules the objection put by the Defence Counsel,
25 and the Chamber needs to hear the response from the witness to

14

1 the question.

2 Mr. Witness, do you recall the question asked by the
3 International Co-Prosecutor, and if you forget, Mr.
4 Co-Prosecutor, could you repeat it?

5 BY MR. KOUMJIAN:

6 Q. Okay. I'm going to repeat it, but I'm going to add a little
7 something to the question.

8 So my question, sir, is, did you ever hear from anyone about
9 people being transported on the train from other parts of
10 Cambodia, including civilians or including soldiers from the
11 Southwest Zone, for example? Did you hear anything like that?

12 [09.38.47]

13 MR. CHEAL CHOEUN:

14 A. I never heard of it. I do not know about that.

15 Q. You said you saw things being loaded on the train. What was
16 being put on the train when you observed that?

17 A. I saw stuff unloaded, and the stuff included salt and <>
18 cement, <there was nothing else>. And as for other stuff, I did
19 not know whether they -- the train transported other stuff as
20 well because I was prohibited from seeing the stuff being
21 unloaded. All I could see at the time was cement, and the cement
22 was stored in the warehouse at the station.

23 [09.39.51]

24 Q. Were there any foreign advisors working for the railways,
25 Chinese or others that you saw?

15

1 A. Within the compound of the rail -- the train station, I never
2 saw any Chinese advisors. I did not know where the -- those
3 advisors were living.

4 Q. Well, did you ever see them in Cambodia during the four years?
5 Did you see Chinese advisors in your area and, if so, where?

6 A. I saw them living in a brick house in -- opposite the station.
7 I saw them from the place where I was working. Those workers, <>
8 my colleagues told me, were Chinese guests.

9 Q. Do you know what their jobs were or what they were doing
10 there?

11 A. On this particular point, I did not know their work. At 4 in
12 the morning, I was asked to come and work at the railroad<>.

13 Q. Was the food, given to the workers on the railroad sufficient?

14 A. The livelihood was not really good. We did not have
15 <>sufficient food to eat, but we had to bear the situation. In
16 the morning, we woke up at 4 a.m. in the morning and we went to
17 collect the rice from the site. We had to cook porridge by
18 ourselves <at the site> in the morning. And we mixed the rice
19 with the pumpkins leaves and other plants.

20 [09.43.07]

21 Q. If you know from what you observed and from what others told
22 you, would say that railway workers were treated better than the
23 typical worker in the region at that time?

24 A. When I was living at that location, we could find pumpkins and
25 pumpkins leaves, <>other plants <and bananas> to cook mixing with

16

1 the porridge or gruel. That could make the gruel better. However,
2 <>we could not eat at our fill, but we could survive with such a
3 meal.

4 Q. My question is the comparison. Perhaps -- I don't know, but
5 perhaps some workers came in to work at the railway station that
6 had been in other places. Do you know if the conditions were
7 actually better for railway workers than for others? If you don't
8 know, say so.

9 [09.44.48[]

10 MR. PRESIDENT:

11 Mr. Witness, please hold on.

12 You may now proceed, Counsel Anta Guisse.

13 MS. GUISSÉ:

14 Thank you, Mr. President.

15 I must say that I'm a little bit lost here, and I object to the
16 line of questioning of the Co-Prosecutor because it does not
17 appear to me that in the scope of 002/02 the railway work site at
18 Battambang is part of the Chamber's selection in terms of
19 <worksites that fall under this trial>. So, I don't understand
20 why this line of questioning <is being pursued>. Therefore, I
21 object.

22 BY MR. KOUMJIAN:

23 Your Honour, to explain my point, it's one that Philip Short
24 makes in his book where he says that certain people in
25 responsible positions lived apart from the masses, and privileged

17

1 groups such as railway workers whose loyalty was crucial to the
2 regime were fed not merely adequately, but well.

3 So that was the point I was trying to explore with the witness.

4 Q. So sir, do you know -- can you answer my question, or you
5 don't know, whether railway workers had it better than the other
6 workers in the region?

7 [09.46.30]

8 MR. CHEAL CHOEUN:

9 A. I did not know if my workstation was better than others. I was
10 not allowed to move freely and to make contact <> with one
11 another.

12 Q. Okay. I'm going to move on, then, to another subject.

13 You talked about assisting making a film. Can you tell us why you
14 did that? Why did you assist in making that documentary?

15 A. <Regarding> the documentary, I did not assist them much. I was
16 asked to accompany the filmmaker. The filmmaker did not know the
17 location, and I was asked by him to guide him.

18 [09.48.00]

19 Q. Okay. Thank you. Your Honour, there's a couple of short clips
20 of the witness' interview, the audio recording of the witness'
21 interview, that came up on his testimony Friday, where he said
22 something that he said he did not say in the interview. And I
23 would like to play those for the witness now if I have the
24 interview.

25 The first one relates to the name -- a name he gave of the

18

1 company commander. It was -- excuse my disorganization. On page
2 88 of the draft transcript at about 14.13.37, the witness talked
3 about the name of the supervisor of Unit -- of the company
4 commander. And I would like to play the portion of the witness
5 interview from 10 -- E3/10681, where the witness gives his answer
6 about that name.

7 So I believe this is actually the second tape. There's two little
8 audio tapes. It's very, very short, so my suggestion is that the
9 audio booth play it twice and the interpreters interpret it the
10 second time. It only lasts seconds, but I think playing it twice
11 will allow the interpreters and the witness to catch what is
12 being said. If that could be played, Mr. President.

13 [09.50.40]

14 MR. PRESIDENT:

15 Yes, the <>request <is> granted. And AV Unit, please show the
16 video clip on the screen. And please play the clips two times.

17 [09.50.59]

18 (Audio-visual presentation)

19 [09.51.17]

20 MR. KOUMJIAN:

21 I'm guessing this is the second one that I also wanted to play,
22 from the looks of puzzlement of Your Honours. And this is about
23 what you made when you were on -- at the railway.

24 Sir -- there's an objection.

25 MR. KOPPE:

19

1 At least I would like to get a translation from the interpreters
2 as to what this clip says so that I can follow the question.
3 So the clip that was just played, should -- I mean, it went very
4 quickly, I understand, but it should be interpreted.

5 JUDGE FENZ:

6 I think the idea was to play one clip twice. That's what went
7 wrong. But I agree; I'm getting a bit confused now, too, as to
8 where this is going.

9 MR. KOUMJIAN:

10 I apologize because some -- I had written down the times and the
11 questions, and I haven't brought that with me.

12 There are two clips. One of them relates to the witness' answer
13 where the video -- where the record of interview says he was
14 making bombs, and I believe that is what was played, his actual
15 answer. I believe it's number -- I don't know if anyone has that
16 number of the answer in the WRI. I thought it was 42, but it's
17 not.

18 [09.52.51]

19 JUDGE FENZ:

20 But we have allowed frequently these to be provided within the
21 next session, but a bit later, but perhaps we can --

22 MR. KOUMJIAN:

23 Okay. This --

24 JUDGE FENZ:

25 -- go ahead with simply playing it and asking for a translation.

20

1 [09.53.00]

2 MR. KOUMJIAN:

3 Okay. There are two answers from the WRI. First is answer 42, and
4 I believe that's not the one that was played, but I could be
5 wrong. And it starts at one minute and 12 -- one hour and 12
6 minutes into the tape, approximately.

7 The second one, which I'm guessing is the one that was played,
8 but the interpreters could tell us, is answer 121, which starts
9 around two hours, 12 minutes and 20 seconds.

10 So I don't know which one was played because my Khmer is bad, but
11 perhaps we could just ask to play it again and, as Counsel said,
12 have the interpreter interpret the answer.

13 MR. PRESIDENT:

14 AV Unit, please play the audio clip of the interview by the
15 witness.

16 [09.54.13]

17 (Audio-Visual presentation)

18 THE INTERPRETER KHMER-ENGLISH:

19 The <chief of the Company> was Roeut.

20 [09.54.36]

21 BY MR. KOUMJIAN:

22 Thank you. That was answer 42 from the WRI, which had been
23 recorded as Vuth in the WRI.

24 Q. Mr. Witness, did you say -- what name did you use for the name
25 of your company commander in that tape?

21

1 MR. CHEAL CHOEUN:

2 A. It was Roeut.

3 Q. Thank you. Now there's another portion of your interview, and
4 this is answer 121. I want to play that tape.

5 But just so you know the context, you're talking about working at
6 the Battambang railway station, and it says -- and you were
7 talking about what you were assigned to do during the regime.

8 So again, if we could play this short clip twice, and the second
9 time, if the interpreters could interpret it.

10 MR. PRESIDENT:

11 Yes. AV Unit, please play the audio clip twice. And the
12 interpreters are asked to concentrate and interpret the portion
13 so that parties could be informed.

14 [09.56.10]

15 (Audio-visual presentation)

16 THE INTERPRETER KHMER-ENGLISH:

17 At the time, I made bombs and my group was in charge of that.

18 [09.56.28]

19 BY MR. KOUMJIAN:

20 Q. Mr. Witness, did you listen to the tape?

21 MR. CHEAL CHOEUN:

22 A. Yes, I listened to it.

23 Q. What did you say your group made? What word did you use?

24 [09.56.52]

25 A. My group built the railroad.

1 Q. What did you say you made during the regime?

2 A. I was a worker. I was a worker building the railroad.

3 Q. Okay. Well, first let me ask you a separate question. Did you
4 ever -- one moment.

5 (Short pause)

6 [09.57.40]

7 If I could ask, Mr. Witness, if you listen once again. There's
8 one word you use. I want it to be clear what word you're using.

9 We understood you to say you were making bombs, but listen to the
10 tape and you tell us what you said.

11 MR. PRESIDENT:

12 AV Unit, please play the clip once again, the last clip.

13 [09.58.16]

14 (Audio-visual presentation)

15 [09.58.26]

16 BY MR. KOUMJIAN:

17 Q. What did you say you made?

18 MR. CHEAL CHOEUEN:

19 A. I made railroad.

20 Q. Did you ever -- have you ever been involved in producing
21 anything related to music?

22 A. No. I could not produce any such thing.

23 Q. I'm going to move on.

24 [09.59.18]

25 JUDGE FENZ:

1 I'm sorry. The issue was obviously was the word "bomb" correctly
2 translated.

3 MR. KOUMJIAN:

4 Yes.

5 JUDGE FENZ:

6 What's the outcome of that?

7 BY MR. KOUMJIAN:

8 Well, I don't speak Khmer. Someone who -- my understanding was
9 that the word sounded like the word for a musical instrument, a
10 string instrument. And I could ask the witness that directly.

11 Q. Sir, did you ever make string instruments?

12 Actually, I'd like my colleague -- it makes a lot more sense for
13 my colleague to ask the questions.

14 [10.00.10]

15 MR. SONG CHORVOIN:

16 Q. Mr. Witness, in the audio clip, the staff members in the OCP
17 listened to it on many occasions and we heard that your group
18 made bomb, not railroad. We would like to clarify this point with
19 you so that it is clear for everyone in the courtroom.

20 So now my question is, did your group make railroad or make bomb
21 <at that time>?

22 MR. CHEAL CHOEUN:

23 A. My group was making railroad.

24 JUDGE FENZ:

25 Sorry. Did you hear yourself in the audio? Is this you speaking?

24

1 And did -- if so, did you use a word -- did you use the word that
2 is -- that we can hear?

3 MR. CHEAL CHOEUN:

4 I already responded that I was building railroad.

5 MR. PRESIDENT:

6 Prosecutor, please move on.

7 [10.01.53]

8 JUDGE FENZ:

9 Mic isn't on, I believe.

10 BY MR. KOUMJIAN:

11 Q. Sir, did you get married during the regime?

12 MR. CHEAL CHOEUN:

13 A. Yes.

14 Q. Did you want to get married at that time?

15 A. At that time, I did not want to get married because it was
16 easier for me to live a single life, <> if I got married, then I
17 had to look after another person. And for that reason, I did not
18 want to.

19 [10.02.38]

20 Q. Did you have any intention of returning to the monkhood if you
21 could, if that ban on Buddhism ever ended?

22 A. Yes, I did.

23 Q. So tell us what happened that you ended up being married
24 during the regime.

25 A. At that time, Pheap, who was my direct supervisor at where we

1 built railroad, told me that it was the determination by Angkar.
2 And I told him that I did not want to have a wife because it was
3 easier for me to live a single life, and he said that I could not
4 object to the determination by Angkar. And for that reason, I
5 kept quiet.

6 Q. Can you briefly explain to those of us who weren't there
7 during the regime why is it you didn't continue to refuse and
8 just say, "I will not get married"? What were you afraid of?

9 A. I did not dare to speak because when I heard that it was the
10 determination by Angkar, I kept quiet because I was afraid. I was
11 afraid to die. And later on, they arranged my marriage.

12 [10.04.33]

13 Q. You talked about people disappearing during the regime. Can
14 you tell us, when did that start and did it -- more people
15 disappear at certain times than others? Can you explain?

16 A. Regarding the disappearance of people, to my knowledge,
17 namely, Pheap, he was not called for a study session, but when we
18 returned from our work in the evening, next morning, I heard his
19 family members said that he had been arrested during the night
20 time and taken away. That's what I heard.

21 Q. Did you ever hear of visits of Khmer Rouge leaders from Phnom
22 Penh to your region?

23 [10.05.44]

24 A. No, I did not. I did not see any of them. During the regime,
25 when we heard that it was a special train going through, then we

26

1 were not allowed to stay near the station. And we were not
2 allowed to work at the railroad. Instead, we were sent to clear
3 the grass.

4 Q. Was there special security at the railroad at any time?

5 A. I did not know whether there was such special security because
6 in the morning, we were sent out from our sleeping quarter. For
7 example, we were led to clear grass at the rice field or to work
8 in the plantation. And that happened <> at dawn, and it was far
9 away from the railway station. So I did not see any special
10 activity going on at the station.

11 Q. Had you heard of Nuon Chea during the regime?

12 A. During the regime, I did not hear of his name. I only heard of
13 his name after the arrival of the Vietnamese. I did not hear any
14 of the names of the senior leaders or saw any of them during the
15 regime. I only knew people around me, and some immediate
16 supervisors. They never made any announcements to allow us to
17 know who was who.

18 Q. Did you ever hear Khieu Samphan's name?

19 [10.08.20]

20 A. As for Khieu Samphan, I heard of his name when I was a student
21 during 1968 or '69. But I did not see him.

22 Q. Sir, did you attend political study sessions and, if so, how
23 often?

24 A. I was an ordinary worker. When the group chief convened a
25 meeting, I was not allowed to go near, let alone any major

1 meetings. And I never attended any political study session.
2 Supervisors went to attend those sessions, and when they
3 returned, they instructed us to do this or to do that, and that's
4 what we simply did.

5 For example, today, five of us would be assigned to work on the
6 segment of a bridge, then that's what we did.

7 Q. You don't recall any study sessions or any lectures you
8 received about enemies.

9 A. No, I did not.

10 MR. KOUMJIAN:

11 I think the time is up. Thank you, Your Honour.

12 MR. PRESIDENT:

13 And Lead Co-Lawyers for civil parties, <do> you have any question
14 that you wish to put to the witness?

15 [10.10.30]

16 MS. GUIRAUD:

17 Thank you, Mr. President. We have no questions for this witness.

18 MR. PRESIDENT:

19 Thank you.

20 It is now appropriate time for a short break. We'll take a break
21 now and resume at 10.30 <a.m.> to continue our proceedings.

22 Court officer, please assist the witness at a waiting room
23 reserved for witnesses and civil parties and invite him as well
24 as his duty counsel back into the courtroom at 10.30 <a.m.>.

25 The Court is now in recess.

28

1 (Court recesses from 1011H to 1032H)

2 MR. PRESIDENT:

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

4 And I would like to give the floor to the Defence Counsel to put
5 questions to the witness. And first of all, the floor is given to
6 the Defence Counsel for Nuon Chea.

7 And the Chamber also would like to inform parties that <if you
8 use the document E3/10684 and E3/10683...>

9 (No interpretation)

10 JUDGE FENZ:

11 I didn't get -- I don't think we got an English translation.

12 [10.34.04]

13 MR. PRESIDENT:

14 The Chamber now continue the session. And the floor now is given
15 to the Defence Counsel to put question <> to the witness.

16 And first of all, the floor is given to the Defence Counsel for
17 Nuon Chea.

18 And the Chamber also would like to inform that this morning, the
19 Chamber used the pseudonym for <the witness 2-TCW-1066>, and that
20 document E3/10684 and E3/10683, that if excerpts are extracted
21 from these two documents, <please inform the Chamber. Then the
22 Chamber will proceed the hearing in camera.>

23 And now the floor is given to defence counsel for Nuon Chea.

24 MR. KOPPE:

25 Thank you, Mr. President. As a matter of fact, I --

1 JUDGE FENZ:

2 I think the ruling was a bit unclear.

3 MR. KOPPE:

4 No, it's -- I think it's clear to me, but I'm actually going to
5 ask a question about it.

6 As I understand, the witness will only be referred to parties by
7 his pseudonym, and once I confront this witness with an excerpt,
8 we should close the doors, which is fine with me. So I will save
9 my question until the end.

10 [10.36.04]

11 However, one note, and that is the following. The question that I
12 will be asking this witness and the excerpt that I will be
13 confronting him with is probably or potentially relevant to the
14 Supreme Court Chamber, so if we close the doors, then whoever is
15 following these proceedings on behalf of the Supreme Court
16 Chamber will not be able to hear the answer.

17 I don't know if the answer is going to be relevant, but
18 potentially. So I would like to signal that problem beforehand.

19 JUDGE FENZ:

20 I think we can deal with that afterwards.

21 [10.36.55]

22 QUESTIONING BY MR. KOPPE:

23 Thank you. Good morning, Mr. Witness. I don't have many questions
24 for you, just a few follow-up questions as well.

25 Q. Let me start by asking you, Mr. Witness, do you read and

1 write?

2 MR. CHEAL CHOEUEN:

3 A. I can write to some extent, and as for reading, I can also
4 read to some extent.

5 Q. Mr. President, with your leave, I would like to show the
6 witness an excerpt from document E3/1170; English, ERN 00602544
7 and following; Khmer, 00443016 and 17; and French, 06544895.

8 MR. PRESIDENT:

9 Your request is granted.

10 (Short pause)

11 [10.38.56]

12 BY MR. KOPPE:

13 Q. Mr. Witness, I am showing you an organogram of what is
14 wrongfully called the Northeast Zone Army. It should be the
15 Northwest Zone Army.

16 The reason why this is obvious, Mr. President, is not only
17 because of all the names mentioned there, but also reference to,
18 typically -- or not typically, but cities and villages in the
19 Northwest Zone such as Pailin, Kreang, etc. So the author of this
20 organogram mistakenly said Northeast Zone Army. This is the
21 Northwest Zone Army.

22 Mr. Witness, if you can have a look at this document. Let me
23 guide you through the document a bit.

24 It says Division 1 and Division 2. Now, let me start with the
25 names that you can see headed under Division 2. I can read the

31

1 names in English. They say, respectively, number 1, Khleung,
2 number 2, Khoy, number 3, Ren.

3 My question to you is the following. In your answer, in your WRI,
4 58, you refer to Saroeun or also known as Ren. Is this, in fact,
5 the commander, Ren, that you have been referring to?

6 [10.41.30]

7 JUDGE FENZ:

8 Can I ask you something, Witness, following up what Counsel said?

9 Can you read this organogram? Because you said "I can read a
10 bit".

11 Can you read this organogram, meaning the paper in front of you,
12 or can you not?

13 (Short pause)

14 [10.42.23]

15 MR. CHEAL CHOEUEN:

16 I saw the names, but I do not understand.

17 BY MR. KOPPE:

18 Q. I understand it's a bit difficult. Let me take it step by
19 step.

20 In your WRI, E3/10681, in question and answer 58, you talk about
21 the commander of the division, and you say his name was Saroeun,
22 alias Ren. And when you now go to the document I'm showing you,
23 Division 2 has someone named Ren mentioned. So you can see, one,
24 Khleung, who was the secretary of Division 2, Khoy, who is the
25 deputy secretary of Division 2, and Ren, a member of Division 2.

32

1 Is he the one you talk about or, rather, is Ren the one who is
2 mentioned in -- as the leader of Regiment 70 below, or there's
3 also a Ren a bit down who was based in Pailin.

4 So my question is, when you speak about your division commander,
5 Saroeun, alias Ren, do you see that name in that organogram I
6 showed you?

7 [10.44.18]

8 MR. CHEAL CHOEUN:

9 A. Yes.

10 Q. And Ren -- Saroeun, alias Ren, is that the number 3 of
11 Division 2, the member of the highest command of Division 2? Is
12 that correct?

13 A. At this point, I do not know which division he belonged to. I
14 only knew when the event in which Ren was involved, and that's
15 what I knew. But as for which division he was part of or where he
16 came from, I had no idea.

17 [10.45.28]

18 Q. Do you know when this particular division was named Division
19 2? Do you know when that came about?

20 A. I also did not know.

21 Q. Thank you, Mr. Witness.

22 Now, on that very same page, on the left side, you can also see
23 names belonging to Division 1. It says that Norng Sarim , alias
24 San, was the secretary, Division 1, Neou, its deputy secretary;
25 and 3, Chhorn, its member. Do you see those three names?

33

1 A. Yes, I saw the names on the paper here in front of me, but I
2 do not know which divisions they belonged to. And I did not know
3 them, either. I only saw their names on the paper in front of me
4 right now. But previously, I never knew them.

5 [10.47.09]

6 Q. So just to be sure, I'm particularly interested in number 3,
7 Chhorn, alias Chhun (phonetic). This is someone that you didn't
8 know at the time and you didn't know later. Correct?

9 MR. KOUMJIAN:

10 I have a question. Counsel said Chhorn, alias. Where does the
11 alias come from?

12 He said Chhorn, alias Chhun (phonetic). I don't see that in the
13 document.

14 BY MR. KOPPE:

15 Correct. It's not from the document. It's from the OCIJ list, so
16 if I have to withdraw that part, I have no problem. But this
17 particular Chhorn is named as number 6336 on the OCIJ list. His
18 name is Uk Chhoeung, alias Chhorn, commander of Division 1. So
19 that's where I have the alias from, but I'm happy to limit myself
20 to Chhorn.

21 [10.48.14]

22 Q. Mr. Division, so the Division 1 commander, Chhorn, is someone
23 who is not known to you; correct?

24 MR. CHEAL CHOEUN:

25 A. That is correct.

34

1 Q. Now let me follow up the issue that was raised last --

2 MR. PRESIDENT:

3 <Counsel> Victor Koppe, please hold on.

4 And the floor is given to Judge Lavergne.

5 JUDGE LAVERGNE:

6 Yes. I'm sorry to interrupt you, Mr. Koppe, but <for the>
7 purposes of the <record>, can we know who the author of this
8 organogram is and when it was created?

9 Where does this document come from?

10 [10.49.11]

11 MR. KOPPE:

12 It's not entirely clear, but presumably it's a document that was
13 originating from an S-21 cadre.

14 We have discussed this document, I believe, with Duch, but I'm
15 not entirely sure. It is coming from a notebook, but I'm not
16 quite sure who the author is.

17 In addition, I might add that it might be a post-79 notebook as
18 well, at least a notebook in which an overview was made after
19 '79. At least that's what DC-Cam seems to be suggesting.

20 So it's either an S-21 cadre or, presumably, originating from
21 DC-Cam.

22 JUDGE FENZ:

23 It's identified in the title as a DC-Cam -- sorry.

24 At least in the -- when you open the documents, it's identified
25 as a DC-Cam document and as a Khmer Rouge black -- I'm just

35

1 trying to open it now -- black journal, I think.

2 [10.50.47]

3 MR. KOPPE:

4 Correct, but it's a bit odd in its --

5 JUDGE FENZ:

6 The description, yes.

7 BY MR. KOPPE:

8 In its description. So I'm not entirely sure if it is, in fact, a

9 DC-Cam document or, rather, belonging to a cadre.

10 Q. So Mr. Witness, I was going to refer to an issue that was

11 discussed last Thursday. You were read out an excerpt from a book

12 authored by Thet Sambath and Gina Chon. It was suggested that the

13 quote, which was read out to you, had originated from you.

14 However, as I made clear in that same hearing, the other

15 filmmaker, Robert Lemkin, is saying that this quote never came

16 from you.

17 [10.52.05]

18 MR. KOUMJIAN:

19 Excuse me. I object. Counsel's testifying, and inaccurately. The

20 email from the -- Mr. Lemkin, I don't know if it's confidential.

21 I don't know if it was sent to you confidentially, but I have no

22 problem with the email itself being part of the record. And

23 Counsel has his interpretation; I have mine.

24 It seems to me it's clear that the witness -- or Mr. Lemkin,

25 rather, was saying that people were promised confidentiality and

36

1 should not have been named. But it certainly doesn't say -- I
2 forget the exact words Counsel used -- that this witness never
3 said that.

4 That's not what he says in the email.

5 MR. KOPPE:

6 I presume that your memo is automatically, by itself, part of the
7 case file. If it's not, then I'm happy to read it into the
8 transcript.

9 [10.53.04]

10 JUDGE FENZ:

11 No, no, it's -- it's obviously part of the case file. The
12 question is, is it confidential or public?

13 I don't have it at the moment, but you obviously have it in front
14 of you.

15 MR. KOPPE:

16 I don't think it's confidential. It doesn't say so.

17 JUDGE FENZ:

18 Because as soon as the names are -- sorry.

19 MR. KOPPE:

20 Again, it's your memo, so you should say -- you should tell me if
21 it's confidential; yes or no.

22 (Short pause)

23 [10.53.55]

24 JUDGE FENZ:

25 I'll ask staff to do this immediately. Could you please use

1 something else in the meanwhile?

2 BY MR. KOPPE:

3 Q. Yes. So you were read out, as I said before, a quote from Thet
4 Sambath's book. The question was asked by the Judge whether you
5 said this. You said no. Mention is being made in that quote of
6 Chhoeun, Chiel Chhoeun, division commander.

7 Let me backtrack a bit. Were you present when a person named on
8 that same page, 106, of Thet Sambath's book, ERN 00757532; Khmer,
9 00858342; French, 00849437; is mentioned?

10 In that book, we can read about Chan Savuth, who was, according
11 to the book, head of the hospital in his region in Battambang.

12 And you, yourself, speak about Chan Samuth, question and answer
13 163, but were you present when filmmakers Lemkin and Sambath
14 interviewed Chan Savuth or Chan Samuth?

15 [10.55.55]

16 MR. CHEAL CHOEUN:

17 A. I <am> not aware of this.

18 Q. Well, when the filmmakers asked Chan Samuth or Chan Savuth
19 questions, were you in the room when they asked the questions?

20 A. No, I was not there.

21 Q. Let me then ask you what you said yourself about Chan Samuth,
22 question and answer, as I said, 163:

23 "Chan Samuth is living in Rumlech village, Rumlech commune, Bakan
24 district, Pursat province. He stayed with me, but his parents
25 were taken to be killed when he was in Battambang."

1 "Did Chan Samuth tell you about any event which occurred in Bakan
2 district before he went to Battambang?"

3 "No, he didn't."

4 Do you recall saying this to the investigator that you talked
5 about Chan Samuth?

6 A. Yes, I can recall it now about Chan Samuth. When I was
7 transferred to work as a worker at the railway station, I met
8 Chan Samuth. I did not know when he arrived, but I met him there.
9 Chan Samuth was from Rumlech, and he was imprisoned during Lon
10 Nol war time. And after the war ended, he joined to be the
11 railway worker. <He was Kampuchea Krom and he lived in> Rumlech.
12 Later on, he never went to visit his homeland., and <when>
13 Kampuchea Krom people were purged, <neither him nor I knew about
14 that event.> And after the Vietnamese liberated the country, we
15 realized that his parents had been killed.

16 I met him <>during the time <> we were worker at the railway
17 station, and we remained together there.

18 [10.58.58]

19 Q. Thank you, Mr. Witness. This is all about Chan Samuth.
20 Did Chan Samuth ever tell you at one point in time that he was
21 the head of the hospital in the region in Battambang?

22 A. No, Chan Samuth was never be a medic. The one whose name was
23 Chan Samuth that remained with me, he was an ethnic Kampuchea
24 Krom. He told me not to tell anyone that he's from Kampuchea
25 Krom.

1 He never held any position as a unit chiefs or cooperative
2 chiefs. He was simply just a worker like me.

3 Q. So the Chan Samuth you know never told you he was a medical
4 doctor or the chief of the military hospital in Battambang or had
5 a high-ranking function in Division 1. Correct?

6 A. That's correct. As far as I know him, because he lived in the
7 nearby village to mine, he never learned any medical studies or
8 training. I met him when I was joining the railway workforce, and
9 we remained working there together.

10 Q. Thank you, Mr. Witness.

11 Now, just to be very clear on this, you said you were never
12 present during Lemkin and Thet Sambath's interview with Chan
13 Savuth, but in your encounters with Robert Lemkin and Thet
14 Sambath, did they ever speak about Chan Savuth having told them
15 that Ros Nhim instructed Chhueun, the Division 1 commander, the
16 name that I just mentioned on the organogram, to contact Thai
17 Communists, start psychological war, etc.?

18 Is that my understanding? Should that be my understanding, that
19 Thet Sambath and Lemkin never spoke to you about Chan Savuth and
20 what Ros Nhim had instructed his division commander 1, Chhueun?

21 [11.02.40]

22 A. No.

23 MR. KOPPE:

24 Now, Mr. President, I'm revisiting your memo in which you quote
25 from Lemkin's email, and I would like to see if I can discuss

1 that.

2 JUDGE FENZ:

3 Just a second. It is confidential currently, but we are -- is
4 there any objection to reclassify this memo as public from the
5 Prosecution?

6 [11.03.19]

7 MR. KOUMJIAN:

8 No.

9 JUDGE FENZ:

10 Co-Lead Lawyers? No.

11 Defence team? No. Obviously not this defence team. Okay.

12 (Short pause)

13 [11.03.50]

14 MR. PRESIDENT:

15 The Chamber decides to re-categorize the document <E29/489/1>
16 into a public, and for that reason, the parties may use this
17 document in the public session.

18 MR. KOPPE:

19 Thank you, Mr. President. The question has been answered -- asked
20 and answered, but for the record and for the public, it is your
21 memo of 27 September to all parties. And in paragraph 2, the
22 Chamber refers to an email sent to WESU, on the 1st of September
23 2016, by Robert Lemkin. Let me quote from this:

24 "Thank you. Thanks for your emails. For reasons given many times
25 to the Court previously, I cannot accede to either request,

41

1 disclose the identity of W4 and provide the request footage."

2 [11.05.00]

3 And then it comes:

4 "With regard to your second, more recent set of requests, In
5 Thoeun and Chiel Chhoeun are incorrectly named on pages 104 and
6 106, respectively, of 'Behind the Killing Fields', a book I had
7 nothing to do with. I was careful to say that W1 in my earlier
8 notes was person (sic) named as In Thoeun on page 104.

9 That is not his real name, and I'm not free to divulge his real
10 name. However, the investigation units has been provided with so
11 many clues, I'm sure they can make their own inquiries." End of
12 quote.

13 And for the record, Mr. President, if one reads the actual quote,
14 in the opinion of the Defence there can be no misunderstanding as
15 to the "Chhoeun", that Chan Savuth is regarding to, namely, not
16 this Choeun, who is testifying today, but the Chhorn who was
17 division commander 1 and whose name we can see not only in the
18 OCIJ list, but also on that organogram.

19 MR. KOUMJIAN:

20 Well, there's a time for argument, I think that's at the end of
21 the case. But counsel's theory is unsupported. The person he
22 talked about on the OCIJ list is named Uk Chhoeung, a completely
23 different name.

24 So I understand that he's not happy with what the witness has
25 said, but what we know is that what's said in the book, this

1 witness, Cheal Choeun, did not say.

2 [11.07.04]

3 MR. KOPPE:

4 Again, it's not terribly important, but the public should know
5 that the person who interviewed both Chan Savuth and also this
6 witness, is very clear that Chan Savuth is not speaking about him
7 being a division commander, but obviously about the real Division
8 1 commander.

9 Having said that, Mr. President, let me -- let me move on to my
10 next point.

11 MR. PRESIDENT:

12 Please hold on, counsel Koppe.

13 And Judge Lavergne, you have the floor.

14 JUDGE LAVERGNE:

15 Whom are you referring to, Counsel Koppe, when you're speaking
16 about the person who interviewed the witness who is here in the
17 courtroom today? Are you referring to Thet Sambath or to Rob
18 Lemkin?

19 [11.08.05]

20 MR. KOPPE:

21 Both of them worked together. This witness --

22 JUDGE LAVERGNE:

23 Listen, Counsel Koppe, as far as I know, I believe that the video
24 excerpts that were screened last Thursday concerned a meeting
25 that took place in Thailand. And regarding this meeting, it

43

1 appears to me that <it is very clear that> the witness said that
2 Rob Lemkin was not present, so I do not know how you can say <or
3 draw the conclusion> that Rob Lemkin interviewed this witness.

4 So can you please clarify?

5 BY MR. KOPPE:

6 Q. I'm not entirely sure, Mr. Witness, what, exactly, you said
7 about your cooperation with Sambath and Lemkin, but let me ask
8 you to be -- to be very clear.

9 Can you tell us how many times you accompanied Lemkin and Sambath
10 on their trips, if at all, and were you, yourself ever
11 interviewed by one of them?

12 [11.09.30]

13 MR. CHEAL CHOEUEN:

14 A. He never interviewed me. However, he went together with Thet
15 Sambath when we went to Thailand.

16 Q. So--

17 MR. KOUMJIAN:

18 Yes, if I could just bring to, Your Honour's, attention and Mr.
19 Koppe's attention, in regards to his theory that the person that
20 Thet Sambath and Rob Lemkin interviewed and quote on page 106 of
21 "Behind the Killing Fields" was Uk Chhoeung, number 6336 on the
22 OCIJ list, Counsel may also refer to document D108/26.86 at
23 English 00873643. Number 110 on that list of the persons --
24 prisoners smashed on 18 October 1977, was Uk Chhoeun.

25 So I guess Counsel's theory is that they interviewed a man who

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1 was killed in S-21. I think the movie was made long after 1979.

2 [11.10.55]

3 MR. KOPPE:

4 If you had paid a bit attention as to what I actually said, Mr.

5 Prosecution, I know that also Lemkin and Thet Sambath cannot

6 interview people who are dead. They interviewed Chan Savuth. Chan

7 Savuth is the head of the hospital in region Battambang,

8 according to the book. That's correct.

9 It says, "Ros Nhim instructed Chiel Chhoeun, a division

10 commander, to contact the Thai communists."

11 Now, in the book, it's -- that's our position, and we have

12 convincing evidence for it. It's not this Choeun but is, in fact,

13 division commander Chhoeun, the one that I just referred to. And

14 that person is, indeed, dead because he features on the OCIJ

15 list.

16 So obviously, Sambath and Lemkin have not been able to interview

17 Chhoeun, who was Division 1 commander, but they interviewed Chan

18 Savuth, who, in his turn, referred to Chhoeun. And the English --

19 Thet Sambath doesn't speak English, and the English writer, Gina

20 Chon, mixed up this Choeun with Division 1 commander Chhoeun.

21 That's what happened and, to us, it's crystal clear.

22 [11.12.24]

23 MR. KOUMJIAN:

24 Excuse me. Counsel has now testified that Thet Sambath does not

25 speak English. In the movie, he's speaking English throughout the

1 film.

2 JUDGE FENZ:

3 And you have also testified what you think what mistake was made.

4 Can we stop the pleading?

5 The facts are here. The relevant documents are here. The Chamber

6 will make up its mind.

7 MR. KOPPE:

8 This--

9 JUDGE FENZ:

10 We can plead at a later stage.

11 [11.12.45]

12 MR. KOPPE:

13 This is what the Prosecution does all the time when they actually

14 read S-21 documents. That's what they do all the time.

15 JUDGE FENZ:

16 And we have allowed it for some time now, as you might have

17 noticed.

18 BY MR. KOPPE:

19 So it was -- it was an objection, and a wrongful objection.

20 Q. Mr. Witness, let me return to my question.

21 You said you were never interviewed by Lemkin and Sambath. Can

22 you tell us on how many trips you went with them? Was it only the

23 one time to Thailand, or did you accompany them on more trips?

24 [11.13.27]

25 MR. CHEAL CHOEUN:

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1 A. I went with them to Thailand for one time, and we did not go
2 anywhere else. However, when they came to my area, they
3 questioned me of the locations that they could conduct their
4 shooting, and I showed them the surrounding locations where they
5 could do their filming.

6 And after I told them, then they asked me to take them to the
7 locations, and usually those locations were between 200 to 300
8 metres from where I lived. And that's where they shot their film.
9 And besides that, I did not accompany them anywhere else. The
10 only trip that I made with them was to Thailand.

11 [11.14.28]

12 Q. Thank you, Mr. Witness.

13 Before I move to my last subject, one follow-up question in
14 relation to your work at the railway station, that the
15 Prosecution seems to be interested in, you talked about trains
16 that you offloaded or helped offload. Can you tell us where the
17 trains were coming from and for whom the cargo was meant?

18 A. In fact, I did not assist in offloading the cargo. However, I
19 was there. I was repairing the railroad, and I saw the train
20 coming from Phnom Penh direction. And it carried goods, namely,
21 cement.

22 And people from the commerce section actually carried those
23 cements into the warehouse. Our group did not involve in the
24 carrying of those goods.

25 Our work was to build the railroad there, and I saw what

1 happening. For cement, sometimes they were offloaded from the
2 train wagons and upload them onto trucks, and the trucks were
3 driven away. And at other times, it was stocked in a nearby
4 warehouse.

5 Q. But just to be sure, you did not know from which unit or zone
6 the goods were coming from and for whom they were ultimately
7 destined. Is that correct?

8 A. I did not know about that.

9 [11.16.34]

10 MR. KOPPE:

11 Yes. And now, Mr. President, I suppose we have to close the doors
12 because I'm moving to an excerpt from the testimony of TCW-10600
13 (sic) -- something.

14 MR. PRESIDENT:

15 The Chamber will proceed <> in camera hearing. AV Unit, please
16 disconnect audio and video the public gallery as well as to the
17 press room or to staff member of the ECCC via internal
18 distribution except those staff who are involved directly with
19 the proceedings who should be entitled to see and hear what is
20 going on next.

21 (Suspension of public session 1117H)

22 (Closed session from 1118 to 1122H)

23 (Resumption of public session 1122H)

24 MR. PRESIDENT:

25 I'd like now to hand the floor to the defence team for Khieu

1 Samphan.

2 [11.22.46]

3 MS. GUISSÉ:

4 Thank you, Mr. President. Good morning to all of you.

5 Simply to let you know that we're going to stand <by> our
6 position, which we described when Judge Lavergne put questions to
7 the witness, and we believe that there's very, very little
8 connection between this witness and Case 002/02. Therefore, we
9 have no <additional> questions to put to this witness.

10 MR. PRESIDENT:

11 Thank you, counsel.

12 And Mr. Cheal Choeun, the Chamber is grateful of your testimony.
13 That is now the conclusion of your testimony, and we hope that
14 your testimony may contribute to ascertainment of the truth in
15 this case.

16 [11.23.42]

17 You are now excused, and you may return to your residence. We
18 wish you all the very best.

19 And Sok Socheata, the duty counsel, the Chamber is also grateful
20 of your assistance. You are no longer required to be present in
21 the courtroom.

22 Court officer, please work with WESU to arrange Mr. Cheal Choeun
23 to return to his residence or wherever he wishes to return to.

24 It is also now appropriate for the lunch break. The Chamber will
25 take a lunch break now and resume at 1.30 this afternoon to

1 continue our proceedings.

2 Security personnel, you are instructed to take Khieu Samphan to
3 the waiting room downstairs and have him returned to attend the
4 proceedings this afternoon before 1.30.

5 The Court stands in recess.

6 (Court recesses from 1124H to1331H)

7 MR. PRESIDENT:

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

9 The hearing in this session, the Chamber begin to hear testimony
10 of <the witness> 2-TCW-1037. And before we invite the witness
11 into the courtroom, the Chamber issues an oral ruling on Internal
12 Rules 87.3 and 4, related to the request made during the trial
13 hearings. The Chamber refers to the requested filed
14 confidentially by the Nuon Chea Defence pursuant to Internal Rule
15 87.4 and 93, document E445/1, put on 11 October 2016 <as
16 confidential document>, seeking the admission of eight documents
17 and requesting investigative action with respect to two
18 documents. Oral submissions in response were heard on 13 October
19 2016.

20 Pursuant to Internal Rule 87.4, the Trial Chamber admits
21 documents 1 to 7 and denies the admission of document 8. Given
22 that the Chamber denies the admission of document 8, the request
23 in response made by the Co-Prosecutor to admit <other> three
24 documents is moot.

25 [13.33.03]

1 With respect to document 1, the Nuon Chea Defence is instructed
2 to identify those portions of the 215-page document which are
3 most relevant to the anticipated testimony of 2-TCE-98 and which
4 they intend to use.

5 Having regard to the Rule 93 request, the Chamber has asked WESU
6 to contact the expert to provide a full version of the first
7 requested document.

8 The Chamber denies the Rule 93 request with respect to the second
9 requested document.

10 Full written reasons for this decision will follow in due course.

11 Now the Chamber will hear the testimony of 2-TCW-1037. And the
12 duty counsel is Mr. Moeurn Sovann.

13 The Chamber notes that this witness is part of another separate
14 <and ongoing> case. Therefore, the <International
15 Co-Investigating Judges> categorized the witness in Category
16 "Kor" <of the three categories> in its memorandum E319/35 <and
17 requested that> a pseudonym <should be used> for this witness in
18 order to protect the confidentiality <of the investigation>.

19 Therefore, the Chamber need to balance between the integrity of
20 the investigations and the public discussions in this trial. And
21 the Chamber also would like to remind parties to stick to the
22 principle in this document E319/7 <in using documents from other
23 cases>.

24 And court officer, please usher the witness, together with his
25 duty counsel, Moeurn Sovann, into the courtroom.

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1 (Witness enters the courtroom)

2 [13.37.24]

3 QUESTIONING BY THE PRESIDENT:

4 Q. Good afternoon, Mr. Witness. In this Trial Chamber, based on
5 the request by the Judges of the International Co-Investigating
6 Judges, the Chamber will use pseudonym to address you. Parties
7 will address you by your status as a witness, 2-TCW-1037. And the
8 Chamber prohibits all parties to address you by your <given and
9 surname> name <publicly in the hearing>.

10 Court officer, please bring document <> E3/9580 to the witness
11 <for review>.

12 [13.38.34]

13 Mr. Witness, the Chamber would like you to identify your
14 identities in document E3/9580. In Khmer, ERN 00951901; and
15 English, <00978416, in French, 01004431> . And I would like you
16 to look at the highlighted parts <in orange> about your <given>
17 name, <family name, nationality, place of birth> your occupation,
18 your date of birth, your parents' names, your wife's name and the
19 number of your children, whether this information <is> correct.
20 You simply give us the answer whether it's correct or not. That's
21 it.

22 And you have the document in your hand now and you can have a
23 look at those highlighted parts. <Is that correct?>

24 2-TCW-1037:

25 A. Yes, that is correct.

1 Q. Thank you. And based on the greffier report this morning, that
2 based on your knowledge, you have no relationships by law or by
3 blood to the two accused, that is, Nuon Chea and Khieu Samphan,
4 and to any of the civil party admitted in this case. Is this
5 information correct?

6 A. Yes, that's correct.

7 [13.40.24]

8 Q. Please put the document aside because we don't use them now.
9 Mr. Witness, have you already taken an oath before the Iron Club
10 Statue before you come into this courtroom?

11 A. Yes, I have.

12 Q. Now we would like to inform you about your rights and
13 obligations as a witness in this courtroom.
14 Your rights: As a witness in the proceeding before the Chamber,
15 you may refuse to respond to any questions or to make any
16 comment, which may incriminate you; that is your right against
17 self-incrimination. This means that you may refuse to provide
18 your response or make any comment that could lead you to being
19 prosecuted.

20 [13.41.16]

21 Your obligations: As a witness in the proceedings before the
22 Chamber, you must respond to any questions by the Bench or
23 relevant parties, except where your response or comment to those
24 questions may incriminate you, as the Chamber has just informed
25 you of your rights as a witness.

1 You must tell the truth that you have known, heard, seen,
2 remembered, experienced, or observed directly about an event or
3 occurrence relevant to the questions that the Bench or parties
4 pose to you.

5 Mr. Witness, have you ever provided interviews to the
6 investigator from the OCIJ? And if you have, how many times and
7 where?

8 A. I provided the interviews with the investigator at my home.

9 Q. How many times that you gave the interviews to the
10 investigator?

11 A. Twice.

12 Q. Thank you. Before you come into this courtroom, have you
13 already reviewed the interviews that you provided to the
14 investigators <at your home> in order to jog your memory?

15 A. I cannot recall everything because it happened a long time
16 ago. I can recall only the important points, not all.

17 [13.43.29]

18 Q. Thank you. Based on your recollection, can you tell us whether
19 the interview statement that you have reviewed is consistent with
20 your interview that you provided at your home to the
21 investigator?

22 A. The answers I provided during the investigation process, based
23 on my review, they are slightly different; especially about the
24 exact dates and year, I cannot recall them well, so there are
25 some small discrepancies.

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1 Q. Thank you. Pursuant to Rule 91bis, the Chamber give the floor
2 to the Nuon Chea defence team to put questions to this witness
3 first and the Nuon Chea defence team and the Khieu Samphan
4 defence team, the combined time for you both are two sessions.

5 [13.44.56]

6 QUESTIONING BY MR. KOPPE:

7 Thank you, Mr. President, good afternoon. Good afternoon, Mr.
8 Witness. I'm the International Counsel for Nuon Chea and I would
9 like to ask you some questions this afternoon.

10 Q. Just one introductory question; you said you were interviewed
11 twice by investigators, is it correct that in 2013, you were
12 interviewed by investigators of this Court and that in 2006, you
13 were interviewed by representatives from an organization called
14 DC-Cam; is that correct?

15 2-TCW-1037:

16 A. Yes, that's correct.

17 Q. Thank you. Let me start by asking you, if you can tell the
18 Court, when it was that you joined the revolution?

19 A. Based on my recollection, I joined the revolution in 1970 and
20 I remained in the revolution until 1975 - until <the liberation
21 day,> 17 April 1975.

22 Q. Can you tell us what you did before 17 April '75, which
23 positions that you held, where you were stationed, etc.?

24 A. To my recollection, in 1970 to 1975, initially I joined the
25 army to liberate the nation and three years later, I left the

1 army and I received a new responsibility in charge of the
2 logistic and economy of the zone.

3 [13.47.50]

4 Q. And when was it exactly that you became or that you started
5 working for the logistics and economic section of the Northwest
6 Zone?

7 A. I started working in that role from 1973 onward.

8 Q. What were your functions while you were working at the
9 logistics and economics department of the zone; what -- what did
10 you do?

11 A. My main responsibility was in charge of controlling the food
12 and the ammunition. It was at the zone department of logistic and
13 economic section.

14 [13.49.13]

15 Q. Is it correct that at one point in time, you also became the
16 chairman of the logistics and economics unit of the Northwest
17 Zone?

18 A. I was not the chief. I was only in the role of distributing
19 food and clothes and ammunition to people at the battlefield.

20 Q. Maybe there's something not correct in the interpretation of
21 your -- of today or in your WRI; I'm not quite sure, but let me
22 read to you what you said in your WRI E3/9580, question and
23 answer 2.

24 You say, "I joined the Khmer Rouge as a soldier in 1970. By 1973,
25 I no longer went to battlefields since I was chairman of

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1 logistics and economics of the Northwest Military Zone. I was
2 still in that position until 17 April '75, but I had moved to
3 live in Phsar Leu market in Battambang provincial town; is that
4 -- is that correct what you said to the investigator?

5 A. I said so during the investigation interviews with me, but I
6 would like to clarify that I was not the chairman. I was simply a
7 chief of a section that <was> responsible for sending the food,
8 clothes, and ammunition to the battlefield. For the logistic and
9 economic department, it was <> a separate entity that belonged to
10 the zone general staff.

11 [13.51.50]

12 Q. Let me follow up on this. Is it correct that when you were
13 working in logistics and economics and -- and delivering
14 ammunition and weapons to soldiers, that you were attached to a
15 division which was later to be called Division 2?

16 A. Yes, that's correct.

17 Q. Can you tell us who your direct commander was, or your direct
18 chief, while you were at Division 2?

19 A. The commander of the division, Division 2, was Ren.

20 Q. And -- sorry, please go ahead.

21 A. And there was another person, Ta Ham and also Ta Khleng. They
22 were <> chiefs of the general staff <> of Division 2.

23 [13.53.34]

24 Q. Do you know whether there was also a deputy secretary in
25 Division 2 named -- named Khoy or Keu (phonetic), Khue

1 (phonetic)?

2 A. I heard the name, but I was not sure whether he was based
3 there or not.

4 MR. KOPPE:

5 Mr. President, with your leave, I would like to show that same --
6 very same document again that I showed earlier this morning to
7 the other witness; that is, E3/1170 which is an organogram of the
8 two Northwest Zone divisions.

9 MR. PRESIDENT:

10 Your request is granted.

11 (Short pause)

12 [13.55.21]

13 BY MR. KOPPE:

14 Q. Mr. Witness, are you -- are you able to read what's written
15 there?

16 2-TCW-1037:

17 A. Yes, I see it.

18 Q. In the--

19 MR. BOYLE:

20 Sorry, just for clarification, can I have the English ERN of the
21 -- the page that he is looking at?

22 [13.55.46]

23 BY MR. KOPPE:

24 Oh, I, yes, I apologize. That's 00602544; Khmer, 00443016;

25 French, 06544895.

1 Q. Mr. Witness, talking about Division 2, of which you were a
2 member, you can see three names as the commanders; Khleng, Khoy
3 or Khue (phonetic) maybe, and Ren; do you see those three names?

4 A. Yes, I see those three names.

5 Q. And that second name, does that ring a bell to you; is that
6 the same person that we just discussed?

7 [13.56.53]

8 A. I recall Khoy, but I do not know what position he held at that
9 time and for Khleng and Ren, I <remember their faces> clearly and
10 there was another person by the name Ham.

11 Q. We -- we will be discussing Ham shortly, but let -- let's --
12 let's stay on this overview first. When -- when you go down a
13 bit, you see Regiment 7-0, 70, and there we see the names Ren,
14 Roeut, and Se; is that the Ren that you mentioned and is that the
15 same Ren as the -- the Ren who was also a commander?

16 A. Ren was in the division headquarter and for Roeut, as far as I
17 know, he was in the regiment.

18 Q. Did you say Roeun (phonetic) or Roeut?

19 A. Roeut. To my recollection, he was the regiment chief of
20 Division 2.

21 [13.58.57]

22 Q. Thank you, Mr. Witness. Let me now ask you to go to the other
23 side of that same page. There you see the Division 1 commanders.
24 We can see the name Norng Sarim, alias San, the deputy secretary,
25 if I pronounce it well, Neou, and the member of the Division 1

1 Committee, Chhorn -- Chhorn. Do you see these three names and if
2 yes, do these names sound familiar to you; do you remember those
3 names, those people?

4 A. Yes, I saw the names, but I am familiar only with one name;
5 that is, Chhorn and another one is Sarim. I knew them, but I do
6 not know what positions they held at that time.

7 Q. Thank you, Mr. Witness. Now, are you able to tell us where in
8 the Northwest Division 2, your division, was stationed or based
9 and where in the Northwest Zone Division 1 had its headquarters
10 and was based?

11 [14.01.03]

12 A. To my knowledge, the 1st and 2nd Division headquarters, at the
13 time, as for the soldiers of Division 1, were located along
14 National Road Number 5 in Poipet area; as soldiers for Division
15 2, they were based along the former National Road Number 10; that
16 is, at the Provincial City of Battambang and that straight to
17 Pailin.

18 As for the division headquarter, it was located at Traeng
19 <commune> in Rotonak Mondol district.

20 Q. Let me follow up on this and let me lead you to your answers
21 -- your answer in your WRI, E3/9580 to the question 46. You said,
22 in that answer, that the major base of Division 2 was in Traeng
23 commune, Samlout district, presently Rotonak Mondol district,
24 correct?

25 A. After 1975, I saw the commanders of a division as well as

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1 commanders of battalions and regiments, held their meetings there
2 at that location.

3 Q. Thank you. But now if you have a look again at that organogram
4 that I showed you, it says that Ren's base was in Pailin and
5 Roeut's base was in Kreng (sic), K-R-E-N-G; were there also bases
6 in Pailin and Kreng (sic)?

7 A. What I want to say is that I did not know the locations of
8 regiments; however, soldiers of Division 2 were at Battambang, at
9 a sugar factory <Kampong Kol>, <Traeng, and> Pailin, etc.

10 [14.04.16]

11 Q. And Division 1 was, if I understand you correctly, among other
12 places, at Thma Koul along National Road 5; is that correct?

13 A. Yes, that is correct.

14 Q. Now, I have two additional geographical questions. Mr.
15 Witness, have you ever heard of a place called Traeng -- Phsar
16 Traeng?

17 A. Phsar Traeng, during the time before 1975, was a town where
18 there was a market; that is Phsar.

19 Q. Do you know whether Division 1 or Division 2 ever held
20 meetings at Phsar Traeng?

21 A. To my understanding, <the meetings> were held at regimental or
22 divisional levels at Battambang and Traeng; however, the
23 headquarter of the staff zones was located at Battambang.

24 [14.06.16]

25 Q. And my -- my second geographical question or actually I have

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1 another one, but Sdau village; do you know that?

2 A. Yes, I do.

3 Q. Do you know whether there were ever meetings held in Sdau
4 village?

5 A. I did not know at the time. I only knew the major areas where
6 soldiers were stationed.

7 Q. Very well and then my -- my last geographical question, Mr.
8 Witness, Vay Chap mountain; do you know where that is?

9 A. Yes, I do; I know Vay Chap mountain. Currently Vay Chap
10 mountain is located in Rotonak Mondol district. At the time, it
11 also had a division area in Vay Chap mountain and it was also a
12 military training base for that division.

13 Q. Thank you, Mr. Witness. Now, let me turn to the person that
14 you just refer to, Ham, Ta Ham; who was he and what was his
15 function before and after 1975?

16 [14.08.14]

17 A. Before 1975, Ham was in charge of the sector army. Later on,
18 he was transferred to the zone army. As for his actual position,
19 he was deputy of <Ta> Khleng.

20 Q. Did -- did Ham have a function in -- in relation to logistics,
21 the logistics of the zone?

22 A. He also controlled the logistics <of that zone>.

23 MR. KOPPE:

24 Then I -- I -- I'm almost certain we speak about the same person,
25 but just to be absolutely sure, Mr. Witness.

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1 Mr. President, with your leave, I would like to show that same
2 photo from the ECCC website that I showed earlier to the -- to a
3 previous witness from the Northwest Zone, the -- the bodyguard of
4 Ros Nhim. It's, I believe, admitted now into evidence. It's the
5 photo that is attached to the draft transcript of 21 September
6 2016. I'm not at liberty to say the name of that witness; it's
7 2-TCW-1036 and the photo was shown at 11.23 in the morning.

8 [14.10.17]

9 JUDGE FENZ:

10 And probably has a number by now, but--

11 MR. KOPPE:

12 We -- we checked, but we -- we couldn't find it. So with your
13 leave, Mr. -- Mr. President. And we can also, with your leave,
14 put it on the screen.

15 JUDGE FENZ:

16 And again, attach it to the transcript so we have it.

17 MR. KOPPE:

18 Yes, please.

19 MR. PRESIDENT:

20 Yes, you can proceed and AV Unit, please show the photo on the
21 screen per the Defence Counsel's request and allow me to say that
22 this photo is E3/10698.

23 [14.11.08]

24 BY MR. KOPPE:

25 Q. Mr. Witness, can you have a look at the photo or at the screen

1 if -- if you prefer? Is this the Ham that you spoke about?

2 2-TCW-1037:

3 A. No, he's not.

4 Q. That's an answer I hadn't expected. Let -- let me -- let me
5 ask another question. Do you recognize the -- the person on the
6 photo?

7 A. No, I don't <know this person.>

8 Q. The Ta Ham that you just spoke about and who you also
9 mentioned frequently in your WRI, do you know if he's still
10 alive?

11 [14.12.47]

12 A. To the best of my knowledge and based on the information that
13 I received, in 1977, towards the end of the year, Ham was
14 arrested by Pol Pot, but I did not know where he was taken to.

15 Q. Does this mean you believe that Ham is not alive anymore?

16 A. Yes, I believe that he's not alive.

17 Q. Let me see if I can try it differently. Do you know a person
18 named Toit -- Toit Thoeurn?

19 A. Is it Toit Thut (phonetic) or Toit Theut (phonetic)?

20 Q. That's a good question.

21 JUDGE FENZ:

22 Perhaps, your Khmer colleague can pronounce it.

23 MR. LIV SOVANNA:

24 The name is Toit Theut (phonetic).

25 2-TCW-1037:

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1 A. At my site, there was a Toit Theut (phonetic); however, he's
2 dead. He used to have quite a senior position and he passed away
3 less than a year ago.

4 [14.15.21]

5 BY MR. KOPPE:

6 Q. Yes, as a matter of fact, a few months ago. Was -- was -- the
7 Toit Theut (phonetic) that you speak about, was he a general in
8 -- in the Cambodian -- in the -- in the present Cambodian army?

9 2-TCW-1037:

10 A. Yes, that is true.

11 Q. And the person I just -- just to make sure I understand it.

12 The photo -- the person on -- on the photo is not Toit Theut
13 (phonetic)? Maybe I'm -- I'm getting confused myself now, but--

14 [14.16.08]

15 MR. BOYLE:

16 When the -- when the photo was originally placed to the witness,
17 he was asked about whether it was the Ham that he knew, so--

18 MR. KOPPE:

19 Right.

20 MR. BOYLE:

21 --so you might get a different answer from whether it's Toit
22 Theut (phonetic).

23 BY MR. KOPPE:

24 I will rephrase, thank you.

25 Q. The person that you just saw in the photo, it's not Toit Theut

1 (phonetic), the general, correct?

2 2-TCW-1037:

3 A. Are you referring to the photo before me?

4 Q. Yes.

5 A. The person looks similar to me because Toit Theut (phonetic)
6 that I knew, he had a darker complexion, but the facial shape
7 looks similar.

8 [14.17.17]

9 MR. BOYLE:

10 Just for the clarity of the record, the photograph is of an
11 individual by the name mentioned by Counsel that was identified
12 when he appeared before the Supreme Court Chamber and so I think
13 we have on record that it is -- you know, the photo is also of
14 when he appeared before the Supreme Court Chamber. So I -- I
15 think we have on record that it is the person by that name.

16 [14.17.42]

17 BY MR. KOPPE:

18 Sure, but there is also his testimony saying that he was Ham, the
19 person that worked for the military staff and who was -- who was
20 the chief of the logistics. So we might have a situation that the
21 person on the photo was saying he was Ham, but he wasn't in fact.
22 That's the problem.

23 But I don't have that much time; let -- let's move on. It's --
24 it's unclear and I might revisit this subject after the break,
25 Mr. Witness. It's very intriguing what you're saying.

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1 Q. Let me move on to another person that you speak -- just spoke
2 about, Ta Khleng. He was the chief of the military staff of the
3 Northwest Zone; is that correct?

4 2-TCW-1037:

5 A. Yes, that is correct.

6 Q. In your testimony, for instance, at -- in your DC-Cam
7 statement, you speak about another person called Ta Vanh; who was
8 Ta Vanh?

9 A. The name Ta Vann (phonetic) does not sound familiar.

10 Q. Maybe it's my -- my pronunciation which is not very good,
11 still, after all those years. Mr. Witness, you said in E3/10666
12 in your DC-Cam statement at English, ERN 01330497; I don't
13 believe there is a French ERN; but there is a Khmer ERN which is
14 01326301. You said, "Early 1977, they arrested Ta Vanh who was
15 chief of commerce. They accused him of arming a soldier to attack
16 Angkar"

17 So maybe my pronunciation was incorrect, but that's the Ta Vanh
18 I'm speaking about.

19 [14.20.47]

20 A. Yes, I recognize this person. He is not Ta Vann (phonetic),
21 but his name is Ta Vanh.

22 Q. There you have it. And is he the same person that you refer to
23 also in your DC-Cam statement on English ERN 01330517 and Khmer
24 01326314 where you say, "Ta Vanh, Ta Vanh" -- excuse me --
25 "supervised both the army and the sector too"?

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1 A. To my knowledge, before the liberation year of 1975, he was a
2 part of a sector committee; that is, Sector 2 Committee. He was
3 not in charge of the military.

4 Q. Very well. Then let me move on to two other important people
5 from the Northwest Zone; first, Ros Nhim, the chief of the zone.
6 You speak about him, Ta Nhim, being the zone secretary; did you
7 know Ta Nhim personally? Did you ever meet him in person?

8 [14.22.33]

9 A. Yes, I saw him in person and I used to attend political study
10 session at the political school with him for one or two
11 occasions.

12 Q. One -- one side-quote question, I suppose, Mr. Witness, have
13 you ever seen a photograph of Ros Nhim after 1975 anywhere?

14 A. No, I haven't since I parted ways from him. We heard that he
15 was murdered by Pol Pot as there was no photo of him remained. <I
16 have never seen his photo.>

17 Q. Thank you. And then my final question in relation to the
18 Northwest Zone structure; that's another person that you speak
19 about a few times, -- and I hope I pronounce it correctly -- Ta
20 Heng Teav, alias Ta Paet; do you know who he was and did you ever
21 meet him personally?

22 A. The name is not Heng Teab (phonetic), but Heng Teav, alias
23 Paet. I knew him and I knew him since the war period; that is,
24 before 1975.

25 [14.24.42]

1 Q. Thank you. Mr. Witness, let me return to Ta Ham, whom you
2 called in question and answer 28 of E3/9580, the deputy of the
3 zone military general staff, the deputy to Ta Khleung. You just
4 mentioned Ta Ham was arrested in 1977; do you know why he was
5 arrested?

6 A. From what I knew, the cadres who were in the leadership in the
7 zone military, were accused of having connection with the CIA. As
8 for him, he was accused of colluding in transporting firearms and
9 ammunition to hide them for the purpose of attacking and this
10 information, I obtained from some of the people I knew in the
11 army.

12 Q. Thank you, Mr. Witness. Let me -- let me read to you what you
13 told the investigator in relation to Ta Ham's arrest. In question
14 and answer 29, you said the following.

15 [14.26.35]

16 "Ta Ham was also arrested. They were arrested together. I
17 obtained information that both divisions of the Northwest Zone
18 had planned to fight back against Pol Pot, but this plan had been
19 leaked through some agents of the Centre. That was why the
20 military people were arrested. Ta Ham was accused of having
21 transported military equipment to Phnom Vay Chap mountain. I
22 learned about this, after 1979, from a driver who had transported
23 the equipment in question. Another soldier told me of a hearing
24 their leaders say in a meeting" -- sorry -- "Another soldier told
25 me of hearing their leaders say in a meeting, that if nothing was

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1 done about the Northwest group, the zone would revolt like the
2 East Zone." End of quote.

3 Is this what you told the investigators of the International
4 Co-Investigating Judge; is that what you told him? Is the -- is
5 the excerpt correct?

6 MR. BOYLE:

7 I object to the form of the question. It's compound. You can ask
8 him if that's what he told them and then you could ask him if
9 it's correct, but as asked; it might be a confusing answer for
10 the record.

11 BY MR. KOPPE:

12 No problem in rephrasing.

13 Q. Mr. Witness, is this what you've told the investigators?

14 2-TCW-1037:

15 A. Yes, that's what I told the investigator.

16 [14.28.42]

17 Q. Let me now go to the details of this particular answer. Let me
18 first ask you a question about the driver that you speak about;
19 the driver who told you after 1979, that he had transported the
20 equipment from Ta Ham -- the military equipment -- to Phnom Vay
21 Chap. Who was this driver?

22 A. To my knowledge, the driver was the person who lived with him
23 and who was also a driver and he was his close confidante. But at
24 present, I do not know his whereabouts; I haven't seen him.

25 Q. Do you know his name?

1 A. Yes, I know the driver's name.

2 Q. And would you be willing to tell us his name?

3 [14.30.27]

4 A. Yes, I can tell his name. His name is San (phonetic), but as I
5 told you earlier, he has disappeared. He has disappeared since
6 1979, 1980. I met him once in Snoeng village in Banan district.

7 Q. In -- in that answer that you have given to the investigators,
8 you said that the plan of both divisions of the Northwest Zone to
9 fight back against Pol Pot had been, "leaked through some agents
10 of the Centre." Can you expand on this; do you know how this plan
11 had been leaked and who are the agents of the Centre that you
12 refer to if you know?

13 A. <In relation> to this point, I learned about it through the
14 cadre who came to supervise the Northwest Zone. They were in the
15 military and they told us that they received the information from
16 the messenger and it was from <> Ta Nhim's messenger. The
17 messenger reported to the Centre and as a result, the plan <was
18 ruined> and <they were all arrested one by one from the Northwest
19 Zone>.

20 Q. And -- and who was this messenger of Ta Nhim?

21 A. Ta Nhim's messengers, I did not know them. <I was never with
22 them but> I saw four or five men who usually went out with him.
23 <I saw them each time I attended the study session.>

24 [14.33.07]

25 Q. And let -- let me follow up on this. You said you obtained

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1 information that both divisions had planned to fight back against
2 Pol Pot; what were the -- the plans of -- of the divisions? What
3 were the divisions supposed to do; do you know any -- do you have
4 any concrete details as to what these two divisions were supposed
5 to be doing against Pol Pot?

6 A. Related to this point, I only learned about them later on.
7 They told me that the division had a plan for counterattacks, but
8 their plans were not materialized yet. They had not had a clear
9 structure or network to materialize the plan yet and when their
10 plan were found out, they were <arrested> continuously <in the
11 Northwest Zone by the forces from the Southwest Zone.>

12 I received the information that forces from the two divisions
13 were preparing for counterattacks on Pol Pot. It was just the
14 information that I received from the zone military.

15 [14.34.56]

16 Q. And -- and what do you mean when you say the zone military;
17 who -- who gave you this information?

18 A. The military force within the division told me about that plan
19 and they explained to me that was the reason behind the <arrest>
20 of <all> leaders <there>.

21 Q. Do you have a name of the person who told you?

22 A. I cannot recall the names because there were many people who
23 talked about that. I cannot identify any one of them and I don't
24 know where they live now. They were at my age, at that time, and
25 now I am 66, so I think it's a slim chance that they survive.

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1 Q. I understand, but let me ask it more general. The persons who
2 gave you the information about the plan to fight back against Pol
3 Pot, were they, themselves, members of Division 1 and 2?

4 MR. PRESIDENT:

5 Please hold on.

6 [14.36.55]

7 2-TCW-1037:

8 A. They were not the force of Division 1 and 2; they were the
9 coalition forces that were sent from the Southwest Zone and those
10 people told me about the plan.

11 Q. Okay. Then, in that same answer, you said -- you talked about
12 San (phonetic), the driver who had transported military equipment
13 to Phnom Vay Chap, but you also say, "Another soldier told me of
14 hearing their leader say in a meeting that if nothing was done
15 about the Northwest group, the zone would revolt like the East
16 Zone." Who is this soldier who heard Northwest Zone leaders say
17 that the zone would revolt like the East Zone?

18 [14.38.06]

19 MR. BOYLE:

20 The -- the question misrepresented the -- the answer. It -- it
21 was read correctly, but then he didn't say that he heard
22 Northwest Zone leaders discussing this; he said he heard leaders.
23 "If nothing was done about the Northwest group, the zone would
24 revolt" -- I'm sorry. He -- I'm sorry -- "Another soldier told me
25 of hearing their leaders --"

1 BY MR. KOPPE:

2 I will rephrase.

3 Q. Let -- let me read again exactly what you said and then I will
4 ask you the question. You said, "Another soldier told me of
5 hearing their leaders say in a meeting, that if nothing was done
6 about the Northwest group, the zone would revolt like the East
7 Zone." Who is this other soldier that you speak about?

8 2-TCW-1037:

9 A. Regarding that answer I gave, it seems to me that I cannot
10 recall it well now.

11 [14.39.21]

12 Q. Very well. Let me -- let me follow up on this subject and
13 refer you to something you said in your DC-Cam interview,
14 E3/10666; ERN English, 01330557; and Khmer, 01 -- 01326340. The
15 question is:

16 "According to what you know, they arrested Vanh, did he really
17 arrange weapons to attack Angkar?"

18 "I don't know about this, but as I heard, my colleagues told me
19 that he armed his forces illegally. He arranged and moved his
20 forces to prepare the weapons. He hid the weapons with the mobile
21 forces in order to attack back." End of quote.

22 Mr. Witness, who are these colleagues that you refer to; your
23 colleagues who told you that Ta Vanh armed his forces illegally?

24 [14.40.48]

25 MR. BOYLE:

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1 It's -- it -- Mr. President, it seems we're moving on to a
2 different individual now. I just prefer that the questions be
3 open if we're going to be talking about the -- a different
4 individual's evidence to begin with.

5 BY MR. KOPPE:

6 I thought we were on the same subject, but well, it's an open
7 question; isn't it? I -- I read his answer and then I ask him:
8 Who are those colleagues? So I -- I'm not sure if I -- how I
9 should rephrase.

10 I'm following up. It's -- it's -- it seems the same subject, so
11 I'm asking who the colleagues are that told him that Vanh armed
12 his forces illegally, so that's an open question.

13 Q. Mr. Witness, who are those colleagues who told you this about
14 Vanh?

15 MR. PRESIDENT:

16 Mr. Witness, you can answer the question and I want to clarify
17 that the name was <Vanh, not> Vann (phonetic).

18 [14.42.07]

19 2-TCW-1037:

20 A. Yes, the name was Vanh, not Vann (phonetic). Vanh, during the
21 war years, before 1975, he was <chief of> the sector. Later on,
22 the zone assigned him to take control of Tanouk Trahot
23 (phonetic). Nowadays, <> the dam is also called Tanouk Trahot
24 (phonetic) or Trahot (phonetic) dam and at that worksite,
25 hundreds of people died at that time. Thousands of mobile forces

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1 were assigned to work there and there were many failures in
2 building that dam.

3 MR. PRESIDENT:

4 It seems that you don't understand the question. I clarified
5 earlier that the name was Vanh, not Vann (phonetic), in order to
6 help you not to get confused among the different names.

7 The question that posed to you by the counsel was not about the
8 dam building, was not about the Trahot (phonetic) dam building.

9 [14.43.31]

10 BY MR. KOPPE:

11 Thank you for this intervention, Mr. President.

12 Q. My question is a simple one: Who were your colleagues who told
13 you about Vanh arming his forces illegally; who were they that
14 told you this?

15 2-TCW-1037:

16 A. The <person> who had told me <was> arrested and taken away.
17 His name was Ta Sum. Ta Sum told me that Ta Vanh <was arrested
18 because he> had illegally created force and armed those <mobile>
19 forces.

20 MR. PRESIDENT:

21 Thank you.

22 It is now convenient time for a break. The Chamber will take a
23 break from now until 3 o'clock.

24 Court officer, please assist the witness at the waiting room for
25 witness during the break time and invite him back, together with

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1 his duty counsel, into the courtroom at 3 o'clock.

2 The Court is now in recess.

3 (Court recesses from 1444H to 1504H)

4 MR. PRESIDENT:

5 Please be seated. The Court is now back in session and before I
6 hand the floor to the Defence Counsel, the Chamber would like to
7 ask the Co-Prosecutor if you wish to make any requests in
8 relation to our oral ruling?

9 MS. SONG CHORVOIN:

10 Thank you, Mr. President. In relation to your oral ruling to
11 E445/1 that the Chamber acknowledges to receive the thesis of the
12 expert 2-TCE-98, in <the thesis of the expert> at ERN in English,
13 01335031, the expert interviewed <the former King> Norodom
14 Sihanouk and Ieng Sary in 1983 and '85 respectively.

15 [15.06.41]

16 In those interviews, there were written notes by the expert and
17 the Co-Prosecutor, therefore, request the Trial Chamber to
18 instruct the expert, if <the expert> still <has> the hand written
19 notes available, to bring along during the testimony. The
20 Co-Prosecutors are of the view that those handwritten notes have
21 some important information and that may be evidence in assisting
22 the Chamber in finding the truth in this case.

23 MR. PRESIDENT:

24 Thank you.

25 JUDGE FENZ:

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1 Can I just ask clarification; I just saw this only now. Is -- is
2 the Prosecution saying, first of all, that these interviews were
3 a basis or sources for the dissertation? That's my first question
4 or is it just mentioned somewhere?

5 MS. SONG CHORVOIN:

6 To respond to your question, Your Honour, we are not sure whether
7 the interviews are <necessary documents> for the writing of the
8 thesis of the expert, however, <> the book <which was written by
9 the expert>, that is, E445/1.1.1, at ERN in English, that is,
10 01335031; the author, who is the expert, spoke about an interview
11 that the expert conducted with the <former> King Norodom Sihanouk
12 and with Ieng Sary <on two different occasions>. And the expert
13 had the handwritten notes of the two interviews <with the ERN I
14 mentioned earlier> and for that reason, I believe the handwritten
15 notes contain some information and that we may ask the expert
16 during the testimony.

17 [15.08.46]

18 JUDGE FENZ:

19 Again, you are claiming this is a source of an admitted document;
20 I understood that correctly, the handwritten notes? My -- my
21 second question: The expert is already in the country. Let's, for
22 a moment, assume the handwritten notes are here; what's the idea,
23 to -- to show it to all the parties with a view to admit it or
24 for the expert to be able to ask questions or? The expert is
25 tomorrow -- scheduled for tomorrow.

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1 MS. SONG CHORVOIN:

2 We are in the process of preparing detailed questions for the
3 expert and in the meanwhile, we would appreciate if the expert
4 would bring along the handwritten notes so that we may ask
5 question to the expert <about> the interview that the expert
6 conducted with <the former King> Norodom Sihanouk and Ieng Sary.
7 [15.09.46]

8 JUDGE FENZ:

9 The idea is to assist the expert's memory, is -- in -- in case
10 this is necessary, when it comes to the contents of interviews
11 that are mentioned in one of his publications, which we have
12 already admitted; is this one -- is this the reason for the
13 request?

14 MS. SONG CHORVOIN:

15 Yes, it is a <> way to assist the expert. Throughout the process
16 of questioning, maybe some questions may arise in relation to
17 those notes <when the expert gives a testimony>.

18 MR. PRESIDENT:

19 What about other parties; do you have any response to this
20 request by the Co-Prosecutor?

21 [15.10.42]

22 MR. PICH ANG:

23 Good afternoon, Mr. President. The Lead Co-Lawyers <have no
24 comment on the Co-Prosecutor's request and> rely on the wisdom
25 of the Bench. Thank you.

1 MR. PRESIDENT:

2 Thank you. And what about the defence teams; do you wish to make
3 any observation in regard to the Co-Prosecutor's request?

4 MR. KOPPE:

5 Yes, I do, Mr. President. I'm not sure if I follow the request in
6 the sense: Why is this request coming now? Because the
7 dissertation is, if I speak by heart, written and defended, I
8 believe, in 1985 and 1986.

9 His book -- I'm not sure I have to review it, but in his book
10 that is from 1999, he also refers to his interviews with Ieng
11 Sary and -- and Sihanouk, so his book is further developing all
12 kinds of points made in his dissertation. So if it were the other
13 way around then -- then I -- I could see some sense in it, but
14 asking now for the notes is way too late because those notes of
15 the interviews were also -- I'm quite sure, but I have to -- to
16 double check it -- referred to in his book.

17 So what's new, what's very interesting in his book are his notes
18 that he took from the Soviet archives; that is new, but his
19 interview with Ieng Sary and -- and late king father in his
20 dissertation are also referred to in his -- in his 1999 book, so
21 the request doesn't make any sense.

22 JUDGE FENZ:

23 Not if it is preparation for an 87.4 request; that's why I tried
24 to ask. If it is only to, kind of, ensure that the expert
25 remembers details of interviews the Prosecution wants to discuss,

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1 it -- it's a bit of a different issue, but that's what I tried to
2 clarify. You are on the record.

3 [15.13.17]

4 MS. GUISSÉ:

5 For the time being, Mr. President, I can only wait for the expert
6 to arrive. We <are asking> for documents whereas the expert is
7 already in the country. We are asking the expert to provide the
8 documents <whereas> we do not know <what exactly the
9 Co-Prosecutor will be questioning the party about, nor do we
10 know> whether <these documents> will be useful <to> the
11 manifestation of the truth. I think we can do what we did in the
12 past. If, <in> the Prosecution's line of questions, we find that
13 it <would be useful> to have supplementary notes in relation to
14 the expert's testimony, <then> we can make that request at the
15 time. I will reserve my remarks for the time being. It appears to
16 be rather premature <-- or even too late, I'm not sure --> to
17 make that request at this point in time.

18 MR. KOPPE:

19 Mr. President, if you allow me, I -- we have now found the
20 relevant English ERN of Morris' book of 1999, E3/7338 at English
21 ERN 01001662. He mentions his interview with king father, so
22 pretending that's something new is without any basis.

23 [15.14.44]

24 MR. PRESIDENT:

25 Thank you, parties, for the observation and the Chamber will use

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1 it as a basis for our ruling, which will be issued in due course.

2 Defence Counsel, you may resume your questioning.

3 BY MR. KOPPE:

4 Thank you, Mr. President. I -- I do hope that these additional 15
5 or 20 minutes will be added to our time.

6 Q. Mr. Witness, before the break, you mentioned the person who
7 told you about Ta Vanh and you called him Sum; is that the same
8 person that you refer to in your answer 2, in your WRI E3/9580,
9 where you say:

10 "Around March or April '78, my unit chairman Ta Sum was arrested.
11 At that time, I was his deputy"? So the -- the Sum who told you
12 about Vanh preparing the weapons, is that Sum the one who was
13 arrested?

14 2-TCW-1037:

15 A. Yes, that is him.

16 [15.16.16]

17 Q. And did tell -- did Sum tell you how he knew that Vanh was
18 arming his forces illegally, hiding the weapons with the mobile
19 forces in order to attack back? How did Sum know Vanh was doing
20 this?

21 A. Regarding this matter, I did not know how he learned about it;
22 that's what he said. That is, he said after Vanh had been
23 arrested.

24 Q. And -- and do you recall some details; what did Sum tell you
25 about what Vanh had done exactly?

1 A. To my knowledge, regarding the activities involved, I made
2 mention of that and the reason for his arrest was that he was
3 accused of colluding with the mobile force and of equipping the
4 mobile force with weapons and those infiltrated people there knew
5 that it was an illegal act.

6 [15.17.53]

7 Q. I'm not asking you about what he was accused of; I'm asking
8 you what Sum told you he knew, from his own observations, what
9 exactly Vanh had been involved in.

10 MR. BOYLE:

11 I object to that question because the witness just told us that
12 he didn't know how Sum obtained his information, so to -- to say
13 -- to ask him what he knew from his own observations is outside
14 the scope of the Witness' knowledge.

15 BY MR. KOPPE:

16 Let -- let me -- let me rephrase; I'm not sure if I follow.

17 Q. But my -- my question is about the details; what did Vanh --
18 what had Vanh done according to Sum? Did Sum give you, for
19 instance, the location of weapons being hidden? Can you tell us
20 any more details as to what Sum told you Vanh had done?

21 [15.19.26]

22 2-TCW-1037:

23 A. I did not know any further detail. He said that Ta Vanh had
24 been arrested because he illegally equipped the mobile force and
25 that was the main point that he told me. He didn't say anything

1 much besides this.

2 Q. Very well. I stay on the same subject and would like to refer
3 you, now, to what you said to the DC-Cam investigators, E3/10666,
4 at English, ERN 01330580; and Khmer, 01326355. It's the same
5 subject; it's about divisions preparing their forces to attack.
6 This is what you said and -- and let me read it to you.

7 "After the liberation in 1975, the politics became chaotic. I was
8 very disappointed. There was nothing we could do. According to
9 what I know, some divisions prepared their forces to attack back
10 but they could not do so."

11 What did you mean, first of all, when you said the politics
12 became chaotic?

13 [15.21.20]

14 A. Regarding this matter, I wanted to say that the politics were
15 confusing <and> changing direction, and I knew to some extent
16 about the <top> leaders<>. For example, at the zone level, that
17 is, Ta Keu alias Ta Kan, who told me to be mindful because the
18 situation was not forgiving since the politics are changing. And
19 that is why I said there were always reasons for what happened.

20 Q. Did Ta Keu speak about -- speak to you about divisions being
21 prepared or divisions preparing their forces to attack Pol Pot?

22 A. No, he did not. He told me to be vigilant and be mindful due
23 to the changes in politics and that the situation <was not good>
24 as I could also see that people had been arrested here and there.
25 <I did not know anything beyond this.>

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1 Q. A little bit further on the very same page, you say: "I don't
2 know where the plan was revealed."

3 And then you say: "At first, it could have been an open policy.

4 The Northwest Zone also arrested Northwest Zone cadres."

5 What did you mean when you said that to DC-Cam?

6 [15.23.42]

7 A. At the time, the Southwest people did not yet arrived in large
8 number. Some of them were present at some departments or offices
9 and I observed that northwest people arrested their own northwest
10 people, namely in the platoons or in the companies. And after the
11 northwest had arrested their own people, then the southwest
12 people started arresting the northwest people.

13 Q. I understand. Let me go back then to your answer to DC-Cam
14 when you say: "According to what I know, some divisions prepared
15 their forces to attack back."

16 Is that something you also knew at the time before the Southwest
17 Zone forces arrived?

18 A. After the Southwest group arrived at the Northwest Zone, that
19 <was> after those senior leaders at the sector zones and some
20 districts had all been arrested in the zone, so I learnt of this
21 information later on.

22 (Technical problem)

23 [15.25.34]

24 MR. PRESIDENT:

25 Witness, please repeat your last response because the Khmer

1 channel did not carry your voice.

2 2-TCW-1037:

3 Allow me to repeat my last response. At that time, through what I
4 knew and what I saw, that is, after the senior leaders at the
5 zone and sector and district levels had been arrested, including
6 those military commanders at divisions and regimental levels, I
7 learnt of that information. So I learned after those arrests had
8 been made.

9 BY MR. KOPPE:

10 Q. I understand, but my question was, did you also know about
11 divisions preparing the forces to attack before the Southwest
12 Zone cadres arrived?

13 2-TCW-1037:

14 A. No, I did not.

15 BY MR. KOPPE:

16 Let me turn to another -- or the same subject but something in
17 relation to this, Mr. Witness.

18 Mr. President, I'll be referring to E3/4202, Thet Sambath's book,
19 ERN English, 00757532; Khmer, 00858342; and 00849437, in French.

20 Q. Mr. Witness, did you know a person named Chan Savuth who used
21 to be head of a hospital in the region in Battambang?

22 2-TCW-1037:

23 A. No, the name does not sound familiar to me.

24 Q. Let me read this particular excerpt:

25 "Chan Savuth, head of the hospital in his region in Battambang,

1 said in an interview that in one of the meetings he attended in
2 Sdau to overthrow Pol Pot, Ros Nhim said secrecy was mandatory
3 because anyone who was found to be part of the plot would surely
4 be killed."

5 [15.28.32]

6 Mr. Witness, have you ever heard plans to overthrow Pol Pot and
7 Ros Nhim talking at this meeting saying that secrecy was
8 mandatory?

9 A. No, I did not hear that.

10 Q. Did you ever hear -- did you ever hear things about Ros Nhim
11 ordering members of Division 1 or 2 to collect and hide rice,
12 weapons, hammocks, fish, in order to assist the troops who would
13 revolt against the Centre?

14 A. No, I did not hear that or see that.

15 Q. Did you ever hear anything about Northwest Zone division
16 troops hiding medicine in warehouses?

17 A. Regarding this point, I did not hear it, however, there was an
18 accusation that fuel was hidden or <> fuel was dumped into the
19 river.

20 Q. Again, you talk about accusations. Do you have any direct
21 information about Division 1 or 2 -- Division 2 members who were
22 involved in this plot?

23 [15.30.55]

24 A. No, because I lived separately and far away from them.

25 Q. Let me tell you why I'm a bit surprised to hear this, Mr.

1 Witness. Mr. President, I will be referring now to E3/1358,
2 that's a FBIS Report, English only, ERN 00168287.
3 This is a senior military figure from Thailand talking to the
4 international press, and there is a report from a French agency,
5 AFP, on 19 August 1977, saying the following:
6 "A senior Thai military figure Friday said Cambodia's leaders
7 suppressed an attempted coup in February this year. General
8 <Kriangsak Chamanan>, Deputy Supreme Commander, said the
9 Cambodian revolutionary organization Angkar crushed the attempt
10 which had been planned to coincide with the second anniversary of
11 the Khmer Rouge takeover on April 17 1965." -- it says here but
12 it's '75 -- "Apparently quoting Thai intelligence reports, the
13 general said the Cambodian leadership had foiled the plotters,
14 liquidating many of them and member of their families." End of
15 quote.
16 [15.32.55]
17 There are other reports mentioned in Kiernan, so apparently it
18 was quite well known in 1977, that in the Northwest a coup
19 d'etat, which was supposed to happen on 7 April '77, was crushed.
20 So do you understand my surprise?
21 MR. BOYLE:
22 I object. Thank you, Mr. President. I object to the question.
23 Counsel's testifying as to the evidence. If he wants to, as he
24 did, read the quote and ask some specific questions, that's fine.
25 If he has specific questions from Kiernan he would like to ask,

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1 that's fine, but to testify as to what was well known or what the
2 evidence shows and to ask about why he's surprised isn't possibly
3 information that the witness would be able to give.

4 MR. KOPPE:

5 I'm not sure why I cannot ask this question. I mean, obviously--
6 [15.34.07]

7 JUDGE FENZ:

8 Because it -- Counsel, you just asked him -- you just asked him
9 if he understood that you were surprised after you had quoted an
10 intelligence report. This is not a factual question. Get down to
11 the facts.

12 As the prosecutor said, if you want to use this as a basis for
13 factual questions, do it, but his assessment of your surprise or
14 the level of your surprise is certainly not what the witness is
15 here for.

16 BY MR. KOPPE:

17 I'm not sure if I understand what you're saying.

18 Q. But, Mr. Witness, I just read an international news report
19 quoting a Thai general, so that went all over into the world,
20 saying that there was a plot, an attempted coup d'etat, was
21 supposed to take place at 17 April 1977. Have you heard something
22 similar while you were in the Northwest Zone being a member of
23 Division 2?

24 [15.35.30]

25 2-TCW-1037:

1 A. In that year, I did not hear about that plot. I heard about it
2 only later on after the military forces there were broken up and
3 <arrested>, at that point, I learned at the cooperatives about
4 such plots that you said earlier, about the plan for
5 counter-attacks.

6 Q. Well, let me read the first sentence of the next paragraph,
7 and please be reminded that this is what the general said in
8 August 1977:

9 "The putsch was mounted by administrative and military leaders
10 from an extensive swath of territory sweeping northwest from
11 Kampong Cham, which includes the provinces of Kampong Thom, Siem
12 Reap and Ourdor Meanchey."

13 I'll continue reading:

14 "Refugees from this area, who have recently entered Thailand,
15 hinted at the existence of strife in the Khmer Rouge ranks." End
16 of quote.

17 So, Mr. Witness, people like Ta Khheng, Ros Nhim, Ta Khieu
18 (phonetic), they were all arrested about eight months later.
19 Did you know about this before Ros Nhim was arrested? What -- can
20 you -- let me re-phrase. Can you recall what you knew before Ros
21 Nhim was arrested in relation to attempted coup d'etats or
22 military attacks?

23 A. At that time, I did not know because I was based at the river.
24 I <supervised> the fishing unit. There were around 300 or 400
25 people at the fishing unit, and we were not informed about the

1 developing situation.

2 My force in the fishing unit <was> also <under the surveillance
3 of> the <secret> agents deployed by the senior leaders<>, so we
4 were not informed about such plan.

5 [15.38.19]

6 Q. Very well. Let me follow-up with another question.

7 Mr. President, I would like to show the witness a photograph. We
8 wrote an email earlier to the senior legal officer. I would like
9 to show and with your leave, also on the screen, three people on
10 photo E3/3481, ERN is P00440815.

11 MR. PRESIDENT:

12 The Chamber grants your request.

13 AV Unit officer, please project the photo on the screen.

14 BY MR. KOPPE:

15 Q. Mr. Witness, do you know who the person on the right is?

16 2-TCW-1037:

17 A. No, I do not know him.

18 Q. Have you ever heard of a Standing Committee Member or Central
19 Committee Member called Vorn Vet?

20 A. No, I did not hear about his name. <I did not know the Central
21 Committee.>

22 [15.40.02]

23 Q. Then I assume that also means that you never heard of Vorn Vet
24 joining a meeting during which Ta Nhim instructed his division
25 commanders to rebel; correct?

1 A. I never attended any meeting.

2 Q. Have you ever heard of So Phim?

3 A. For So Phim, I heard of his name, but it seems to me that I
4 met him once when he was travelling by speedboat from <Phsar Leu>
5 to Tonle Sap. He traveled along with Ta Nhim <before Ta Nhim was
6 arrested>. They made visits to bases along Tonle Sap.

7 Q. Did you ever see Ta Nhim and So Phim together?

8 [15.41.29]

9 A. At that time, I did not know how many days they spent there,
10 but I saw them travelling together by the boat in Tonle Sap.

11 Q. And do you know what the reason was that they were travelling
12 together?

13 A. No, I did not know the reason. At that time, the zone's
14 general staff informed us to prepare boats and ferries, put them
15 in good order, park them along the riverbank because the
16 leadership would make visits along the river. And that was what I
17 know.

18 Q. In your question and answer -- you -- answer A6, E3/9580, you
19 say that Ta Nhim was arrested at the same time as the Secretary
20 of the East Zone, So Phim. How did you know that?

21 A. At that time, I saw them travelling together for one and two
22 days. That was the only time I saw them and, after that, So Phim
23 disappeared. And a while later, I also heard that Ta Nhim was
24 also arrested. And that was the scope of the events that I knew.

25 [15.43.35]

1 Q. I understand. Now, let me revisit the person that we discussed
2 before the break.

3 I showed you a photo on the screen and I'm not sure if you
4 recognized the photo. Your duty counsel is kind enough to show
5 you the photo again.

6 Mr. Witness, in your DC-Cam statement, E3/10666, English, ERN
7 01330510; in Khmer 01326309, you talk about Ta Toat. You said --
8 the question is:

9 "What was the name of the leader supervising the Vay Chap
10 mountain base?"

11 "His name was Ta Toat."

12 Q. Is the Ta Toat that you refer to in your DC-Cam statement
13 maybe the same person as on that photo?

14 A. Are you talking about Ta Toit or Ta Toat?

15 Q. Ta Toat, I think. Ta Toat.

16 [15.45.05]

17 JUDGE FENZ:

18 I think it's preferable if you pronounced like Khmer speak it.

19 BY MR. KOPPE:

20 Q. Ta Toat. Let me, because of time, do it differently.

21 You're talking about a person supervising the Vay Chap mountain
22 base, Ta Toat. Is the Ta Toat who is supervising the Vay Chap
23 mountain the same as the person on the photo?

24 2-TCW-1037:

25 A. Ta Toit (phonetic) was <Toit> Thoeurn's father. I suspected

1 that it was Ta Toit <Thoeurn (sic)> because when he died he
2 looked older than the one in this photo. The one in the photo
3 looks younger <and fairer>.

4 Q. Forget about a name, but the person you say who supervised the
5 Vay Chap mountain base, is that the same person as the person on
6 the photo?

7 A. Ta Toit (phonetic), during the war year in the 1970 to 1973,
8 he was supervising Khmer Rouge base at Vay Chap Mountain. Ta Toit
9 (phonetic) supervised the forces based at that mountain but,
10 later on, he did not supervise anything because he died a long
11 time ago.

12 [15.47.29]

13 BY MR. KOPPE:

14 But that brings me, Mr. President, to something that I think I
15 should say for the record.

16 We already had some doubts, some potential doubts, as to who the
17 person was that has testified in June 2015, before the Supreme
18 Court Chamber, but in the light of the testimony of today's
19 witness and also the previous witness we are doubting now that
20 the person on the photo is, in fact, Toat or Ham. Having said
21 that, let me move to my final question.

22 Q. Mr. Witness, in your WRI you speak about the White Khmer, the
23 Khmer Sar. Who are they?

24 2-TCW-1037:

25 A. To my knowledge, the Khmer Sar or White Khmer were those who

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1 escaped from cooperatives who tried to flee from the regime into
2 the jungle and they gathered up forces in order to fight back
3 against the three years regime, especially fighting against the
4 Southwest force because the Southwest force was considered as the
5 life and death enemy. <I knew that any> soldiers from the
6 Southwest force who were arrested would not be spared, <their
7 throats> would be <slit>.

8 [15.49.23]

9 Q. And the people that you refer to as Khmer Sar, White Khmer,
10 are not the same as Division 1 or 2 soldiers. Is that correct?

11 MR. BOYLE:

12 I object to the question. First of all, I believe it's leading
13 and, second of all, I'm not sure if that's what he just testified
14 to. So I would just ask if Counsel asked a more open question in
15 regards to these soldiers that the witness says formed part of
16 the Khmer Sar movement.

17 BY MR. KOPPE:

18 I'll be happy to rephrase.

19 Q. Mr. Witness, you belong -- you, yourself, belong to Division
20 2. Did soldiers belonging to Division 2 or soldiers belonging to
21 Division 1 belong to the White Khmer? Were they, themselves,
22 considered White Khmer or was it only the people who left the
23 mobile brigades?

24 [15.50.41]

25 2-TCW-1037:

1 A. To my knowledge, at that time the Khmer Sar were created. Each
2 group consisted of around -- between four and 10 men. The forces
3 <were the mixture of> people who left the <17,> 18 April People
4 group and some also came from the division of the military.

5 Q. Unfortunately, my very last question, Mr. Witness. That is a
6 question that is about the structure of Division 1 and 2. You
7 talked about your Commanders, Khheng and Ren, but I believe you
8 also said you knew the Division 1 Commander, Chhorn. Is that
9 correct?

10 MR. LIV SOVANNA:

11 Mr. President, I would like to read in Khmer. The Commander of
12 Division 1, his name is Chhorn.

13 [15.52.18]

14 BY MR. KOPPE:

15 Q. Is it correct that you said that you knew him?

16 MR. BOYLE:

17 Just a question for clarification. Can we have a citation for his
18 position as Commander of Division 1?

19 MR. KOPPE:

20 Yes, it's that same organogram, E3/1170, that I discussed
21 earlier, and in Division 1 you can read three names and the third
22 name is Chhorn.

23 MR. BOYLE:

24 And it identifies him as the member?

25 BY MR. KOPPE:

1 A member of the Division 1 Committee.

2 Q. So, Mr. Witness, is it correct that you knew him?

3 [15.53.04]

4 2-TCW-1037:

5 A. Chhorn, I knew that person clearly, but he was not the
6 commander of the division. Previously, he was chief of the
7 regiment and then the military general staff may have assigned
8 him to the division.

9 Q. I understand. Was this Chhorn on the same level as Ren from
10 Division 2?

11 A. No, he was below Ren.

12 Q. In terms of ranks, could you describe Chhorn and Ren
13 respectively?

14 A. At that time, they did not talk about rank. They simply talked
15 about the regiment or the division but they did not talk about
16 the specific rank in the military <like today>.

17 Q. Maybe it's my mispronunciation again, but you said earlier
18 that Ren is your commander, the Division 2 Commander. My question
19 is, can you tell us the respective ranks in the hierarchy or the
20 positions on the hierarchy of Chhorn and Ren?

21 [15.55.21]

22 A. Talking about the hierarchical ranks in the military, it's
23 unclear to me and I cannot recall it well about his military
24 ranks within the regiment and the division. <I am not sure on
25 this point.>

1 Q. And my very final question. Did you ever see Chhorn and Ren
2 together or did you ever see Chhorn or Ren in the company of
3 Vanh?

4 A. <In general,> they did not meet Ta Vanh much, but Ta Chhorn
5 and Ta Ren, they met each other often <in the province or> at the
6 division's meetings.

7 MR. KOPPE:

8 Thank you very much, Mr. Witness. Thank you, Mr. President.

9 MR. PRESIDENT:

10 Thank you. Now, the Chamber gives the floor to the Co-Prosecution
11 to put questions to the witness.

12 And the Chamber will continue the hearing until 4.10 <this
13 afternoon>.

14 [15.57.00]

15 QUESTIONING BY MR. BOYLE:

16 Thank you, Mr. President. Good afternoon, Your Honours. Good
17 afternoon, Counsel.

18 Good afternoon, Mr. Witness. My name is Andrew Boyle. I'm going
19 to be asking you some questions on behalf of the Co-Prosecutors
20 this afternoon and then tomorrow morning as well.

21 Q. Can you tell the Court if you had any formal education as a
22 child?

23 2-TCW-1037:

24 A. When I was young, I did not spend much time in the education
25 system. I spent only a brief time in the pagoda school. <Then> I

1 spent about half-a-year <> studying <in the public school in
2 grade 9 but I did not finish it> and <after a few months>,
3 unfortunately, our country faced chaos so I fled into the forest
4 and lived in the forest until 1975, and only in that year that I
5 came back to the villages. <Later on I have lived in different
6 places in Battambang province.>

7 Q. So, how many total years of education did you have as a child?

8 [15.58.45]

9 A. I spent two years and-a-half.

10 Q. And when did you stop studying?

11 A. I stopped studying in 1965.

12 Q. You told the Court earlier that you joined the Khmer Rouge
13 movement in 1970. What did you do between 1965 and 1970?

14 A. From 1965 to 1970, I did rice farming at my home village.

15 Q. And when did you first become aware of members of the Khmer
16 Rouge revolutionary movement being in your area?

17 A. I knew about the Khmer Rouge revolution in the area. I learnt
18 about it in 1968.

19 Q. When you first joined the movements, were you acting as a
20 soldier fighting against the Lon Nol forces?

21 A. At that time, I joined the revolution of the Khmer Rouge in
22 1970 and, yes, I engaged in fighting against the Lon Nol
23 soldiers.

24 Q. And do I understand from your earlier testimony that around
25 1973 you stopped being a soldier and joined an economics or

1 logistics unit. Is that correct?

2 [16.01.13]

3 A. Yes, that's correct. In 1973, I quit the army.

4 Q. And was it at that point that you joined an economics -- what
5 was called an economics unit based at Vay Chap mountain?

6 A. No. When I joined the logistic and economic section, I was not
7 at Vay Chap, because I already left Vay Chap Mountain years ago.
8 I was at Vay Chap between 1970 and 1971.

9 Q. And where were you based when you joined the economics unit?

10 A. When I joined the logistic and economic section of the
11 military zone, it was in Sector 2.

12 Q. And when you first joined the economics unit, what was your
13 position? Did you have a title within the economics unit?

14 [16.02.58]

15 A. I held a position that was equal to <chief of> the battalion
16 and I was in charge of transporting food, ammunitions, weapons,
17 to soldiers fighting at the front line.

18 Q. Were you ever attached to zone forces at any point prior to
19 1975?

20 A. Before 1975, I was under the Northwest Zone force.

21 Q. I'd like to read you a quote from your DC-Cam Statement to see
22 if it is accurate with what you just told us. It's E3/10666,
23 English ERN 01330525 to 26, Khmer 01326319, and you're asked:

24 Question: "In 1971 and 1972, were you promoted to Sector 2 yet?"

25 Answer: "I was."

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1 Question: "In what year were you promoted to zone soldier?"

2 Answer: "It was in 1973, late 1972 and early 1973. I went to live
3 in the zone with the zone army."

4 Is that accurate?

5 A. Let me give my answer. Initially, there was not a division
6 force yet, it was simply a zone force. And in that zone force,
7 the structure was divided into the logistic and economics, the
8 transportation unit. And after I left the army, I joined that
9 section and that section was still under the supervision of the
10 zone.

11 [16.05.52]

12 Q. Now, talking about the period after April 17 1975, what
13 position did you hold at that point?

14 A. Talking about the period after 1975, I was still working in
15 the economic section. I was in charge of controlling the food and
16 the weapons and ammunition warehouse and, later on, I joined the
17 fishing unit.

18 Q. Did you hold the title of Deputy Chief of Economics for
19 Division 2? Were you promoted to that title in 1975?

20 A. Yes, I was the deputy chief in charge of the military
21 economics.

22 [16.07.05]

23 Q. And was the chief in charge of military economics, that is,
24 your superior, was that the Ta Sum that you referenced earlier?

25 A. No, not Som (phonetic) but Sum.

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1 Q. I apologize for my mispronunciation. You just mentioned that
2 you were transferred to the fishing unit at some point. Can you
3 tell us when it was that you were transferred to the fishing
4 unit?

5 A. I was transferred to the fishing unit in 1976.

6 Q. And what was your job as a member of the fishing unit? Did you
7 still hold the position of Deputy Chief of Economics?

8 A. Yes, I still maintained that position as the deputy chief.

9 Q. And can you tell the Court what the fishing unit did?

10 A. To my recollection, at that time the fishing unit were
11 responsible for <catching> fish <and making> fermented fish in
12 order to supply <both the dried and raw fish> to the soldiers in
13 Division 1 and Division 2 <as well as the office and department>
14 of the <> zone.

15 [16.09.12]

16 Q. So was that fish that was caught by your unit only for
17 soldiers? Was it also distributed to members of the communities
18 in the Northwest Zone?

19 A. No, the fish were not distributed to the civilians, they were
20 only distributed to the soldiers of the zone. As for the
21 civilians, they were supplied fish by the other fishing units
22 that were supervised at the level of communes and districts.

23 MR. PRESIDENT:

24 Thank you. <It is time now.> Before the adjournment of the
25 session, the Chamber would like to inform parties that the

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1 Chamber has already taken action regarding the request by the
2 Co-Prosecution, who requested at 1 o'clock, through the legal
3 officers, that in liaison with the court legal officer regarding
4 the request for the expert to bring along the documents to this
5 courtroom when he comes to testify if he still possess that
6 documents.

7 [16.10.54]

8 It is now convenient time for the adjournment.

9 The Chamber will resume its hearing tomorrow <on Tuesday, 18th of
10 October 2016,> from 9 a.m. The hearing tomorrow, the Chamber will
11 conclude the hearing of the Witness, 2-TCW-1037, and we will hear
12 the testimony of Expert 2-TCE-98.

13 Thank you, Mr. Witness, the hearing of your testimony as a
14 witness has not yet concluded, therefore, you are invited to come
15 back tomorrow. Mr. Moeurn Sovann, the duty counsel, you are also
16 invited to come back tomorrow.

17 Court Officer, in collaboration with WESU, please make necessary
18 transport arrangement to send the witness to where he is staying
19 and invite him back to the courtroom tomorrow at 9 a.m.

20 Security personnel are instructed to bring Khieu Samphan and Nuon
21 Chea back to the detention facility and have them returned to the
22 courtroom tomorrow morning before 9 a.m.

23 The Court is now adjourned.

24 (Court adjourns at 1612H)

25