



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

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

ឯកសារដើម
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TRANSCRIPT OF TRIAL PROCEEDINGS

PUBLIC

Case File N° 002/19-09-2007-ECCC/TC

1 December 2015

Trial Day 341

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:
EM Hoy
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LOR Chunthy
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TY Srinna
VEN Pov

For the Office of the Co-Prosecutors:
Dale LYSAK
SENG Leang
SONG Chorvoin

For Court Management Section:
UCH Arun

I N D E X

Witness 2-TCW-918

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Questioning by Judge LAVERGNE..... page 38

Questioning by Mr. KOPPE page 75

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Witness 2-TCW-918	Khmer
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
Mr. LYSAK	English
The President (NIL Nonn)	Khmer
Mr. PICH Ang	Khmer

1

1 PROCEEDINGS

2 (Court opens at 0922H)

3 MR. PRESIDENT:

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

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

6 2-TCW-918.

7 Mr. Em Hoy, please report the attendance of the Parties and other
8 individuals at today's proceedings.

9 [09.23.28]

10 THE GREFFIER:

11 Mr. President, for today's proceedings, all Parties to this Case
12 are present.

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

16 The witness who is to conclude his testimony today -- that is,
17 2-TCW-918, as well as his duty counsel are present in the
18 courtroom.

19 We also have a reserved civil party, 2-TCCP-300.

20 Thank you.

21 [09.24.17]

22 MR. PRESIDENT:

23 Thank you, Mr. Em Hoy. The Chamber now decides on the request by
24 Nuon Chea.

25 The Chamber has received a waiver from Nuon Chea, dated the 1st

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1 December 2015, which notes that due to his health: headache, back
2 pain, he cannot sit or concentrate for long, and in order to
3 effectively participate in future hearings, he requests to waive
4 his right to participate in and be present at the 1st December
5 2015 hearing.

6 Having seen the medical report of Nuon Chea by the duty doctor
7 for the Accused at the ECCC, dated 1st December 2015, which notes
8 that Nuon Chea has dizziness when he moves and has severe back
9 pain when he sits for long, and recommends that the Chamber grant
10 him his request so that he can follow the proceedings remotely
11 from the holding cell downstairs.

12 Based on the above information and pursuant to Rule 81.5 of the
13 ECCC Internal Rules, the Chamber grants Nuon Chea his request to
14 follow today's proceedings remotely from the holding cell
15 downstairs via audio-visual means. The Chamber instructs the AV
16 Unit personnel to link the proceedings to the room downstairs so
17 that Nuon Chea can follow. This applies to the whole day.

18 [09.25.50]

19 And before we proceed to hear the testimony of the witness --
20 that is 2-TCW-918, and before the Chamber hands the floor to the
21 Co-Prosecutor to put questions to the witness, the Chamber wishes
22 to hear oral submissions <of Parties> regarding <the request made
23 by the International Co-Prosecutor> document E319/36 in
24 particular in relation to paragraph 11 and 12 <which requests the
25 Chamber to invite> additional witnesses for the proceedings of

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1 hearing the facts regarding the <treatment of> Vietnamese. The
2 <legal officer of the> Chamber actually notified the Parties on
3 the 8th of November <through email> if Parties wishes to respond
4 to this submission by the International Co-Prosecutor, then the
5 floor will be given to the Parties to make those oral submissions
6 on the 1st December 2015, which is today. And before the floor is
7 given to <other> Parties, I'd like to hand the floor first to the
8 Co-Prosecutor to provide some backgrounds regarding your request.
9 And Mr. Deputy Co-International Prosecutor, you may proceed with
10 that so that Parties can have a better understanding before the
11 floor is given to them to make their oral submissions. You may
12 proceed.

13 [09.27.34]

14 MR. LYSAK:

15 Thank you. Good morning, Mr. President. I understand you wish me
16 to address first the additional Vietnamese witness that we
17 proposed; is that correct?

18 Mr. President, this is a witness who we have proposed based on
19 some additional information from him in his OCIJ interviews.
20 While this is a witness who had a prior DC-Cam statement, his
21 DC-Cam interview which is document E305/13.23.382 had some very
22 limited information regarding the killings of Vietnamese. The
23 entire questions from his DC-Cam interview are contained in about
24 half a page of the interview, page 13 of it. With the new
25 interviews from this witness that were disclosed, there was some

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1 significant information on the basis of which we have proposed
2 him as a trial witness. Primarily, in his OCIJ statements, he
3 indicates that he first hand witnessed two separate killings of
4 Vietnamese civilians at sea and on an island. This is in his OCIJ
5 interview -- E319/23.3.44, answer 25 -- and describes those
6 executions that he witnessed. And equally significant, he talks
7 about why these killings happened, which is that the regiment and
8 battalion commanders in his division received political training,
9 and when they returned, instructed the soldiers that the
10 Vietnamese were considered hereditary enemies, enemy number one,
11 and that there were instructions to shoot and kill, not just
12 Vietnamese soldiers but Vietnamese civilians who were fleeing and
13 trying to escape that country. And so based on that information,
14 we believe this is a witness who provides significant evidence
15 proving the existence of a policy in the regime to target and
16 kill Vietnamese, not just soldiers but Vietnamese civilians. And
17 for that reason, that is essentially why we proposed that this
18 person be called as a trial witness.

19 [09.30.37]

20 MR. PRESIDENT:

21 Thank you, Deputy International Co-Prosecutor for your brief
22 request in relation to E319/36.

23 Now I give the floor to the Co-Lead Lawyer for civil parties. I
24 want to know whether or not you have anything to make before the
25 Chamber in relation to <the International Co-Prosecutor's

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1 request> E319/36, <especially> paragraph 11 and 12.

2 MR. PICH ANG:

3 Good morning, President and Your Honours. After reading the
4 request and after listening to the brief explanation by the
5 Deputy International Co-Prosecutor, <the Co-Lead Lawyer for Civil
6 Party thinks that> the information from the Vietnamese witnesses
7 is very important <to ascertain the truth> for our case file in
8 relation to Vietnamese treatment. The information is sufficient
9 and Co-Lead Lawyers have no objection to the request, and we
10 support the request.

11 [09.31.59]

12 MR. PRESIDENT:

13 Thank you. Now the floor is given to the defence team for the
14 Accused starting from the defence team for Mr. Nuon Chea to make
15 any responses to the request by International Co-Prosecutor. You
16 may now proceed.

17 [09.32.20]

18 MR. KOPPE:

19 Thank you, Mr. President. Good morning, Your Honours. Although in
20 itself I can understand the reasons for the Prosecution to have
21 this particular individual testify. There are of course also
22 considerable problems in relation to this individual and his
23 testimony. If my recollection is correct, I think this is the
24 first time we speak about admitting a witness who has been
25 interviewed not in Case 004 but rather in Case 003. And it seems

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1 that he is a Division 164 cadre. That brings along the question
2 whether he is the only cadre or the only soldier or navy person
3 within Division 164 who had given such testimony or whether there
4 are any others who describe similar events. I have no idea, to be
5 honest, at this time how many soldiers or how many navy personnel
6 from Division 164 have been interviewed by the investigators. So
7 it's very difficult to put this WRI of this particular individual
8 in context.

9 [09.34.00]

10 And of course, then we arrive at the more principal problem that
11 we have with admitting evidence coming from Cases 003 and 004. We
12 do not know -- nobody knows, I think, whether he is an isolated
13 witness testifying about this, whether there are other people
14 within his division who have testified to similar instructions.
15 So although, I can see the potential relevance of this particular
16 witness, we have no means to be able to evaluate or judge the
17 broader context of his testimony. So that is again a very
18 problematic situation. And because we cannot do that at this
19 stage, I think we should not be hearing him as a witness within
20 this segment but only at a time when the investigation in Case
21 003 is fully ended, because only then we can understand the
22 reliability of his testimony.

23 In addition, I would like to remark that it seems that the
24 Prosecution is only asking for three out of five WRIs. I'm not
25 sure why that is. Presumably because the other two WRIs did not

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1 speak about alleged killings of Vietnamese; however, we do think
2 that they might be -- that they potentially are important. So if
3 these statements are admitted and if he is going to be summoned
4 to testify, obviously all his WRIs should be in.

5 [09.35.56]

6 And in addition, we also noted that one of the two DC-Cam
7 interviews that was provided is available only in Khmer -- that
8 is, E3/9093. And if this witness is admitted and if his WRIs are
9 admitted, we would urge to have that particular DC-Cam interview
10 be translated as soon as possible. But to summarize, we again
11 arrive at a bigger problem. We do not know how this WRI was
12 selected, we do not know if there are exculpatory -- if there is
13 exculpatory evidence saying things completely opposing this
14 particular witness. So that's our view at this point. Thank you.

15 MR. PRESIDENT:

16 Thank you. The floor is now given to the defence team for Mr.
17 Khieu Samphan. You may now proceed.

18 [09.37.15]

19 MS. GUISSÉ:

20 Good morning. Good morning, Mr. President. I wouldn't surprise
21 anyone in saying that the Khieu Samphan defence objects to the
22 appearance of this witness in principle. And the principle is
23 that, <as a rule of thumb> an investigation <examines exculpatory
24 and incriminating facts, and that is a reason -- and > that is
25 why there has to be an investigation at a particular time, and

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1 that is why the accused may <submit applications and file
2 requests to confront testimonies. However>, today, we are being
3 asked to admit a witness whose record of interview is from
4 another investigation. <Consequently all those rights the accused
5 is typically entitled to, cannot be enjoyed by the accused, Khieu
6 Samphan, within the context of case 002/02.> We object all the
7 more because this witness has made statements well before the end
8 of the 002/02 investigations. <What is more,> as my colleague
9 says, <this refers specifically to an isolated testimony. I
10 understand that it is of particular interest to> the Prosecution
11 <because, a priori, it is an incriminating testimony>.But since
12 the investigation is on-going and, <it goes without saying>, we
13 do not have the general context of the investigation as my
14 colleague has said, and, <most importantly,> we haven't come to
15 the end of <a thorough> investigation on the subject.
16 <Therefore, naturally, if> this witness were to appear, we the
17 Defence wouldn't have sufficient materials on the basis of which
18 to <do justice to the defence of> our client.

19 [09.39.05]

20 The last point is that if you were to call this witness whose
21 appearance we object to, all that witness' statements must be
22 disclosed <in order to have a complete collection of all prior
23 statements> <>. <Either way,> in 2007, that witness was <heard>
24 and <in> 2014 <a request was filed for one of his statements to
25 be entered into evidence. The request was quite late.> If <the

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1 Co-Prosecutors> had <needed more> information, <more facts on
2 this topic, they took -- they told us well enough -- they took
3 part in the investigation, they had the possibility to explore
4 all these topics during the investigation phase. Today, at the
5 end of 2015,> the Prosecution <is requesting more information on
6 the basis that said information was not available beforehand>.
7 That is not true. That person was interviewed. And if the
8 Prosecution had wanted to obtain <additional> materials <other
9 than those provided by DC-Cam>, they would have been able to do
10 so as part of the investigations of Case 002/02. <Allow me to
11 reiterate, requesting that the interview of a witness from other
12 investigations be admitted into> evidence <cannot become a
13 backhanded way to carry-on with an investigation, that, as part
14 of Case 002/02, had already been completed.>

15 [09.40.39]

16 MR. KONG SAM ONN:

17 Thank you. Thank you, Mr. President. Thank you, Your Honours.
18 Good morning, everyone in and around the courtroom. I would like
19 to raise my personal views in relation to the request <by the
20 Co-Prosecutor to call additional> witnesses. It is not a new
21 matter for all of us to debate here. There are many issues to be
22 decided and resolved. The Defence <Team> has raised the objection
23 to the request of witnesses, additional witnesses. I personally
24 object to the request for additional witnesses because it does
25 not give any benefit to the Defence <procedure>. As far as we are

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1 concerned, Co-Prosecutors are tasked with submitting inculpatory
2 and exculpatory evidence. And the investigation as we know has
3 completed. It is now within the trial phase. The Co-Prosecutors
4 together with the Co-Investigating Judges are of the view that
5 Khieu Samphan is guilty, that is why he is sent for trial -- Mr.
6 Khieu Samphan is sent for trial. So now I observe that the
7 Co-Prosecutors are required to find both exculpatory and
8 inculpatory evidence during the investigation stage since they
9 are also considered the judicial police.

10 [09.42.46]

11 The Defence has already made mention that it is too late, that
12 the Co-Prosecutors cannot request for inculpatory evidence within
13 this stage. The Co-Prosecutors however are required to submit
14 exculpatory evidence instead.

15 MR. PRESIDENT:

16 You may now proceed, Judge Fenz. But first, you have the floor,
17 International Deputy Co-Prosecutor.

18 JUDGE FENZ:

19 Let me perhaps -- because I have a question which you might wish
20 to answer. It's the question for clarification to the
21 international lawyer for Khieu Samphan. If I understood, Mr.
22 Koppe, correctly, he didn't raise any arguments based on 87.3 and
23 4 but pointed to the general problems with the disclosure. But I
24 think Ms. Guisse raised an 87.4 argument by saying it was belated
25 because there had been a previous statement in 2007. Did I get

11

1 that correctly?

2 [09.44.05]

3 MS. GUISSÉ:

4 To clarify my thought, Judge Fenz, I am saying that we are trying
5 to admit a new witness in this Trial, 002/02. Can you hear me?

6 <It seems that this morning there have been problems with -- can
7 you hear me?>

8 <JUDGE FENZ:>

9 <(No interpretation)>

10 <MS. GUISSÉ:>

11 So the principle is that we are being asked to admit a new
12 witness who was not in 002/02, who was not in principle called
13 before that date, <before the date on the request> by the
14 Co-Prosecutors, <to appear in this court>. So I am of the view
15 that this application is rather tardy because they <had plenty of
16 time> to do so before <>.

17 [09.45.12]

18 MR. LYSAK:

19 Let me respond to these questions. Let me start first with the
20 issue you've just raised. That was the -- just my initial
21 comments. There was a 2007 interview from this witness, but it
22 had very limited information on the Vietnamese. As I said,
23 there's literally half a page on that general information,
24 nothing about first-hand information, nothing about constructions
25 on policy. There are simply not enough -- we base our decisions

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1 based on the information we have. Once an investigation is
2 started, we do not have the right to go and do investigations
3 ourselves. Based on the DC-Cam interview, it was not sufficient
4 to warrant calling as a trial witness. Based on the new
5 information that is in his OCIJ interviews, that is the reason
6 that we now believe he is a witness that will assist this Chamber
7 in determining the truth. It's not a question of whether it
8 benefits the Defence or benefits the Prosecution either. The
9 question is whether it benefits this Chamber in ascertaining the
10 truth on this issue.

11 In regard to Mr. Koppe's point, we have of course disclosed --
12 requested disclosure of any interviews from Division 164 cadres
13 in Case 003 that give evidence on this subject including if
14 anything that would be exculpatory. We will continue to do so
15 obviously. So to say he's not in a position is incorrect.

16 [09.46.56]

17 He has any interviews from Case 003 on this subject. If -- of
18 course, this is an on-going investigation, we've argued this
19 point many times. It's not reasonable for us to wait until the
20 end of these investigations. If there are new witnesses that
21 emerge, they would be disclosed, the Defence will have the right
22 of course to request witnesses that it views helpful to us. So I
23 simply, for reasons that we've argued in the past, the principle
24 or idea of waiting until the end of the investigation is simply
25 not reasonable. The Defence argued that it would be difficult to

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1 test the reliability of this witness's evidence until the
2 investigation is over; I disagree. The best way to test the
3 reliability of this witness's evidence is to bring him into Court
4 and to have all Parties in the Chamber question him. On the other
5 WRIs, just so we're very clear, there are five, I believe, in
6 total, three we request. All of them have been disclosed. So
7 there are no undisclosed interviews. Three of them related to
8 this subject which is why we've moved those into evidence.

9 [09.48.17]

10 And obviously if this witness was called, we would have no
11 objection to the other two, though they tend to be more
12 background and organizational related. But of course, any Party
13 would be entitled to use those interviews, and they have been
14 disclosed. And there is only one DC-Cam interview. So there is no
15 DC-Cam interview that is not translated. I think what happened is
16 there is two versions of the same interview, same DC-Cam
17 interview that were put on the case file. So even though it may
18 look like there is one that's not translated, it's the same
19 interview. So there is an English translation of the DC-Cam
20 interview already available. And I think that responds to the
21 Defence. Thank you.

22 [09.49.19]

23 MR. PRESIDENT:

24 Thank you. Thank you for submissions from all Parties and
25 responses to the request of the International Deputy

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1 Co-Prosecutor, document E319/36 regarding the request to call
2 additional witnesses, particularly concerning the Vietnamese
3 treatment. The Chamber will take all submissions into
4 consideration and will issue a decision in due course.

5 Now, I hand over the floor to the Co-Prosecutors to put questions
6 to 2-TCW-918. Let me inform you that you will have only one
7 session this morning to put questions to this witness. You may
8 now proceed.

9 [09.50.38]

10 MS. GUISSÉ:

11 Excuse me, Mr. President. I have a question for purposes of
12 clarification. It appears to me that we also have to respond to
13 application E319/32. <Perhaps we are going to do so at another
14 time but> I had thought that we also had to make submissions on
15 that issue. I do not know whether this is the right time to do
16 so. I just wanted <confirmation as to whether or not that was
17 going to be dealt with today>.

18 (Judges deliberate)

19 [09.53.01]

20 MR. PRESIDENT:

21 Thank you for reminding the Chamber in relation to that document
22 <>. The Chamber has not contemplated the responses to the
23 document E319/23 -- 23 or 32, I am not quite sure.

24 MR. KONG SAM ONN:

25 32, Mr. President.

15

1 MR. PRESIDENT:

2 Thank you. The Chamber will inform Parties concerning the matter
3 after the break time. The Chamber will then inform the Parties
4 when it is the appropriate time for you Parties to make responses
5 to the document E319/32. Now the Chamber gives the floor to --
6 you have the floor now, Koppe.

7 [09.54.18]

8 MR. KOPPE:

9 Thank you, Mr. President. There's something in relation to this
10 witness. I should have raised it yesterday, but I hope it's still
11 in time. In one of his WRIs -- E395/67 (sic) -- the witness
12 refers to various photographs or his own photographs, and he's
13 been shown by the investigator five photos. We have searched for
14 these photos but we don't have them. And we were wondering
15 whether the Prosecution maybe has these photos. And if yes,
16 whether the Prosecution would be willing to make these photos
17 available to the Defence?

18 MR. LYSAK:

19 Mr. President, I -- someone in our office is hopefully watching
20 this. I will have them check on the status of that. I'm not sure
21 whether or not those photos that were attachments were disclosed.
22 I have seen them; they're not what you might hope to be based on
23 that. But nonetheless, I'd like you to be able to see that
24 yourself. So if someone from our office is listening, I'll have
25 them check that and see if they can -- if they haven't been

16

1 disclosed, see if -- there should be no problem in having these
2 photographs. But we'll need them to ask the Investigating Judge
3 for that.

4 MR. PRESIDENT:

5 Thank you. Now we resume the questioning of witness.

6 [09.56.00]

7 QUESTIONING BY MR. LYSAK RESUMES:

8 Thank you, Mr. President.

9 Q. And good morning, Mr. Witness. I want to this morning ask you
10 some questions about the purge of your region -- that is,
11 specifically about arrests of local Northwest Zone or Sector 5
12 cadres that took place in the 1977 to '78 time period. And I want
13 to start by trying to clarify the timing of when these events
14 began. Do you remember, Mr. Witness, what month it was that Ta
15 Val, sector chief Ta Hoeng, and Preah Netr Preah district
16 secretary Ta Maong were arrested? Do you remember what month and
17 year that was?

18 2-TCW-918:

19 A. Good morning, Mr. President. Let me inform you regarding the
20 arrest of cadres, some cadres. Some of them I have known their
21 names. My chief <>, Ta Val, was arrested during the transplanting
22 season, perhaps in June or July. I know that he was arrested in
23 the transplanting season. He was arrested at night. As for other
24 cadres, I understand that they were also arrested. However, I do
25 not know when they were arrested. I noticed their disappearance

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1 after I heard that they were arrested.

2 [09.58.26]

3 Q. Thank you, Mr. Witness. To help your recollection, there are
4 some S-21 records that establish the dates on which these cadres
5 were arrested and sent to the S-21 security office in Phnom Penh.
6 Before I get to those records though, I wanted to ask you in
7 regards to Ta Val. Do you remember Ta Val's original name, the
8 name that he used other than his alias Val?

9 A. Concerning his original name, it was <Paun (phonetic)>. I do
10 not know whether it was his original or actual name. He was
11 called <Paun (phonetic)>. However, his revolutionary name was Ta
12 Val.

13 MR. LYSAK:

14 Mr. President, at this time, I'd like to provide to the witness
15 document E3/9646. It is an S-21 list of prisoners who entered on
16 the 28th of June 1977. I'd like to ask him about two of the
17 people on that list who are people he has mentioned.

18 [10.00.10]

19 MR. PRESIDENT:

20 Yes, you may proceed.

21 BY MR. LYSAK:

22 Q. Mr. Witness, this is a record from S-21 of prisoners who
23 entered on a single day, the 28th of June 1977. At numbers 25 to
24 48 on the list are cadres from the Northwest Zone, primarily
25 Sector 5 region. And if you could direct your attention to number

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1 29 on the list, I've highlighted the numbers. You'll find them on
2 the second page, if you look at the second page of the document.
3 Number 29 is Aok Haun alias Val, 39 years old, identified as
4 assistant for dam construction and fertilizer production. And
5 number 34 on the list -- a few numbers down -- is An Maong,
6 secretary of Preah Netr Preah district. Does that refresh your
7 recollection, Mr. Witness, that it was in June 1977 that both Ta
8 Val and Ta Maong were arrested?

9 2-TCW-918:

10 A. It was in July. However, on this document, there is a person
11 named Maong and <Oak Hen (phonetic) - Oak> Lin (phonetic) or In
12 (phonetic). And I cannot see the name of Val on this document.

13 [10.02.42]

14 Q. You need to look at number 29, Mr. Witness, and you need to
15 look -- there's one column that has his family name Aok Haun, and
16 then there is a second column that has his alias, where you'll
17 see the alias Val. So you need to look at two different places on
18 the document. While you're doing that, the record indicates that
19 Ta Val was about 39 years old in 1977. That would have made him
20 eight -- about eight or nine years older than you. Does that --
21 is that consistent with your recollection, Mr. Witness? Do you
22 remember how much older Ta Val was than you?

23 A. Yes. He was older than me, but I do not know his real age.

24 [10.03.56]

25 Q. Mr. Witness, do you remember what month it was that the cadres

19

1 from the Southwest Zone arrived in your region?

2 A. I cannot recall the exact period the Southwest group arrived.

3 It was in 1977 and it could be in July or August. And before
4 their arrival, there was another group of cadres from the West
5 Zone.

6 Q. Tell us a little bit about those cadres from the West Zone.

7 What did they do when they arrived? Did they assume leadership
8 positions like the Southwest cadres or did they have some other
9 function?

10 A. I do not know about any cadres coming from the East Zone.

11 Q. My question may not have come across right, but I'm talking
12 about the West Zone cadres you just mentioned. The cadres from
13 the West Zone, what can you tell us about what they did when they
14 arrived in your region? Did the West Zone cadres assume
15 leadership positions like the Southwest cadres did when they
16 arrived?

17 A. Cadres from the West Zone were of the middle age. And they
18 came together with their families -- that is, wives and children,
19 and they were placed in various communes <and cooperatives>.
20 However, they did not involve with the <unit> at the sector
21 level. They were integrated into the commune and the cooperative
22 mobile units.

23 [10.06.50]

24 Q. In regards to the timing of the arrival of the Southwest
25 cadres, Im Chaem, who you have identified as a Southwest cadre

20

1 who replaced Preah Netr Preah district secretary Maong, she's
2 told DC-Cam that she arrived in the district before Maong was
3 taken away.

4 Specifically Your Honours, I'm referring to document E3/5657,
5 E3/5657, which was a March 2007 DC-Cam interview of Im Chaem at
6 Khmer page 00061325; English, 00089773; French, 00347356; where
7 Im Chaem stated -- quote: "Upon my arrival, Ta Maong and Ta At "
8 -- referring to Maong's deputy -- "still survived. But after I
9 got the list, both of them were taken away." End of quote. So Im
10 Chaem has said that she was in Preah Netr Preah district before
11 Ta Maong's arrest which we know was in late June of 1977. In June
12 1977, Mr. Witness, were you still working at Trapeang Thma Dam?
13 Or had you been transferred to the sector fishing unit at that
14 time?

15 [10.08.48]

16 A. By that time, I had been reassigned from the Trapeang Thma Dam
17 worksite to the fishing unit to provide the supply to the workers
18 at the Trapeang Thma Dam worksite. However, my unit remained the
19 same although I had been assigned or reassigned to the fishing
20 unit.

21 Q. During the time you were with the fishing unit, how much time
22 did you spend out at the rivers or areas where the fishing was
23 being conducted by your workers? And how much time did you come
24 back to Trapeang Thma or to the sector or district offices? Can
25 you give us some sense of where you spent your time after you

21

1 became part of the sector fishing unit.

2 A. I was with the fishing unit for about 10 days, then I
3 transported the fish or the fermented fish to the mobile unit
4 forces at the Trapeang Thma worksite. However, it varied;
5 sometimes I had to spend like one and a half month at the fishing
6 unit before we could transport the food supply to the sector
7 mobile unit forces. So it varied between a fortnight to six
8 weeks. But sometimes it happened within a week if we could find
9 fish.

10 [10.10.49]

11 Q. When the cadres in your region were arrested, were there just
12 a few cadres who were arrested and who disappeared, or ordered
13 many of the sector Northwest cadres from your region, were many
14 of them arrested and disappeared?

15 A. Regarding their disappearance, I personally was sure and
16 witnessed the disappearance of my immediate supervisor. Cadres at
17 the district or the communes also disappeared, but I did not know
18 of their circumstances or whether they were arrested during the
19 day or at night time.

20 Q. I want to ask you about a statement you made in your DC-Cam
21 interview, E3/9094, whose excerpt is at Khmer ERN 00734097
22 through 98; English, 00728689; French, 01123649 through 50. You
23 said the following - quote -- and you're describing a meeting you
24 had with the new sector chief Ta Rin -- quote:

25 "I went to meet Ta Rin. [...] He said that, 'Now if you do not

22

1 believe me, you can look at the list of arrested names. There are
2 only two names not in the arrest list. They are you and Ta
3 Yoeuk'." And then you said, "'The rest would be arrested. I saw
4 all the names'." End of quote.

5 In this meeting that you described with sector chief Ta Rin, you
6 said that there were only two sector cadres whose names were not
7 on the list of those to be arrested, yourself and a person you
8 identified as Ta Yoeuk. Can you tell us who Ta Yoeuk was?

9 [10.13.38]

10 A. The name was not Youk (phonetic), in fact the proper
11 pronunciation is Yoeuk. Ta Yoeuk worked for the economic section
12 or unit to provide rice supplies to the mobile unit while I was
13 at the fishing unit, also to provide food to the sector mobile
14 unit. And our two names were not on the list <because we failed
15 to attend the meeting.>

16 Q. The list that you saw, can you describe it for us a little
17 bit? Was it a typed list, was it handwritten, did it have any
18 coloured ink on it? Can you describe for us a little bit what
19 this list looked like, if you remember?

20 A. The list was handwritten. However, it was written on a piece
21 of paper and it was rather old.

22 [10.14.59]

23 Q. Now you've testified that you were in the sector fishing unit
24 when -- as of June 1977 when these purges began. Was the chief of
25 the Sector 5 fishing unit arrested? And if so, what can you tell

1 us about his arrest?

2 A. <Chin (phonetic)> was the first chief of the sector fishing
3 unit, however, he committed a moral misconduct. He was
4 reassigned, but he was not arrested. <He was only removed from
5 his position.> Later on, <the messengers> of Ta Hoeng <namely>
6 Ponh and Pak <> were reassigned to be chiefs of the fishing unit
7 before I was reassigned to that unit. So there were two <people>,
8 Pak and Ponh.

9 Q. And what happened to those messengers of Ta Hoeng that had
10 been appointed to run the sector fishing unit?

11 A. Later on, they led me to go to the river -- that is, to
12 <Kabau> village in Preah Netr Preah district. Then there was a
13 letter calling Ponh and Pak to attend a meeting. So they went to
14 attend the meeting while I took some men to go fishing with me.
15 And that was the time they disappeared.

16 [10.17.21]

17 Q. As I've shown you, there are S-21 records that establish in
18 addition to Ta Val, Ta Maong, in addition to those people that
19 sector secretary Hoeng, Phnum Srok district secretary Hat and
20 many more of the local cadres -- Northwest cadres who were
21 arrested were sent to S-21 in Phnom Penh. Your Honours, document
22 E3/531 is the OCP S-21 list for the Northwest Zone which
23 identifies over 1,200 people from the Northwest Zone who were
24 arrested and sent to S-21, the vast majority between June 1977
25 and May 1978. My question for you, Mr. Witness, were you aware

24

1 that the sector and district leaders in your region who were
2 being arrested, were you aware they were being sent to Phnom
3 Penh?

4 A. No, I was not aware of that. I was not aware where they were
5 sent to after they were arrested.

6 Q. Mr. Witness, to your knowledge, who had authority to arrest
7 and send cadres to Phnom Penh? Did the leaders of your sector or
8 the Northwest Zone have the right by themselves to send people to
9 a security office in Phnom Penh?

10 A. At that time, I did not know who authorized the arrest. Senior
11 cadres were all arrested, including Ta Yoeuk, <only at night> and
12 I did not know who actually authorized those arrests.

13 [10.19.45]

14 Q. During this purge, Mr. Witness, was it only cruel or bad
15 Northwest cadres who were arrested? Or were people being arrested
16 whether they were cruel or gentle people?

17 A. I did not know. However, I was wondering myself why those
18 cadres were arrested. Those cadres arrested <included> cruel and
19 kind cadres. So I did not understand the reasons behind the
20 arrest.

21 Q. Let me ask you about something you said in your DC-Cam
22 interview, E3/9094, this is Khmer ERN 00734104; English,
23 00728694; French, 01123653; you said and I quote: "I was
24 frightened at that time. If I were called -- if we were called,
25 it meant death." End of quote.

25

1 And Mr. Witness, had you done anything wrong that made you worry
2 about being arrested? And if not, can you explain why it was that
3 you were frightened?

4 A. I was frightened despite the fact that I was loyal to Angkar.
5 But I saw cadres who were loyal to the parties to Angkar were
6 also arrested. And that made me frightened.

7 [10.22.05]

8 Q. Was it just cadres who were arrested? Or were family members
9 and relatives of the cadres also arrested?

10 A. Only cadres were arrested, and their family members, their
11 wives and their children were not.

12 Q. Let me ask you a little more about that, Mr. Witness. Did you
13 know a person who was the brother of Phnum Srok secretary Hat, a
14 person named Ta Morn? And can you tell the Court what happened to
15 him during the purge of your region?

16 A. Allow me to tell you the truth. The name was not Ta Man
17 (phonetic) but Ta Morn. Ta Morn was the elder brother of Ta Hat,
18 the Phnum Srok district secretary who had been arrested. And Ta
19 Morn was afraid to be arrested so he fled to take refuge within
20 my fishing unit.

21 [10.23.50]

22 Q. And what happened to Ta Morn after he came to your fishing
23 unit?

24 A. While he was at my fishing unit, they found out and they
25 tricked him, as well as myself, to go and attend an education

1 meeting. So I was on my bicycle half way to Phnum Srok district
2 and it was dark. And the people who actually came to fetch us
3 were riding a bicycle ahead of us, and Ta Morn was on a bicycle
4 behind me. <He was older than me, so he was lagging behind.>Then
5 at a checkpoint, a female comrade asked me which person who was
6 asked to leave the fishing unit. And then <the person who came to
7 fetch us> signalled us not to say anything. But <> only I saw
8 what happened, and Ta Morn did not.

9 When we arrived at Trapeang Thma, I told Ta Morn that we were
10 subject to be arrested. And then he asked me to flee, but I said
11 that I was loyal to Angkar and I did not know where to go or to
12 escape to. And if Angkar had to arrest me, then I determined to
13 be arrested by Angkar, although it meant that I might be dead.
14 And then <Ta Morn changed his mind and determined to stay with
15 me. In the following morning, we went> to drink palm juice to
16 fill up <our> stomach <,and we no longer cared if we would be
17 killed. At around 9 a.m.> there was a white vehicle coming to us
18 and I saw that we would be arrested. <In fact, they came for Ta
19 Morn not me. Then> the soldiers got out of the vehicle, and they
20 pointed guns at Ta Morn and <me>, commanding us to board the
21 vehicle. However, a soldier pushed me off the vehicle, and only
22 Ta Morn was taken away on that vehicle. I fell off the vehicle
23 and became unconscious. And I woke up <and found myself> in <>
24 the <Wat> Trapeang Thma <Hospital>.

25 [10.26.46]

1 MR. PRESIDENT:

2 Thank you, Deputy Co-Prosecutor, it is now convenient to take a
3 short break. We take a break now and resume at 20 to 11.00 to
4 continue our proceedings.

5 And Court officer, please assist the witness at the room reserved
6 for witnesses and civil parties, and invite him as well as his
7 duty counsel back into the courtroom at 20 to 11.00.

8 The Court is now in recess.

9 (Court recesses from 1027H to 1042H)

10 MR. PRESIDENT:

11 Please be seated. The Court is back in session.

12 <First,> before handing over the floor to the Co-Prosecutors and
13 Co-Lead Lawyers to put questions to this witness, the Chamber
14 would like to inform the Parties regarding the submission
15 responding to document E319/32; the Chamber decides to hear
16 submissions of Parties in the afternoon after the lunch break.

17 <Second>, regarding the submission - regarding the photographs,
18 the five photographs requested by the defence counsel for the
19 Accused, <Mr. Victor Koppe,> we may find and give further
20 information about the five photographs also in the afternoon
21 <after lunch break>.

22 Now I give the floor to the Co-Prosecutors and Co-Lead Lawyers to
23 put questions. You have only 35 minutes to finish your line of
24 questioning.

25 [10.45.18]

1 BY MR. LYSAK:

2 Thank you, Mr. President. Just to let you know that the Co-Lead
3 Lawyers have requested 15 minutes of our use and another 15
4 minutes myself and then they will have 15 minutes of questions so
5 we will finish before our time.

6 Q. Mr. Witness, before the break you were describing an event in
7 which the brother of the Phnum Srok district chief Ta Morn was
8 arrested. You identified earlier -- we talked earlier about the
9 other sector cadre who was not to be arrested in the list you saw
10 and I apologise If I am not pronouncing his name correctly, Ta
11 Yoeuk, the person you identified as in charge of the economics
12 and supplying rice to the sector mobile forces. Did this person
13 -- Ta Yoeuk -- have a role in the arrest of Ta Morn?

14 2-TCW-918:

15 A. <During> the arrest of Ta Morn, I did not see Ta Yoeuk there;
16 he held no position. Ta Yoeuk was asked to call Ta Morn from my
17 unit; that was his function at the time. And as I said he was the
18 one who was responsible for <supplying> rice for the mobile
19 units.

20 [10.47.12]

21 Q. Thank you. Did you know a cadre from the Southwest named Ta
22 Rin, who came and took over as the Sector 5 chief? And sir, can
23 you tell the Court a little about Ta Rin, what kind of person he
24 was?

25 A. I know Ta Rin but I am not able to recognise him. I did not

1 dare to look straight at his face; for this reason, I did not
2 recognise him. I only knew that he was chief, as I said I could
3 not recognise him.

4 Q. What kind of person was Ta Rin, was he a good person, was he a
5 cruel person, can you tell us a little bit about him?

6 A. Whenever he came down to implement work, he was quite good and
7 kind. He was not a cruel person, he was kind and gentle.

8 Q. Did Ta Rin sometimes come down and work amongst the people
9 without anyone knowing that he was the sector chief?

10 A. Regarding this point, I never witnessed him coming down to
11 work. I only met him once in a while; I was not with him all the
12 time.

13 [10.49.35]

14 Q. Do you know what happened to Ta Rin, Sector 5 chief, Rin and
15 his family at the end of the Democratic Kampuchea regime?

16 A. I have no idea on this point. I simply knew that Ta Rin was
17 the sector committee. After the arrival of Vietnamese troops, we
18 departed each other and I have no idea whether he was <arrested
19 or> re-assigned to work somewhere else.

20 Q. Mr. Witness, document E3/2254 in this case, E3/2254; ERNs:
21 Khmer, 00086766; English, 00789707; French, 00834853; is an S-21
22 record interrogation log which reports that Sector 5 secretary,
23 Heng Rin entered S-21 on 16 November 1978, that his spouse So
24 Rang was sent to S-21 on the 27th November 1978, and that his
25 13-year old niece Chour Than entered S-21 on the 16th December

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1 1978. Does this refresh your recollection, did you ever hear
2 about the arrest of Ta Rin, or why a person you described as
3 someone who is kind was arrested along with his wife and 13-year
4 old niece, did you ever hear anything about that?

5 A. On the matter, I have no idea on the matter.

6 [10.52.20]

7 Q. The last few questions I have for you, Mr. Witness, concerns
8 another witness who gave evidence in this Trial last month on the
9 26th and 27th October, 2-TCW-996.

10 As this is a person who we have to maintain a pseudonym, Mr.
11 President, I would like to show the witness the OCIJ statement
12 from this person to see if he knows and identifies, knows
13 2-TCW-996. So with your leave, I would like to provide document
14 E319/19.3.18 to the witness to have him so that he can see the
15 name of the person.

16 MR. KOPPE:

17 Just to assist, Mr. President, we have actually uploaded
18 yesterday the photo of the particular witness because we would
19 like to ask questions later today about this witness's testimony;
20 that might be helpful as well. It is E3/9443, English, ERN
21 00729874.

22 [10.53.54]

23 MR. LYSAK:

24 If counsel wants to provide a hard copy, I'm happy to have the
25 witness provided that also. I think the photo shouldn't be

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1 publicly shown because I think this witness testified in closed
2 session but I'm happy to provide the photo with an addition to
3 the OCIJ statement, with your leave, Mr. President.

4 MR. PRESIDENT:

5 You can do so.

6 BY MR. LYSAK:

7 Q. Now Mr. Witness, I don't want you to say the name of this
8 person out loud because his identity remains confidential but if
9 you could look at the photograph but also look at the
10 biographical information that I have marked on that second page
11 and tell us without saying his name if this is a person that you
12 know.

13 (Short pause)

14 [10.56.35]

15 BY MR. LYSAK:

16 Q. Do you know this person, Mr. Witness?

17 2-TCW-918:

18 A. Yes.

19 Q. In his trial testimony on the 26th of October 2015 around 3.15
20 in the afternoon, 3.14, this witness identified you as one of
21 about 10 or 15 chiefs who participated in a "secret meeting" with
22 Ta Val and Ta Hoeng at which Ta Hoeng or Ta Val announced that
23 the subordinates in the mobile forces would become captains in
24 the near future. Do you remember being part of a secret meeting
25 with Ta Val, Ta Hoeng, and this person?

1 A. I do not know about secret meeting as such. I have never heard
2 of any secret meetings held.

3 [10.58.05]

4 Q. And this individual whose statement you were provided and
5 photo, can you tell us what position, this person 2-TCW-996, what
6 position did he hold in the Sector 5 mobile forces during the
7 regime? Was he a regiment commander, battalion commander, company
8 chief, do you remember what position he had?

9 A. This person was seen by me in the mobile unit. I do not know
10 his function and position. I do not know whether he was chief of
11 platoon, company or battalion. I used to see him; however, I did
12 not know his position and function.

13 MR. LYSAK:

14 Thank you, Mr. President, we have no further questions.

15 MR. PRESIDENT:

16 Thank you. Now the floor is given to Lead Co-Lawyers to put
17 questions to this witness, you may now proceed.

18 [10.59.42]

19 QUESTIONING BY MS. GUIRAUD:

20 Q. Thank you, <> Mr. President. Good morning everyone. <Good
21 morning, Mr. Witness.> My name is Marie Guiraud and I'm the Lead
22 Co-Lawyer for civil parties. I have a few short questions to ask
23 you today on the Trapeang Thma Dam worksite. Yesterday at 2.25
24 p.m. you told the prosecutor that your role on the worksite was
25 to <perform the general supervision of> the workers and that you

1 <were overall responsible for the> forces on the worksite and it
2 is on that <basis> that I wish to ask you a few questions today.
3 My first question is the following: What was the freedom of
4 movement of the workers on site? Workers in the mobile unit, did
5 they have the right to leave the <Trapeang Thma Dam> worksite at
6 will?

7 2-TCW-918:

8 A. Workers at the Trapeang Thma Dam worksite could go freely
9 within the limited section where they worked. If they were to
10 cross to another sections work or to go visiting their parents in
11 the village, they had to obtain a letter of authorisation <from
12 their group chiefs or unit chiefs> first.

13 [11.01.32]

14 Q. Who <granted> such letters of authorisation?

15 A. If, for example, they lived and worked in the 10th unit, then
16 the chief of the 10th unit would issue such letter of
17 authorisation and if the worker worked for the 20th unit for
18 instance, then the chief of the 20th unit issued such
19 authorisation letter.

20 Q. At the time were you told why there was such an authorisation
21 system <in place>, why you needed a laissez passer?

22 A. If a worker travelling across another unit or trespassing
23 another village or commune or co-operative, that person had to
24 have the letter of authorisation. So when they crossed from one
25 village to the next or from one commune to the next or from one

1 district to the next, then the person has to obtain a letter of
2 authorisation first from his or her immediate supervisor.

3 However, workers could walk freely within the worksite at the
4 Trapeang Thma Dam.

5 Q. And who supervised these letters of authorisation, were there
6 any militia or checkpoints <or> guards that checked people's
7 letter of authorisation when workers left the perimeter <they
8 were authorised to be in>?

9 A. There was no guard at checkpoint. For instance a person had to
10 travel from village A to village B, it means that upon the
11 arrival at village B, the chief of that village would check for
12 the laissez passer.

13 [11.04.08]

14 Q. At the time, did you know what would happen if someone left
15 the <authorised> perimeter without <an authorisation letter?
16 Without a laissez-passer?>

17 A. If a person crossing from one village to another without
18 having a laissez passer, for example arriving in village B, then
19 the village B chief would not receive that person and would
20 dismiss that person from the village <and that person would be
21 sent back>.

22 Q. To your knowledge, was there any punishment for those who
23 travelled without laissez passer?

24 A. I do not know about anything that - or about a case that a
25 person travelled without a laissez passer.

1 Q. Those letters of authorisation were they mandatory at any
2 moment during the day or night? In other words, any worker who
3 sought to leave the perimeter to which he was assigned during the
4 day or at night, needed a letter of authorisation, <or> was there
5 any moment during the day or in the evening when someone could
6 have freedom of movement?

7 A. When a person left his or her unit to go to another unit, his
8 or her immediate supervisor would issue a letter of authorisation
9 or that laissez passer and usually <the authorization letter was
10 issued only> during the day time. Chief of the unit usually did
11 not issue a laissez passer for night travelling.

12 [11.06.30]

13 Q. Am I to understand that <leaving the premises> at night was
14 not authorised?

15 A. Of course workers could move freely within the unit but if a
16 worker had to go to another unit or village or commune, then the
17 chief would not be responsible for that person because it means
18 the person left without his authorisation. <If that person was in
19 trouble, arrested or mistreated; the chief would not be
20 responsible.>

21 Q. Thank you. To your knowledge, these <laissez-passer -- the
22 conditions for granting an> authorisation <>, were they different
23 for Base People than for the New People? Were there different
24 conditions? Yesterday at 2.30 p.m., you said that the sector
25 mobile units were <composed of> 50-50 <> Base People and New

1 People. Could <these two types of people> move <about with the
2 same freedom>?

3 A. In the mobile units, of course the same laissez passer would
4 be issued for all those workers including the 17 April People
5 evacuated from Phnom Penh. Laissez passers would be issued to all
6 those workers regardless whether they were New People or the 17
7 April People <or Base People>.

8 [11.08.32]

9 Q. Thank you. I want to ask you some questions <with regard to>
10 something you mentioned yesterday. At 3.38, you said that
11 yesterday that those who committed moral offences were <married>
12 and that these marriage ceremonies happened within <their
13 respective units> on the worksite. I am referring here to what
14 you said at <15.38.34> yesterday afternoon and I wanted to know
15 if you were a direct witness to the <> wedding ceremonies on the
16 worksite at the Trapeang Thma Dam.

17 A. I participated in the marriage ceremony. At that time it was
18 referred to as the event of holding hands and it refers to
19 marriage ceremony<. Holding hands mean marriage> and I attended
20 such ceremony.

21 Q. If you remember, can you tell us <approximately> how many of
22 such ceremonies you participated in on the worksite at the
23 Trapeang Thma Dam<, if you remember>?

24 A. At the Trapeang Thma Dam worksite I attended such event once
25 and there were many couples who got married that day, however, I

1 cannot recall how many couples. There could be about 50 <or 60>
2 couples.

3 [11.10.27]

4 Q. <Who decided to organise these weddings? Do you remember>?

5 A. The marriage ceremony meant the men and women <> consented to
6 marriage, then chief of that unit would organise the event.

7 Q. Yesterday you spoke of weddings in the context of people who
8 committed moral offences, <during> the ceremony <in> which you
9 participated, <of these 50 couples, were they all found guilty of
10 having> committed moral offences or were the couples <being
11 married> not necessarily guilty of moral offences, just for
12 clarification?

13 A. Among the 50 couples not all the couples committed moral
14 misconducts and there were only two people who committed such
15 misconduct <at that time> and these two individuals were
16 <re-educated> and <later their wedding was organised. The rest
17 loved each other and were matched up with their consent and
18 agreement from their parents and relatives>.

19 [11.12.26]

20 Q. Did anyone from the upper echelon or anybody tell you at the
21 time why <you had to organise> mass wedding <ceremonies at> the
22 worksite?

23 A. I do not know about that; I saw <many> couples who got married
24 that day and I could not say anything. Sometimes I wanted to
25 laugh for such an event but I did not <dare to laugh> and that

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1 was the way they organised, I could not help it.

2 Q. Do you remember, and this will be my last question, <do> you
3 remember if you have ever received any instructions on holding
4 weddings on the worksite? Was this ever discussed during meetings
5 with the upper echelon?

6 A. The upper echelon would make an announcement that on a certain
7 date, people would get married and those people who were to be
8 involved in organising the event, namely unit chiefs<, battalion
9 chiefs and hospital chiefs> would be informed about that. So
10 usually, all the chiefs were informed about <and asked to attend>
11 such an event.

12 [11.14.13]

13 MS. GUIRAUD:

14 Thank you very much, Mr. Witness. Mr. President, I don't have any
15 more questions. <>

16 MR. PRESIDENT:

17 Thank you, and I would like to hand the floor to Judge Lavergne
18 to put questions to the witness.

19 QUESTIONING BY JUDGE LAVERGNE:

20 Q. Thank you, Mr. President. Good morning, Mr. Witness. I have a
21 few follow up questions to ask you. First and foremost I would
22 like you to explain what you understood with the relationship
23 between Ta Val, Ta Hoeng, Ta Nhim, and Ta Cheal? To your
24 knowledge, did they have the same mindset or did some wish to
25 rebel?

1 2-TCW-918:

2 A. I was not in a position to know about who actually had any
3 idea to rebel. However, I myself was thinking about the fact that
4 they all were part of the Revolution, how come there was
5 distinction between those individuals; for example Ta Val and Ta
6 Hoeng <were> on one side and Ta Nhim was on the other side. And I
7 did not know whether these two -- Ta Val and Ta Hoeng -- received
8 any instructions from anyone <in the upper echelon>. However,
9 this is my personal suspicion only.

10 [11.16.32]

11 Q. Did you ever hear of a plan seeking to give weapons to the
12 members of the mobile unit and if so, who was the <mastermind
13 behind> this plan and was this plan ever put into practice?

14 A. Regarding arming the mobile unit force, I think the
15 investigator who interviewed me misunderstood. When I said
16 "arming the mobile unit forces", it means giving them hoes to dig
17 the dirt. For example at <Kang Va cotton plantation> worksite,
18 there were a lot of forest <and thorns> to be cleaned and they
19 needed weapons in order to clear the forest and the weapons here
20 refer to the hoes.

21 Ta Val held a discussion that we needed to find more weapons to
22 arm our mobile unit forces and the weapons here refer to all the
23 hoes, the <long-handle> knives <and axes> that were used to
24 attack these so-called battlefields in order to clear the forest
25 and to plant cotton trees. Because while we were at the Kambaor

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1 dam worksite, we only had hoes and when we were re-assigned to
2 plant cotton trees we needed knives as well in addition to hoes
3 <and baskets>, in order to clear the forest and plant cotton
4 trees and the investigator who interviewed me misunderstood when
5 I talked about the weapons. I did not talk about guns or
6 ammunitions <the military> but I referred to hoes and knives.

7 [11.18.52]

8 Q. Did you know if there was any links between <certain> cadres
9 from the East Zone and <certain> cadres in the Northwest Zone and
10 did those links have anything to do with a plan to rebel?

11 A. Regarding the communication between the East and the Northwest
12 Zone, I only heard about it. I heard it said that the East Zone
13 had brides, whilst the Northwest Zone had grooms and they wanted
14 to match the grooms and the brides, that's what they said at the
15 time. However, it was simply a rumour and I never heard any
16 people at the zone level speaking about this. <I never saw their
17 faces.>

18 [11.20.09]

19 Q. According to you, who had Ta Val and Ta Hoeng arrested? <>
20 Were they the forces of the Southwest cadres or did this order
21 come from Ta Nhim or Ta Cheal?

22 A. I did not know who arrested Ta Val or Ta Nhim; I only knew
23 that they were arrested. As for Ta Val, in the morning I saw his
24 wife wept and subsequently I learnt that he had been arrested at
25 night-time but I did not know who actually arrested him. And as

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1 for the arrest of Ta Hoeng, I did not know when it happened.

2 Q. Were you ever made aware, did you ever know, if there had been
3 any secret warehouses where weapons and ammunitions would be
4 stockpiled as well as food stuffs?

5 A. No, I did not hear anything about that.

6 [11.21.40]

7 Q. A great number of cadres from the Northwest Zone were
8 arrested; you were shown a list and on this list <there were>
9 only two names, <> of people who were not arrested, yours and
10 <Ta Yoeuk>. According to you, why were you not arrested? <Or
11 indeed, according> to you, why were the others arrested?

12 A. Regarding list of men of those who were to be arrested and
13 only myself and another person were not on the list, Ta Val
14 actually called all the chiefs of the units at the mobile units
15 to attend a meeting that the Party now opened the door to receive
16 all the comrades and that we should join the Party in order to be
17 part of the youth league and those people actually went and they
18 boarded a vehicle and left. But I was far and I could not reach
19 them and then I was told that my turn would be next. However
20 after the arrest of Ta Val, then I saw this list of names of
21 those who were to be arrested and only my name and the other
22 person's name were not on the list; that's why I made a
23 conclusion that their names were on the list because the Party
24 opened the door for them to join the youth league. That's all I
25 know and I could not know anything else besides that. <I only

1 know that was only for the mobile units, but I do not know what
2 happened in cooperatives, villages and communes.>

3 [11.23.56]

4 Q. <I must admit that I am not quite following you there.>

5 According to you, these people had been arrested because they
6 were about to <become> members of the Party or were they arrested
7 because they attended <a> meeting that had been organised by Ta
8 Val?

9 A. I did not know about that. It is my understanding that my name
10 was not on the list because I failed to attend the meeting where
11 we were told that we would be part of the youth league of the
12 Party.

13 Q. Well, <> I would like us now to discuss the working conditions
14 on the worksite at Trapeang Thma. Before you came to <work or
15 rather> supervise the work at Trapeang Thma, was the work quota
16 <of three cubic metres <to be hauled> per worker <per day being
17 applied?> Was this work quota <of three cubic metres> always in
18 place or could you tell us when <they started implementing it>?

19 A. The work quota of three cubic metres per person was applicable
20 only at Kambaor dam, and at the Trapeang Thma Dam worksite
21 initially, there was no quota set because not all the workers had
22 arrived yet and we lacked some earth carrying baskets. So we just
23 worked according to the working hours without the set quota.

24 [11.26.20]

25 Q. Sir, according to you <the three cubic metre work quota was

1 never implemented at Trapeang Thma Dam?> We've heard from many
2 people who have <> testified to this work quota. What can you
3 tell us?

4 A. The quota of three cubic metres was not implemented at the
5 Trapeang Thma worksite when I was there and this work quota was
6 applicable at Kambaor dam as I stated earlier and only after I
7 was reassigned to the fishing unit, such a work quota might have
8 been imposed at the Trapeang Thma Dam worksite and I was not
9 aware of who actually imposed such work quota. And I heard people
10 talking about this three cubic metres worker per day, but I did
11 not know who actually set that quota there.

12 Q. When exactly were you assigned to head the fishing units and
13 were these <> sector or <the region-level fishing units within
14 the zone? Where> in the hierarchy were you<? Did you rank among
15 those at a district level? The sector level? Or did you rank
16 higher?>

17 [11.28.20]

18 A. When I was assigned to the fishing unit by Ta Val in order to
19 find food for the workers at the mobile unit, the fishing unit
20 was to find fish for the mobile unit and not for the entire
21 sector supply. <The sector has its own fishing unit.> Then there
22 was issue of moral misconduct by the sector fishing unit and
23 <they were arrested. Later> on the Southwest arrived, then I was
24 appointed by them with Ta Cheng to head this unit and Ta Cheng
25 was appointed to be the chief and I was his deputy. But Ta Cheng

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1 was afraid of going into the river as he used only to live on
2 land, so for that reason he assigned me to be in charge of
3 finding fish at <Tonle Sap> while he himself based in Svay in
4 order to provide us with the food supply, for example rice and
5 salt and diesel for the boat. But I myself was in charge of
6 finding fish and he assigned me to be in charge also of all those
7 fishing boats.

8 Q. <More questions, first:> When the Southwest cadres came, can
9 we say that you received a promotion? Was this position higher
10 than the one that you had before the Southwest <cadres> came?

11 A. If you spoke about the position <>, it was higher than my
12 previous position.

13 [11.30.48]

14 Q. <Does this work?> By the way can you tell us on <exactly> what
15 date Ta Val appointed you to work in the fisheries unit in charge
16 of providing fish to the mobile units in the sector? On what date
17 <did that take place>? And <>, did someone replace you at your
18 position as supervisor of workers on the Trapeang Thma Dam
19 worksite and if so, what is the name of that person?

20 A. I was reassigned to the fishing unit and my position as the
21 battlefield commander at the Trapeang Thma Dam worksite was no
22 longer existed and I did not know who was appointed to replace me
23 at the dam worksite.

24 Q. So When Ta Val appointed you, did he demote you or <did> he
25 appoint you to an equivalent position?

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1 A. I could not say whether it was an equivalent or a demotion.
2 When I was at the dam worksite and to be the battlefield
3 commander there, I only had six men under me. But when I was
4 reassigned to the fishing unit, I had more than 10 <or 20> men
5 who were under my supervision.

6 [11.32.54]

7 JUDGE LAVERGNE:

8 Mr. President, I see that it is perhaps time for the lunch break
9 and since I have few more questions to put to the witness,
10 <perhaps> it would be the right time for us to take the break
11 <now>.

12 MR. PRESIDENT:

13 Thank you. It is convenient now for us to take our lunch break;
14 we will take a break now and resume at 1.30 this afternoon.

15 Court officer, please assist the witness at the waiting room
16 reserved for witnesses and civil parties and invite him as well
17 as his duty counsel back into the courtroom at 1.30 p.m.

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

21 The Court is now in recess.

22 (Court recesses from 1133H to 1332H)

23 MR. PRESIDENT:

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

25 The Chamber informed the Parties this morning, before the Chamber

1 gives the floor to Judge Lavergne to resume his questioning on
2 the witness, 2-TCW-918, the Chamber will give the floor to the
3 <Parties> to make their responses to <the submission of the
4 International Co-Prosecutor with regard to> document E319/32, in
5 relation to the request to admit record of interviews on the
6 <Cham> treatments<, pursuant to the Rule 87.3 and 87.4 of the
7 Internal Rules>. Concerning the matter, the senior legal officer
8 of the Trial Chamber informed the Parties by email, dated 12th
9 November 2015, that if Parties wished to respond to the request
10 by the International Co-Prosecutor, the Parties are allowed to
11 make oral submission on the 1st December 2015. In the same email
12 the senior legal officer stated that if other Parties do not wish
13 to make the responses they shall inform the Chamber by 20th
14 November 2015, and no Parties said that they do not wish to make
15 the response. That is why the Chamber will allow the floor to the
16 Parties to respond to the request.

17 Before the Chamber gives the floor to the defence teams to make
18 their responses, the Chamber will hand over the floor to the
19 International Deputy Co-Prosecutor to make brief background <of>
20 the request. You may now proceed, International Deputy
21 Co-Prosecutor.

22 [13.35.23]

23 MR. LYSAK:

24 Thank you Mr. President. I'll be very brief on my opening
25 remarks. I think the motion is fairly straightforward and is the

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1 same type of motion we've made with respect to other new
2 statements that were authorised for disclosure from the other
3 investigations. This particular group is a group of 25 interviews
4 that relate primarily to the issue of the treatment of the Cham,
5 some of them are trial witnesses, others are not. The relevance
6 is set forth in our annex, both a description of the documents
7 and the specific issues of the closing order. In terms of 87.4 as
8 stated in our motion, these are documents, evidence that arose
9 after the start of trial, more importantly as the Trial Chamber
10 has confirmed in recent rulings, it's the date of authorisation
11 by the International Co-Investigating Judge in this case that is
12 the date the evidence first becomes available and for all of
13 these documents those are dates in 2015 when the documents were
14 authorised by the International Co-Investigating Judge to be
15 disclosed. So, I'll obviously respond to any specific points that
16 the Defence may have but that is the basic grounds for our
17 motion.

18 [11.37.09]

19 MR. PRESIDENT:

20 Thank you. Do you have anything to address the Chamber, Anta
21 Guisse?

22 MS. GUISSÉ:

23 Yes, Mr. President. In agreement with my colleague Koppe, if you
24 agree with us, I <will> start.

25 MR. PRESIDENT:

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1 Thank you. What about Co-Lead Lawyers for civil parties, do you
2 intend to make submission on the request by the International
3 Co-Prosecutor regarding document E319/32?

4 MR. PICH ANG:

5 Thank you, Mr. President, Your Honours. Co-Lead Lawyers for civil
6 parties do not have any objection to the request by the
7 International Co-Prosecutor. Regarding the documents requested,
8 they are related to the <Cham> treatment and these documents have
9 been placed on case file 002 with the authorisation of the
10 Co-Investigating Judges, so we do not have any objection and we
11 ask the Chamber to consider and decide on the request.

12 [13.38.42]

13 MR. PRESIDENT:

14 Now I will give the floor to the defence team for the Accused and
15 as mentioned by the Defence for Mr. Khieu Samphan, the defence
16 team for Mr. Khieu Samphan will start first before the defence
17 team for Mr. Nuon Chea. So you have now the floor, defence
18 counsel for Mr. Khieu Samphan.

19 MS. GUISSSE:

20 Thank you, Mr. President. As regards these 25 new WRIs <> which
21 the International Co-Prosecutor would like the Court to admit
22 into evidence, I would like to start with the three documents
23 that we do not object to.<and> I would like to explain to you
24 why. For ease of reference, I will use the annex of the
25 Co-Prosecutors, E319/32.1, and we will be <referencing> the

1 numbers on the table. So we do not object to document Number 4 on
2 the table <because that> document has already been <tendered>
3 into evidence, the number is E3/9350. We do not either object to
4 Number 2 <> on the table, document E319/24.3.3, <because> this is
5 the record of interview of a witness who has already appeared and
6 that is TCW-950. We do not object either to Number 19 on the
7 table -- that is, document E319/19.3.95, since this witness has
8 been called to testify soon so, <based on the logic we have
9 shared since the outset,> when witnesses have appeared or are due
10 to appear, their prior statements have to be admitted into
11 evidence by the Chamber.

12 [13.41.05]

13 For the remaining records of interview, <however,> Khieu
14 Samphan's defence objects to tendering into evidence these
15 documents for various reasons<, yet clearly according to> Rule 87
16 -- <particularly on the basis of both Rule 87.3 and Rule> 87.4<,
17 seeing how> we consider that these rules have not been abided by.
18 Let me remind the Chamber that -- <because it's> something we
19 often forget, <given> the <number of Rule 87.4 applications and
20 the amount of documents coming from other investigations> that
21 <we> would like to tender into evidence<, that this> particular
22 rule, <87.4,> is <applicable to exceptions. It is meant for
23 admitting documents> into evidence in the course of proceedings,
24 <meaning an admission into evidence that takes place at a later
25 stage after an investigation has already been carried out;> this

1 should <only occur under exceptional circumstances. First of all
2 any document approved to be used as evidence under Rule 87.4 must
3 be conducive to the ascertainment of the truth. In addition,
4 written statements are being requested as opposed to oral
5 statements to which the Chamber, by definition, should only
6 attribute a meagre probative value. Why? Well because the persons
7 in question are not present in the courtroom and consequently,
8 cannot be subject to cross-examinations by all Parties.
9 Particularly, by the Defence.>

10 [13.42.34]

11 And secondly in this particular case, the problem is all the more
12 <serious in regard to the probative value -- as it would be for
13 any other investigation procedure -- because we> do not have any
14 <audio> recordings <>, which means that we cannot cross check the
15 contents of these statements <as we were able to do in the past,>
16 as part of <our> investigation. <There are no audio recordings
17 for statements from Case 003 and Case 004.>

18 And then, this is perhaps the most important point, their
19 reasons, given by <> the International Co-Prosecutors for their
20 application, is particularly tenuous. We have been told <in a
21 general manner> that these documents are relevant to the segment
22 regarding the Cham. It is not in line with <the application of>
23 Rule 87.4. Under Rule 87.4; and <I shall make reference to your
24 jurisprudence here,> particularly your memo <E131/1>, page 4, the
25 <second to last> paragraph and your memo E118/4, <page 3, also

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1 second to last> paragraph, you stated that the applying Party
2 should show that the tardy application for admission <> into
3 evidence <during an on-going trial demonstrates> that <the late
4 admission into evidence is> crucial and in the interest of
5 justice, that is not the case in <this particular instance. You>
6 are being asked to admit into evidence <22> written <statements>
7 as opposed to oral <testimonies which, let me remind you once
8 more, have a limited probative value for the reasons I mentioned
9 before.> These <particular> statements are neither crucial <nor>
10 in the interest of justice.

11 [13.44.29]

12 Another reason for which we object to these statements being
13 admitted into evidence is the lack of diligence on the part of
14 Prosecution in this case. You recalled <in> your memo, E319/30/1,
15 in paragraph 3, that was on the 15th September 2015, that the
16 Chamber was expecting the Parties, and I quote: "[...] to show
17 proof of all due diligence and that it should address the Chamber
18 in a reasonable time all <new> documents they would like to have
19 admitted, <and particularly, as soon as they become aware of> the
20 documents that <they intend to> have <> admitted into evidence."
21 This is <a reminder you issued concerning> the rules and <I
22 believe it to be> logical. Now, the application by the <>
23 Co-Prosecutors that new evidence be admitted on the Cham segment
24 <was filed three weeks after the witnesses of this segment had
25 begun to testify. That's when --I will try to speak more slowly.

1 That's then when> this application by the International
2 Co-Prosecutors was made, when the segment on the Cham had already
3 started<. Which> means <we cannot say> that they have exercised
4 due diligence<. The> application should not be granted <only on
5 that very basis>.

6 [13.45.54]

7 <And apart from that, the> lack of <due> diligence -- due
8 diligence as regards the very contents of the statements of the
9 witnesses<. The witnesses themselves> claim that <these>
10 statements are very crucial and that the Chamber should admit
11 them<, but, I'm going to take> three examples <to highlight my
12 point that the> Co-Prosecutors knew well before the beginning of
13 the trial <about> the witnesses that they today deem to be <so>
14 very important. Let me give you a very specific example and that
15 is witness 2-TCW-987, the Co-Prosecutor is asking that the record
16 of interview of this witness be admitted into evidence. Let me
17 remind the Chamber that <we had already objected to that, that>
18 when the Chamber, proprio motu, wanted this witness to be
19 summoned to appear, we objected to that in our submission <E365>.
20 In any case, as regards the Co-Prosecutor's application, <he
21 wants us to believe that> that witness may have been discovered
22 as part of Case 003 <or 004,> but that is not true because<, at
23 least> since 2008, the Co-Prosecutors have been aware of <their
24 existence> and I will refer you to documents from the Office of
25 the Co-Prosecutors <themselves. These> are documents <E3/7827>

1 and E3/5302, and these are documents from the Office of the
2 Prosecutors as of August 2008, and they had already mentioned
3 <this> witness, <2-TCW-987>. So, they were able to obtain
4 material regarding that witness and they should have had that
5 witness interviewed <if they deemed it so worthy> at that time<,
6 but they did not. So I find it hard to understand how, today, in
7 2015,> they are <telling us that it is utterly important> that
8 those statements be admitted into evidence.

9 [13.48.12]

10 Let me also recall the recent decision of the Chamber, <E363/3,
11 paragraph 29>, in which the Chamber points out that any Party
12 requesting the tendering into evidence of new elements, and <here
13 coincidentally> the Chamber was referring to the Prosecution, it
14 should show that<, and I quote, that, "the> evidence referred to
15 could not have been discovered <despite> the exercise of
16 <reasonable due diligence." >

17 <> To take the particular case of <2-TCW-987>, we find that this
18 person was referred to several times <in the interviews held> by
19 the OCP, so I cannot understand how they can claim that
20 <reasonable> due diligence has been exercised and it is for that
21 reason that we are of the view that the application by
22 Co-Prosecutors should be rejected.

23 [13.49.16]

24 Another example, <in addition to all of> the objections we
25 mentioned in E364, another example, that shows proof of the lack

1 of due diligence by the Office of Co-Prosecutors, has to do with
2 the record of interview of a civil party, <document
3 E319/19.3.203. Here> again we're dealing with a civil party whose
4 record of interview ought to have been made available as part of
5 the Case 002 investigations <if> the Co-Prosecutors had
6 considered that that person's testimony was so important. <That>
7 civil party's application should have been on the case file and
8 they would have asked the Co-Investigating Judges to interview
9 that civil party as they would have done with other witnesses and
10 civil parties, they didn't do so and today they're saying that
11 that person's testimony is so important that they should
12 introduce that person's statement from another investigation.
13 <That argument does not hold water>. They knew of the existence
14 of that person well before.<That> person's statement is in Case
15 002 and if they considered that <it> was very important, <then
16 according to the application rules,> they <could> have <made the
17 request within the investigation that involved Mr. Khieu
18 Samphan>. They didn't do so<,> the request came late> and
19 therefore showed lack of due diligence.

20 [13.51.10]

21 <A third example that demonstrates that they> showed lack of due
22 diligence<. Just as they did with> the previous civil party. In>
23 document -- the <civil party> application E3/8667,<> was on the
24 case file <beforehand. And> if the Co-Prosecutors had considered
25 that that statement was all that important and that they wanted

1 to call that witness to be interviewed as part of the
2 investigation they should have done so. They <lacked due>
3 diligence and today they're saying that <it is so imperative
4 that> they <must> use <statements> from another investigation <so
5 that these are> tendered into evidence<, this constitutes a late
6 request>. So we therefore request that that application be
7 denied.

8 I would like recall again your memo, E363/3, in paragraph 30, in
9 which you'll recall that it is only exceptionally that evidence
10 that does not meet the criteria laid down in Rule 87.4, can be
11 admitted, under the current circumstances <that I've just
12 recalled, we are not under exceptional circumstances and
13 therefore, these are> not in line with the instructions laid down
14 in your decision.

15 [13.52.33]

16 Lastly, for a number of <these> statements, we find that they are
17 of a repetitive nature as referred in Rule <87.3>. In principle
18 they are saying that we should <absolutely> admit into evidence
19 these records of interview that have to do with the Cham<. And we
20 had witnesses -- a certain number of> witnesses, <there are many,
21 who testified on the treatment of the> the Cham<. A priori,>
22 there are many other witnesses who <were> called to testify so I
23 do not see why <these documents> will be essential as part of
24 this trial at this stage. <It's redundant.> We <also> consider
25 that such statements are repetitive, particularly with regard to

1 a number of subjects, particularly forced marriages and purges
2 <that took place when the cadres arrived in the> Southwest Zone.
3 <> I think they're overloading the file and I think at this stage
4 we should consider that there is a lack of diligence<, it's
5 redundant,> and it is not useful to tender into evidence these
6 documents.

7 [13.53.43]

8 And lastly, <regarding> the witnesses <> on the Co-Prosecutor's
9 table we have E319/32.1, Number 13, 16, 11 <-- and 12, if> we
10 consider that witness I referred to initially<. We have been
11 asked to> admit in advance <WRIs -- WRIs, my apologies, witnesses
12 who> could eventually be called to testify, but <who> the Chamber
13 has not <yet heard>. Under these circumstances we consider that
14 this application is premature. If <those witnesses> had to be
15 called by the Chamber, in that case, quite obviously given our
16 position, which is very logical, we <would not object> that the
17 Chamber tender into evidence these <statements. But,> in so far
18 as that decision has not been made by the Chamber and we are not
19 sure that <these people> will come before this Chamber, <well
20 then, we are opposed to these documents being tendered for
21 evidence.>

22 <These were the brief observations I wanted to make at this
23 stage, while I remind you once more that> Rule 87.4 is a rule
24 that is applied exceptionally. <It is an exception. And I have
25 the impression that> the Co-Prosecutors are <turning it into a

1 force of habit> and that is why <I think it's time to set our
2 foot down>.

3 [13.55.22]

4 MR. PRESIDENT:

5 Thank you. Now the floor is given to the defence team for Mr.
6 Nuon Chea, if you wish to make any response.

7 MR. KOPPE:

8 No. Thank you, Mr. President. That was quite exhaustive we have
9 nothing to add other than if you allow me to take the opportunity
10 that -- to ask you, or to remind you rather, of a pending motion
11 from our side in respect of six witnesses in relation to the
12 treatment of the Cham segment, that was, E370. We filed that
13 request on the 29th of September, and we are still waiting for an
14 answer. So hopefully soon you will come with a decision when also
15 deliberating on the issue that we just discussed. Thank you.

16 MR. PRESIDENT:

17 You may proceed now, International Deputy Co-Prosecutor.

18 [13.56.32]

19 MR. LYSAK:

20 Thank you, Mr. President. I'll do my best to respond, there was a
21 lot of document numbers being --going by quite quickly there, so
22 some of them I may not have accurately record. Let me do my best
23 that I can, here.

24 First of all, I would note that it is correct that since we filed
25 this motion, one of these statements was admitted because it was

1 a document that had been requested by the Defence. That again,
2 this happens quite often here. There are many, many documents
3 that have information that we consider to be of importance to the
4 Court and the Defence considers to be of importance to the Court.
5 There were others that were not objected to, because they were
6 trial witnesses or selected trial witnesses, I'm not sure why
7 counsel is distinguishing the witness and I don't know if I got
8 the number right 2-TCW-987, but I believe they were referring to
9 the witnesses we have two statements for here, 11 and --
10 statements 11 and 12 is the witness that was selected sua sponte
11 by the Trial Chamber to appear so it would certainly seem to me
12 that those statements should be admitted pursuant to the logic of
13 counsel.

14 [13.58.01]

15 The arguments about the weight and probative value are arguments
16 just -- that go to that. They are not arguments that go to
17 admissibility. This Court has set out very clear rules based on
18 international precedent about the weight and use that may be made
19 of statements of witnesses who do not appear, so this is not an
20 argument that goes to the issue of admissibility.

21 The issue of some of the standards cited by counsel, there was
22 some fast and loose arguments being made here that merged and
23 confused the rules that have been set by this Court. And what I
24 mean by that is that, counsel was citing to some standards that
25 have been announced by this Court where the requirements of 87.4

1 are not met, and in cases where 87.4 is not satisfied, documents
2 can be still be admitted on an exceptional basis that relate to
3 documents already on the case file and that was the standards
4 that counsel was citing. Those standards have no application here
5 because these documents clearly under any interpretation of 87.4
6 meet the criteria. There is no question about that; that these
7 are documents that came into existence after the start of trial.
8 And that is another distinction that was being ignored in
9 counsel's argument.

10 [13.59.44]

11 There is a difference between knowing of the existence of a
12 witness and having a new statement from that witness. The issue
13 here in terms of admissibility of statements is -- has been set
14 by Your Honours. It is not the fact that we knew a witness
15 existed before, there are many witnesses who exist, it's -- the
16 issue is when did this particular statement become available to
17 Case 002. And, Your Honours have made very clear in the recent
18 decision that counsel cited repeatedly, and I'm talking here
19 about E363/3, your 22nd October 2015 decision, and referring to
20 footnote 64, this is a footnote in the section about what
21 documents are considered to be -- when they are considered to be
22 available and this is what you ruled -- quote:
23 "Evidence from the confidential investigations in Case 003 and
24 004 is unavailable for the purposes of Rule 87.4 until the Office
25 of the Co-Investigating Judges authorises the Co-Prosecutors to

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1 provide it to the Parties in Case 002/02."

2 [14.01.11]

3 So under your own rules these documents did not become available
4 until authorised for disclosure which were at various dates, the
5 earliest I'm looking at my computer here, April or May, others in
6 August and some later than that. So under the terms of 87.4 there
7 is no issue about that.

8 They have argued diligence as well. Let me just say this, that
9 the Chamber established a deadline in this very decision for when
10 we had to file 87.4 motions for statements that had been
11 disclosed prior to September and you gave us until the end of
12 January - 30th January 2016. This motion was filed well before
13 that, it was filed in fact well before this decision even came
14 out. I would submit that there is no question of diligence here.
15 Counsel is suggesting that because a witness's name, and I think
16 she was referring here to the witness that Your Honours selected
17 sua sponte, this is a person whose name came up during a
18 preliminary investigation, it was not someone that we were able
19 to locate and interview ourselves and it was only in the course
20 of the Investigating Judges investigation that this person was
21 located and interviewed.

22 [14.02.58]

23 This person gave two interviews, if you read the first one; it
24 was a very short interview that had to do with a security office
25 and not about the Cham. The second interview is the one where the

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1 witness -- the recent one is where this witness was interviewed
2 about the Cham and had probative things to say about that. That
3 is why, Your Honours, presumably selected this person and the
4 reason we included both statements in our 87.4 motion is because
5 this is a person that had been selected by, Your Honours, to
6 testify. So even though that earlier statement is in our motion,
7 it is in there because of the fact you selected this witness that
8 earlier statement itself doesn't talk about the Cham, so just so
9 that is clear.

10 [14.03.52]

11 The repetitive nature of evidence, we are the -- we have the
12 burden of proof, a very high burden of proof. We have defence
13 teams who are actively challenging us on every single issue here
14 and at the appellate stage. We all know that these witness
15 statements are used primarily for corroborative purposes for
16 witnesses who do not end up appearing, that is a legitimate use
17 of evidence and evidence -- these statements should not be
18 rejected as repetitive where Prosecution has the burden of
19 proving things beyond a reasonable doubt and corroborative
20 evidence can assist that because we all know you cannot hear
21 every single witness who has knowledge about these matters.
22 So, I have done my best to respond to, the documents I was able
23 to keep notes on, if you any questions, I'm happy to respond.

24 MR. PRESIDENT:

25 Thank you. And Khieu Samphan is given the floor again to respond

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1 to the reply by the International Deputy Co-Prosecutor. You may
2 proceed.

3 [14.05.14]

4 MS. GUISSÉ:

5 Thank you, Mr. President, I won't be very long. But on the issue
6 of <witness 2-TCW-987>, as far as I know there is not been a
7 decision rendered yet on E364 which we filed. The prosecutor said
8 a bit quickly that you had <made a decision. For the time being,>
9 we are still waiting on a decision on our writings, <so that is
10 indeed not the case,> and therefore I maintain my arguments on
11 that matter.

12 Now <in response to> the fact that I couldn't bring the argument
13 that it was tardy or <that there was a> lack of <due> diligence
14 because some statements were not available before, even though
15 the prosecutors knew of their existence, once again I must go
16 back to <the heart of> our protestations <over> the last few
17 months <and weeks>. Again I see that <today,> the prosecutors use
18 investigations 003 and 004 to fill up <the> investigations that
19 they never <requested>, or points on which they didn't insist <on
20 in> Case 002. And again I would like to note and I would repeat
21 <here once again and I will continue to do so until I'm blue in
22 the face>, that this is not a way to proceed in a context of a
23 trial, <Rule> 87.4 is for exceptions and not to fill <in the
24 missing> gaps that <are lacking from> the first investigation. <>

25 [14.06.52]

1 MR. PRESIDENT:

2 Thank you for all comments and observations made by Parties in
3 response to the International Co-Prosecutor's submission, that
4 is, document E319/32. The Chamber will use all your comments and
5 observations as grounds for our decision. And before I hand the
6 floor to Judge Lavergne, I would like to inform Mr. Koppe, that
7 is, in relation to your document E370 to request <six> additional
8 <witnesses, in connection with the treatment of Cham people,> the
9 Chamber is deliberating your request and a decision will be
10 issued as soon as possible that is before we proceed with the
11 facts in hand.

12 I would now like to hand the floor to Judge Lavergne to put
13 further questions to the witness. You may proceed, Judge
14 Lavergne.

15 BY JUDGE LAVERGNE:

16 Q. Thank you <>, Mr. President. Good afternoon, Mr. Witness. I
17 will try to pick up where I left <off in this examination>. I
18 would like to come back to the issue of the lists of people to be
19 arrested <that was showed to you>. You told us that Ta Rin showed
20 you this list, he was Ta Val's replacement and you said that
21 there were one hundred names on this list, <> of people to be
22 arrested. According to you, could you tell us who gave this list
23 to Ta Rin?

24 [14.09.00]

25 2-TCW-918:

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1 A. Regarding the list of names, I did not know who actually
2 delivered it to Ta Rin and the names on the list were several but
3 it was not up to one hundred names. Again, let me repeat that I
4 did not know who delivered that list of names.

5 Q. In your WRI, E3/9567, ERN in English, 01044770; Khmer,
6 01003843; you say that there are a hundred names and <you say>
7 that you <suspect it was> Ta Cheal <who> gave it to Ta Rin; does
8 this refresh your memory <>?

9 A. Yes, that was my suspicion and it was merely a suspicion, it
10 was not the reality. I did not know who delivered the list of
11 names to Ta Rin and it was my thinking that it was Ta Cheal who
12 did that.

13 Q. And do you know what happened to those people whose names were
14 on the list; were they arrested, what happened to them?

15 [14.11.10]

16 A. Later on I also did not know who actually went to conduct the
17 arrest. Some were aware of their fate so they had escaped from
18 their units though I did not know where they had fled to.

19 Q. And what about those who were arrested, what happened to them?

20 A. I did not know how the arrests were conducted, what I knew was
21 that some people whose names were on the list had escaped and I
22 did not know about the process of searching for them and made
23 arrest.

24 Q. You have not answered my question <Witness,> and so I will ask
25 it again. Those <> who were indeed arrested, what happened to

1 them?

2 A. Those who were arrested and put on to the vehicle while I was
3 present there, I did not know what happened to them later on or
4 whether they were sent to be killed. What I saw was that they
5 were arrested and put on the vehicle and the vehicle drove off.

6 Q. On that list that you read, were there names of people that
7 you knew and did you <ever> see these people again?

8 A. I cannot recall that. What I can recall is a few names who
9 were from my village and the three men whose names I knew
10 actually disappeared from that day. <I have not seen them return
11 since then.>

12 [14.14.05]

13 Q. You tell us that three people you knew had disappeared, they
14 never reappeared. You have also said and this is in your WRI
15 E3/9567, you said that on that list <appeared the name of> one of
16 your younger cousins; do you remember saying that and <> what was
17 <the> name <of that cousin>?

18 A. I mentioned those names and that I only knew three names, one
19 was my younger cousin by the name of <Eth> Si (phonetic) and the
20 other two men I do not recall their family names, one was <Veth>
21 (phonetic) and the other was <Sres> (phonetic). And for the three
22 men, I have not heard from them since the arrival of the
23 Vietnamese.

24 Q. You have also said that another one of your cousins had been
25 detained in the Phnum Troyoung Security Centre, is it the same

1 person, <or> is it a different cousin?

2 [14.15.58]

3 A. Regarding the detainee at Troyoung mountain, was another
4 cousin by the name of <Tum> Seun (phonetic) and when the
5 Vietnamese arrived, I saw him returning to the village living
6 with his wife and children. And later on he passed <away> after
7 one of his children got married. <He was survived by his wife and
8 children.>

9 Q. Before the Vietnamese arrived you said in your WRI, that you
10 went to see him at Phnum Troyoung; is this true, do you confirm
11 that statement?

12 A. That information is correct. I did meet him.

13 Q. Why did you go to the security centre? Was it specifically to
14 see him or <> did you have other motives that led you to visit
15 this security centre?

16 A. The security centre was located along the road leading to my
17 fishing unit so I went there to seek to meet my cousin, <Tum>
18 Seun (phonetic). And I wanted to know what happened to him
19 whether he was cuffed or chained and indeed I met him there.
20 However he was not chained or hand cuffed, he was ordered to
21 break rock at that centre.

22 Q. In the WRI you <> also said that you often went to see your
23 parents who were in the cooperatives. Am I to understand that
24 contrary to other workers, you were able to move freely or did
25 you every time have to ask permission to do those visits?

1 [14.18.36]

2 A. For my journeys it depended on the nature. There were three
3 locations where my office had staff. One was at Stueng Kambot and
4 Kbal Krabei and that was near where my parents lived. Another
5 location, known as Kien Sbov (phonetic), was not in the direction
6 of leading to the house of my parents. And there was another
7 road, as I stated earlier, leading to <Ovmal and Bat Trang. It
8 was> near the Troyoung Security Centre. Usually I used these
9 three routes to go to my unit.

10 Q. And <are you aware of the existence> of other security
11 centres, have <you> heard of other sites such as Chamkar Doung or
12 Chamkar Khnol?

13 A. No, I never saw it. Only after the arrival of the Vietnamese I
14 heard a song playing over a loudspeaker and the song was sung
15 about this Chamkar Khnol. <I only heard of it through that song,
16 but I never saw it.>

17 [14.20.25]

18 Q. I would like us to go back to the Trapeang Thma worksite<. To>
19 your knowledge did it happen that workers would disappear from
20 the worksite<? In particular, were> workers ever asked to go <>
21 study or to go to help with transporting goods only never to
22 return; <did> that ever happen?

23 A. While I was working there at the Trapeang Thma Dam worksite
24 nothing happened and after I left I could not tell you whether
25 anything happened over there.

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1 Q. Was there anyone tasked with spying on the workers?

2 A. No, there wasn't.

3 Q. According to you, <> did workers fear for their safety?

4 A. I could not tell you about their minds whether they were
5 concerned about their safety, although I met those workers in my
6 unit, I did not know about their feelings and could not say about
7 other workers in other units.

8 Q. To your knowledge, <did> the working conditions, the living
9 conditions on the Trapeang Thma worksite change after the
10 Southwest cadres came?

11 A. After the arrival of the Southwest group, I was at the fishing
12 unit. However once in a while I returned to the dam worksite with
13 fish supply <once a month or sometimes twice a month> but I could
14 not tell you about the situation there. What I saw was the people
15 working at the Economic section did the same food and fish
16 distribution.

17 [14.23.24]

18 Q. This morning you were asked a few questions on the testimony
19 of 2-TCW-996, that witness had said that you could have
20 participated <in> a meeting with Ta Val. That same witness <was
21 heard before this Chamber and in one of his WRI> -- <that is>
22 WRI, E3/9076, when he was asked <about> the working conditions in
23 his unit compared to <those of> other units <that worked> in
24 Trapeang Thma, this is what he said and I will quote in English
25 because the document does not exist in French.

1 "They were difficult. Even my unit also still had a hard time. We
2 laboured every day without holiday and feared to take a rest if
3 we got an illness. We had enough rice but we were lacking food,
4 we had labour like animals. We didn't know when we might be
5 arrested or killed; we could not ensure that we were safe."

6 [14.24.55]

7 Later on in another hearing when he testified here in this
8 courtroom, he said the following:

9 "Here I am referring to the fact that we didn't know when we
10 would stop transporting soil, every day we did the same thing and
11 when we finished one project we moved on to the next and we never
12 knew when it would end. They were using us as <workhorses>."

13 This was the hearing of 27th October 2015, and this was said at
14 11.09 a.m. Sir, does this correspond to your memories? Did you
15 get the sense that the workers were used as <workhorses>?

16 A. While I was there the situation was different from what this
17 gentleman said and after I left I could not tell you whether the
18 situation worsened as he stated in his testimony, I cannot tell
19 you about that.

20 Q. And when you there on the worksite at Trapeang Thma, were
21 there any people who were sick and if so, what illness did they
22 suffer?

23 A. Yes there were, workers were sick from dysentery for example
24 or fever. But they were not starved of food. There was a problem
25 with drinking water and for that sometimes they had problem with

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1 their bowel and that's what I saw on site.

2 [14.27.19]

3 MR. PRESIDENT:

4 Thank you, the Chamber will take a short break and return at a
5 quarter to 3.00.

6 Court officer, please assist the witness at the waiting room
7 reserved for witnesses and civil parties and invite him back with
8 his duty counsel at 15 to 3.00.

9 The Court is now in recess.

10 (Court recesses from 1428H to 1447H)

11 MR. PRESIDENT:

12 Please be seated. The Court is back in session.

13 And the floor is given to Judge Lavergne to resume his
14 questioning to this witness. You may now proceed, Judge.

15 BY JUDGE LAVERGNE:

16 Q. Thank you, Mr. President. Mr. Witness, I would like us to go
17 back to the period between the end of the Kouk Rumchek Dam
18 construction site works and the beginning of the work on the
19 Trapeang Thma Dam worksite. You have testified and stated that
20 there was a plan to build a road. Can you tell us precisely what
21 that project consisted of?

22 2-TCW-918:

23 A. Actually, there was a plan to build a road from <Samraong,>
24 Khnang-Nam Tau to Doun Nouy, which was located <in the> west <on
25 the> Thai border. The forest was cleared and the arrangement was

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1 made. After three days of carrying dirt on the dam, the work
2 forces were removed to help work at Trapeang Thma.

3 [14.49.58]

4 Q. Mr. Witness, is it correct to say that that road construction
5 was an extremely important project or plan since, if I understood
6 you correctly, that road was supposed to go from Siem Reap or its
7 <surrounding area> up to the Thai border? I also read what you
8 said in <your WRI>, and from it I understand that electrical
9 equipment had to be installed, and <lead towards> Thailand. And
10 there was also a question of building a railway line. And all of
11 this is in your record of interview, <or rather> your DC-Cam
12 interview, document E3/9094, and the references in French are,
13 ERN 01123625 - 26; and in English, <00728662 - 63>; and in Khmer,
14 the reference is 00734059 up to the top of page 62. So, Mr.
15 Witness, is it correct to say that that project included
16 extremely important works, including the possible construction of
17 a railway line?

18 A. Concerning the project: Ta Val told me that there was a plan
19 to build a road reaching up to the Thai border, and there was a
20 plan also to build the railway line for Siem Reap, and this
21 railway line was connected from <Samraong,> Khnang to Angkor Wat
22 area. This was what Ta Val told me, not in the meeting at that
23 time. The plan was not discussed in a meeting. Ta Val personally
24 told me about the plan, and I do not know whether it was true
25 that there was a plan to build a road and a railway line.

1 [14.53.16]

2 Q. Who attended the meeting, and what did you discuss?

3 A. As I told you, it was not discussed in a meeting. Ta Val
4 personally told me about the plan. Ta Val conversed with me about
5 the plan in a normal way. It was not discussed in a meeting.

6 Q. What did you discuss at that meeting therefore, sir? I am
7 referring to a meeting that you mention in the record of
8 interview with DC-Cam, and you referred to a meeting held prior
9 to the construction of the dam, and that meeting concerned Ta
10 Hoeng, Ta Val and yourself. And this is what you stated: "First
11 of all, there was no plan to build a basin. We were asked to
12 build a road leading to Thailand. We were asked to prepare an
13 electrical supply system that would enable water to run from here
14 to Thailand along Srae Nouy." And you point out that you are
15 referring to Srae Nouy in the Banteay Chhmar district. Does that
16 refresh your memory?

17 A. Yes, I can recall it. Srae Nouy was not located in Banteay
18 Chhmar. Srae Nouy was situated in Svay Chek district, or Thma
19 Puok district. Actually, in the past there was no Svay Chek
20 district. That Srae Nouy was located in Thma Pouk district. Srae
21 Nouy was west of Banteay Chhmar. Actually, it is true that Ta Val
22 told me and another one, Ta Hoeng, about the plan. And later on,
23 Ta Val disclosed that information to me that there was a plan to
24 build a road <and a railway line>. There was actually a meeting
25 before Ta Val told me about the plan. It is true that there was a

1 meeting before Ta Val disclosed the information about the plan to
2 build a road.

3 [14.56.20]

4 Q. And is it correct to say that that project required some
5 coordination with people in the Siem Reap Zone, since the road
6 was supposed to lead from the environs of Siem Reap up to the
7 Thai border? <Is that correct?>

8 A. About the coordination with Siem Reap, I do not know about it.
9 Ta Val simply told me that the Siem Reap work forces would
10 continue building the road after we completed some parts of it.

11 Q. You also provided some information regarding the authority
12 that issued orders for this project to be carried out. According
13 to you, who issued the orders that such a road be built?

14 A. It was Ta Hoeng. I met Ta Hoeng in a meeting discussing the
15 plan to build a road. There were three of us: Ta Val, Ta Hoeng
16 and I, at that time.

17 [14.58.15]

18 Q. This is what you stated in answer to the following question:

19 "Did he refer to the upper Angkar who issued the instructions for
20 the construction of this road? And who was the upper Angkar?"

21 And your answer was: "<The upper Angkar, was called the> Central
22 Committee of the <Brotherhood Party.>"

23 Question: "Did <the Central Committee> refer to the people in
24 Phnom Penh?"

25 And you said: "Yes. Central Committee, Pol Pot, Central

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1 Committee."

2 "Had <he stated> that < 'the Central Committee of the
3 Brotherhood> asked us to build a road'>?"

4 And your answer was: "Yes."

5 <So, did you hear about> an order issued by the Central
6 Committee?

7 A. I have never heard of the order from the Central Committee. I
8 do not know about the Central Committee. I have no idea at all
9 about the Central Committee. I heard of it after the Vietnamese
10 troops came into the country. I only knew there was a Pol Pot
11 after the Vietnamese troops came into the country. <They said
12 they were coming to oust Pol Pot. I only heard of Pol Pot at that
13 time in 1979, I did not see Pol Pot.>

14 [14.59.56]

15 Q. So, prior to the arrival of the Vietnamese, the only person
16 you ever heard anyone refer to is Mr. Khieu Samphan?

17 A. Actually, the name 'Khieu Samphan' was heard in 1975 in a
18 radio, and I heard he was the State Presidium. However, I did not
19 know his face at that time, and today I could see him for the
20 second time.

21 JUDGE LAVERGNE:

22 Thank you, Mr. Witness. I have no more questions.

23 MR. PRESIDENT:

24 Thank you. The Chamber would like now to hand the floor to the
25 Defence teams, first to the Defence team for Nuon Chea, to put

1 questions to this witness. You may proceed, Counsel.

2 [15.01.15]

3 QUESTIONING BY MR. KOPPE:

4 Q. Thank you, Mr. President. Mr. Witness, good afternoon. I would
5 like to ask you some questions on behalf of my client, Nuon Chea.

6 I would like to start first with asking you some questions about
7 the arrests of Ta Val and Ta Hoeng, persons you just mentioned.

8 Is my understanding correct that you never witnessed the actual
9 physical arrest of Ta Val?

10 2-TCW-918:

11 A. Mr. President, regarding the arrest of Ta Val and Ta Hoeng, I
12 did not personally witness it. The arrest took place at
13 night-time, and I did not know who came to make the arrest. And
14 only next morning, I saw his wife weeping in her house, and I
15 asked her what happened. And she said her husband was arrested
16 last night.

17 Q. Do you know whether Ta Val, besides working at the Trapeang
18 Thma Dam worksite, also worked at a worksite called Spean Sraeng?
19 The Spean Sraeng worksite? Is that -- do you know that?

20 A. I did not know about this Spean Sraeng worksite. To my
21 knowledge, workers -- some of the workers were reassigned from
22 the Trapeang Thma Dam to work at the Spean Sraeng worksite.
23 However, Ta Val had been arrested earlier than the work
24 commencement at the Spean Sraeng worksite. And the worksite was
25 supervised by the Southwest group at the Spean Sraeng.

1 [15.04.27]

2 Q. Is the Spean Sraeng worksite close to a village called Chup,
3 Chup village?

4 A. I cannot tell you about this. I know there was a location
5 called Spean Sraeng, and next to it, there was a village called
6 Rouk village. And then <to the south of Spean Sraeng,> there was
7 another village adjacent <to the water>, called Pongro. And at
8 the upper part of Spean Sraeng was <Prey village> and Mukh
9 Chhneang <village>. There were <> many villages nearby the Spean
10 Sraeng area. However, the <> village that you <mentioned did not
11 exist in> Spean Sraeng.

12 Q. Thank you. Mr. Witness, who is a person called Ta Krak?

13 A. I do not know anyone by the name of Ta Krak.

14 [15.05.52]

15 Q. It's possible that I mispronounced the name. I will come back
16 to him. Let me ask you a question. You just mentioned that the
17 day after Ta Val was arrested, you spoke to his wife who was
18 crying. And in your WRI, E3/9567, in answer 39, you stated as
19 follows: "I did not witness the arrest, but the next morning, Ta
20 Krak and I went to his house and I saw his wife crying." Does
21 that refresh your memory?

22 A. I understand what you just said. Now I know you refer to Ta
23 Krork, not Ta Krak. Ta Krork was the chief of Preah Netr Preah
24 commune. And actually, I went there together with him. And the
25 wife of Ta Val actually asked me to bring along some tobacco to

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1 distribute to the workers. And the tobacco came actually from the
2 East Zone. In fact, there were six sacks of tobacco, and it was
3 meant for distribution to the workers at the dam worksite.
4 However, since Ta Val had been arrested, she asked me and Ta
5 Krork to take the sacks of tobacco for distribution <at my
6 fishing unit>. So I took one sack of tobacco for the distribution
7 among my men at the fishing unit, while Ta Krork took <the rest
8 of five sacks> for distribution <in> his own <commune>. And allow
9 me to repeat: the name is Ta Krork, not Ta Krak.

10 [15.08.21]

11 Q. I do apologize, Mr. Witness. You've just mentioned, and you
12 said that in your WRI as well, that the tobacco, the six bags of
13 tobacco, came from the East Zone. Do you know why Ta Val in his
14 home had the possession of six bags of tobacco from the East
15 Zone? Was it something unusual, or was it something normal? Do
16 you know anything about that?

17 A. I did not know about that. What I can say is that the tobacco
18 was put into packs and then bartered and it was distributed to
19 the workers. There <were> also some shoes from the East Zone, and
20 they were meant to distribute to the workers at the worksite. And
21 maybe that was the intention of the Revolution -- that is, to
22 share among ourselves what we had.

23 Q. Shoes? Were these sandals from the East Zone?

24 [15.09.55]

25 A. Yes. The sandals were made from tyre. Or you can call it car

1 tyre sandals. However, they were nicer than our manually-made car
2 tyre sandals.

3 Q. Coming back to my earlier question. Do you know whether, end
4 of June 1977, it was normal or maybe unusual for Ta Val to be in
5 the possession of sandals and tobacco from the East Zone? Can you
6 say anything about that?

7 A. I do not know what else to tell you. What I knew is that the
8 tobacco came from the East Zone, and I did not know from where he
9 obtained it. Maybe from Banteay Meanchey. I do not know. And it
10 was meant to be distributed to the units. And the sandals were
11 also brought from the sector for distribution to the workers in
12 the <mobile> unit. And from what I could say, the things or the
13 stuff from the East Zone were only sandals and tobacco, and
14 probably they were meant to be distributed nationwide.

15 Q. I will get back to that subject later. Mr. Witness, let me now
16 turn to when you talked to -- the moment that you talked to the
17 wife of Ta Val. Do you remember what she said to you about the
18 arrest the night before of her husband?

19 A. I cannot recall what she told me, but the content was that she
20 told me her husband was arrested the night before.

21 [15.12.42]

22 Q. Do you recall her saying something about a car with the people
23 in it that arrested her husband?

24 A. As for the vehicle, yes, I recall it. She said the vehicle was
25 white in colour.

1 Q. Did she also say whose car it was?

2 A. The car belonged to Ta Cheal, and it was the same white
3 vehicle belonged to Ta Cheal which was used to conduct the
4 arrests within the area.

5 Q. But did she tell you whether she actually saw Ta Cheal in the
6 car? Or whether his men were in the car? Or did she just say that
7 she had seen his car?

8 A. No, she did not say that. She only said that the white car
9 belonged to Ta Cheal, and she did not say who actually came off
10 the vehicle to arrest her husband.

11 [15.14.37]

12 Q. I'm thinking of a way to approach this, Mr. President. His
13 wife has given testimony which seems to indicated that Ta Cheal
14 was arrested while being at the Spean Sraeng worksite. I refer to
15 E3/9524, at question and answer 21. I will actually read it to
16 you. She says: "One week after the Southwest group arrived, they
17 arrested my husband at the Spean Sraeng worksite. I knew because
18 I asked Chup villagers, and they told me that my husband had been
19 arrested here." Does that -- is that something that she might
20 have said to you as well?

21 A. It is true that's what she said, because she resided in Chub
22 (phonetic) village, which was opposite Preah Netr Preah district
23 office, and there was a <pond, a> market <and a house> nearby.
24 And Ta Val was living in that house before his arrest, and of
25 course, this house was far from the Spean Sraeng worksite.

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1 Q. She also testified that a week after her husband was arrested,
2 she herself was arrested, and that she was put into a prison at
3 Svay or Svey (phonetic). Is that something that you know?

4 A. No, I did not know that the wife was also arrested, because
5 since after his arrest, I focussed on my work, and I did not have
6 time to go and visit her. So I did not know whether she was later
7 on arrested.

8 Q. Have you heard that she was released later, three months
9 later, and released to farm near the prison, in a cooperative in
10 Rouk village?

11 [15.17.55]

12 A. No, I did not know about that, although I know where Rouk
13 village was. <But, I did not know what she did.>

14 Q. Going back to Ta Cheal: you seem to have implicated that Ta
15 Cheal had something to do with the arrest of Ta Val, but is it
16 fair to say that this is only your suspicion, based on the
17 vehicle of Ta Cheal being seen by the wife of Ta Val?

18 A. Yes, that is correct. Because the vehicle belonged to Ta
19 Cheal, and that's what Ta Val's wife told me.

20 Q. The other reason that I'm asking is because in your DC-Cam
21 statement, E3/9094, English, 00728683; French, 01123644; and
22 Khmer, 00734089. In that DC-Cam statement, you say: "Ta Hoeng and
23 Ta Val got along well with each other. They were in the same
24 party. Ta Cheal and Ta Nhim were in another party."

25 When you said that to the DC-Cam investigator, was that based on

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1 Ta Cheal's vehicle that was seen by Ta Val's wife?

2 [15.20.30]

3 A. I made my personal understanding about that, and my
4 understanding was that Ta Val and Ta Cheal, as well as Ta Hoeng,
5 was a group. However, Ta Cheal and Ta Nhim formed another pact,
6 and to me, it seems that they were two separate pacts. And that
7 is my own view, and I did not derive this from anything else.

8 Q. Thank you. I understand from your testimony that you spent a
9 lot of time with Ta Val. What kind of person was Ta Val? Was he a
10 gentle person or was he a ruthless person in respect of the
11 treatment of the workers, for instance? What can you tell us
12 about him?

13 A. Ta Val was a kind of agitated and cruel person. <He was
14 quick-tempered and irritated.> However, since I was close to him,
15 I knew that he was agitated only in words but he had a good
16 heart. So if he was angry, you just moved away from him, and a
17 while later, you could approach him again, and he calmed down,
18 and nothing would happen. However, he had a kind heart.

19 Q. But is my understanding correct that you yourself can
20 understand that other people call him, for instance, "unkind and
21 ruthless"?

22 [15.23.10]

23 A. Yes, that is true. Some people may perceive that he was a
24 cruel man, but as I said, I was close to him. He might be a loud
25 person in words, but he had a kind heart, and <when he was angry

1 he could control his anger and> usually he would call those who
2 made mistakes to be re-fashioned for once or twice. And I myself
3 made mistakes too, and he would re-fashion me, and I stayed close
4 to him since.

5 Q. How was Ta Val's relation with Ta Hoeng? Were they close
6 friends with each other or long-standing comrades? What do you
7 know about the relation between Ta Val and Ta Hoeng?

8 A. No, <they> were not considered as <close> friends. They were
9 not considered as friends, and Ta Hoeng was overall in charge of
10 the sector. Ta Val was only in charge of the sector mobile unit.
11 And of course, they had a relationship in terms of a working
12 relationship, and I could not tell you whether they had any
13 relationship in terms of a personal one. <I cannot say whether
14 they were close friends because the subordinate and the superior
15 often dealt with each other. As for me, I usually went in and out
16 to see my boss.>

17 [15.24.53]

18 Q. But did you see them talk with each other many times? Did they
19 have many meetings with each other? Or were you always present at
20 these meetings?

21 A. No, I did not see them speaking to one another. When we were
22 called to a meeting while we were working at the dam worksite,
23 only the chiefs of the units were called, and Ta Val did not
24 attend such meetings. And if these two were to discuss among
25 themselves, I did not see it. So, I cannot tell you whether they

1 had any private discussions among themselves.

2 Q. Let me now turn to Ta Hoeng. Was he also called Brother Number
3 7?

4 A. I saw a writing on the vehicle, that is, "07" number. And he
5 was referred to as Brother <07. His car was also labelled 07.>

6 Q. Do you know the reason why he was called Brother Number 7?

7 A. No, I don't. I do not know about the arrangement during this
8 constructive period of the regime, and what kind of codes they
9 used.

10 [15.27.15]

11 Q. In your DC-Cam statement, you called Ta Hoeng a "top
12 intellectual". What did you mean with that, when you said that?

13 A. I called him that because he was full of knowledge. When he
14 called us to attend a meeting, he would use nice words, and his
15 talking was smooth. <He made an eloquent speech.> So it was my
16 understanding, and that reflected his intelligence. And for that
17 reason, I refer to him as the top intellectual person.

18 Q. Is my understanding correct that you also did not yourself
19 witness his actual arrest? The arrest of Ta Hoeng, you didn't
20 witness that yourself; correct?

21 A. Yes, I did not witness it.

22 [15.28.51]

23 Q. However, you are saying in your DC-Cam statement, Khmer page,
24 00734095 in Khmer; I repeat, 00734095; in French, 01123647; and
25 in English, 00728686; you say that Ta Hoeng was arrested earlier

1 than Ta Val. How do you know this?

2 A. Because that's what happened. However, I did not know when he
3 was arrested. I only knew that he was arrested before the arrest
4 of Ta Val.

5 Q. Have you ever heard that Ta Hoeng was first transferred from
6 the Northwest Zone to the Ministry of Foreign Affairs? And that
7 he stayed there for a few weeks?

8 A. No, I was not aware of that, nor did I hear about it.

9 Q. Let me now turn to a secret meeting that was discussed earlier
10 already. You were asked the question first by the Prosecution
11 whether you attended such a meeting, and you denied being present
12 at such a meeting, a meeting during which Ta Val spoke about, or
13 allegedly spoke about, a secret plan. I shall not mention again
14 -- or not -- I shall not mention the name of the person who said
15 that you were present, but do you have a reason to think why this
16 particular person would testify here in this courtroom and tell
17 the Court that you were in fact present at that meeting during
18 which Ta Val spoke about a secret plan?

19 [15.31.52]

20 A. I never attended any secret meeting with Ta Val. I knew Ta Val
21 convened meetings, but personally, I never attended a secret one.

22 Q. Let me give you some more details about this meeting, that
23 this other person, the other witness, spoke about. For the
24 record, that is 2-TCW-996. And I'm referring, Mr. President, to
25 document E3/9076; Khmer, 00728870 and 71; and English only,

1 00731172.

2 MR. PRESIDENT:

3 Please repeat your ERN numbers, since the interpreters could not
4 catch up.

5 [15.33.24]

6 BY MR. KOPPE:

7 Of course, Mr. President. Khmer, 00728870 - 71; and English,
8 00731172.

9 Q. So, this witness, 2-TCW-996, speaks about this meeting. He
10 said that you were present, but you deny that. He said:

11 "Ta Val brought sandals, Cambodian sandals, from the Eastern Zone
12 for the mobile units."

13 And then the question: "Wow! Bring sandals!"

14 And then the witness answers: "Nice sandals were given to us. At
15 the time, there was a plan. I was very afraid of that plan.

16 Question: "What kind of plan?"

17 Witness: "When Ta Val spoke at the same time, scarves,
18 cigarettes, lighters and white shirts were given to the leaders.

19 Then he would say, 'You are all captains.' He repeated, 'You are
20 all captains, Colonel.' He pointed at us and walked out, joking

21 with the cadres after the meeting. He compared the selection of
22 mobile units the same the military did. The plan was at Phnom

23 Kaun Khlaeng. The plan could not be executed, but I just learnt
24 about that plan. Not meeting for killing people. If there was a

25 meeting to have a plan, it was in secret. It was a plan --" He

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1 continues: "It was a plan to arm the mobile unit, but it could
2 not be executed. The supplies had already arrived."

3 "When there was a plan as such, you were armed and then what went
4 on?", is the question.

5 "No arms were given, and the plan was never executed. The arrest
6 was launched, then it became quiet."

7 "Who was arrested?"

8 Answer: "At the time, Ta Hoeng and Ta Val were arrested and taken
9 away."

10 Mr. Witness, there is additional evidence of the same witness,
11 which all seems to suggest that there was a secret plan to arm
12 the mobile unit workers and to revolt against "the Khmer Rouge"
13 or "the Southwest Zone soldiers." Having just given you some
14 additional details, does that somehow jog your memory?

15 [15.36.42]

16 MR. PRESIDENT:

17 You have the floor now, International Deputy Co-Prosecutor.

18 MR. LYSAK:

19 Yes, thank you, Mr. President. My objection, only objection, is
20 to the last part of that question, where Mr. Koppe characterized
21 this witness's evidence as confirming some sort of plan to rebel
22 against the Khmer Rouge leadership. There was no such
23 confirmation from this witness. He testified in this Court. All
24 he testified to was that there was a discussion at this meeting
25 about the mobile forces becoming captains in the future. He was

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1 repeatedly asked whether there was any plan about rebelling, and
2 said he had no information to that. In fact, at 14.41 of his
3 trial testimony on the 26th regarding the plan of Ta Val and Ta
4 Hoeng, "I have no idea. I do not really understand what the plan
5 was." So, it's -- if this statement of this witness is to be put
6 to the current witness, it shouldn't be mischaracterized, and we
7 should have an honest description of the testimony this witness
8 gave in these proceedings.

9 [15.38.10]

10 MR. KOPPE:

11 If I may respond, Mr. President. When I was summarizing the
12 additional evidence, I wasn't actually summarizing the evidence
13 that particular witness gave here, but rather the evidence that
14 he gave to investigators of the Co-Investigating Judge. More
15 particularly, I was referring to his statement -- I know there's
16 an E3 number, but I'll just give the other numbers: E319/19.3.18.
17 In questions and answers 48 and 49, he does repeat, or he does
18 confirm, the existence of a plan. For instance, I can quote that
19 to you.

20 Question 48: "You talked about the preparation of a detailed plan
21 in which you said Ta Hoeng had a plan to use all the members who
22 worked in the mobile unit as soldiers to fight the Khmer Rouge.
23 Can you explain this event?"
24 And then he answers: "At that time, they got the material in the
25 warehouse at Trapeang Thma worksite ready, and there was a

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1 meeting at night, at 12.00 p.m. (sic) or 1.00 a.m. And Ta Hoeng
2 announced to the mobile unit that all of us would become captain
3 in the future. I thought he was talking about the arrangement for
4 us to become soldiers to fight the Khmer Rouge."

5 [15.39.52]

6 Question 50: "As I understand, the Northwest cadres wanted to
7 fight the Southwest cadres. Is that correct?"

8 Answers: "Yes, it is."

9 So that's the testimony that I was actually referring to. I think
10 he played a little -- well, well, not a little. He backtracked a
11 little bit when he gave testimony in closed session, but I think
12 I'm entitled also to refer to earlier testimony. So I think my
13 question is fair.

14 MR. LYSAK:

15 I think Counsel may be misunderstanding my point. I don't have
16 any problem with him reading those excerpts, but the witness
17 should understand that when he testified in this Court, he said
18 all he -- really all that was said at that meeting was about
19 becoming -- becoming captains in the future, and the rest of this
20 was surmising by the witness. So, I don't have any problem with
21 you putting that to him, but I think it should be clear to this
22 witness what -- what was said in the trial testimony.

23 [15.]

24 BY MR. KOPPE:

25 Q. I'm happy then to rephrase my question. Mr. Witness, if I

1 summarize parts of that particular witness's testimony, parts of
2 what he said to DC-Cam, and parts of what he said to the
3 investigators of the International Co-Investigating Judge, when
4 you hear these details about a meeting during which Ta Hoeng and
5 Ta Val spoke about being armed and fighting the Khmer Rouge or
6 the Southwest Zone soldiers, a meeting at Phnum Kaun Khlaeng,
7 sandals, cigarette lighters being promised, et cetera, does that
8 somehow jog your memory or not at all?

9 2-TCW-918:

10 A. I am not aware of the plan and I have never heard of it. I
11 have just heard just now in this hearing. I have no idea about
12 the plan.

13 [15.42.35]

14 Q. I accept of course what you're saying, Mr. Witness. However, I
15 would like to bring your attention to something that you said
16 yourself to investigators of DC-Cam. And Mr. President, that is
17 English -- Khmer ERN, 00734089; and English, 00728683; and
18 French, 01123644. Let me read to you exactly what you said, so
19 that you can comment on that.

20 "Ta Hoeng and Ta Val got along well with each other. They were in
21 the same party. Ta Cheal and Ta Nhim were in another party. The
22 reason that I knew that they were in a different party, because
23 Ta Hoeng and Ta Val pointed out to me once that, 'All mobile
24 forces, when they went to cut down cotton in Kang Va mountain,
25 planted cotton farms, and he would arm all of them. We would run

1 to Thailand.' I was asked to observe the road. As Moul Sambath,
2 also known as Ta Nhim, and Ta Cheal knew the plan, <he would
3 look> beyond us."

4 [15.44.22]

5 The next page, Mr. Witness, you again refer to forces being
6 armed. More particular is page 00734090, in Khmer; French,
7 01123645; and English, 00728684; you're saying:

8 Question: "He came in '77, but you mentioned earlier that Ta Val
9 was about to arm the mobile forces and prepare to run to
10 Thailand. What year was it?"

11 Then you answer: "That was in the year that we finished Kambaor
12 Dam. It was in late '76. It was about November or December,
13 because in November or December, the water was about to dry up."

14 Question: "So it was before the building of the Trapeang Thma
15 Dam?"

16 Answer: "Before that. We had not prepared to build the Trapeang
17 Thma Dam yet."

18 Question: "So he said he was about to arm his forces and run to
19 Thailand?"

20 And then you answer: "Before the construction of Trapeang Thma
21 Dam."

22 So to summarize, Mr. Witness, it seems that you twice talking
23 about Ta Val arming mobile forces, and running off to Thailand.

24 Is that summary correct? Is that something that you said about Ta
25 Val?

1 [15.46.18]

2 A. I could get what you said. At that time, I made mention about
3 that point, but perhaps the one who took notes may have
4 misunderstood <> my point. <In fact,> I said at that time the
5 work forces were armed, <which meant they> were equipped <with
6 tools> to plant the cotton. <The dam building mobile workers were
7 equipped with hoes and earth carrying baskets.> When the work
8 forces were equipped to plant cotton on Kang Va mountain, the
9 workers could not complete the work plan if they had only hoes.
10 For this reason, they were additionally equipped with axes,
11 knives and other equipment <to work in the cotton planting
12 field>, so that they could plant the cotton on the mountain. The
13 one who took notes in the record of the interviews may have
14 <misunderstood> my point. When I said they were armed, I <meant>
15 that they were equipped with hoes and other tools. <During that
16 time, hoes meant weapons.> And I told the Court already that for
17 the elderly, they were addressed as 'Grandfather' or 'Ta' in
18 Khmer. Senior cadres were also addressed by 'Grandfather' or 'Ta'
19 in Khmer<, although they were young>. So, once again, the one who
20 took note may have misunderstood my point.

21 [15.48.21]

22 Q. Very well. Mr. Witness, one last question then maybe in this
23 respect: who is, or who was, Ta Prum?

24 A. Regarding Ta Prum, I never saw his face and I do not know his
25 physical appearance. I heard of the name "Ta Prum". At that time,

1 I heard a rumour that Ta Prum fled to Thailand, and I only heard
2 the rumour. What you made mention is the statement that I talked
3 about Trapeang Thma. So, in the document that you quoted, there
4 are some points which are not consistent with what I said. I will
5 confirm what I said from my mouth, but sometime I may have
6 chitchatted with the investigator, and the one who took notes may
7 have recorded everything in that document.

8 Q. But going back to Ta Prum, what was his function in the
9 Northwest Zone in 1977?

10 A. I heard people say that Ta Prum was part of the zone, and he
11 was part of the army. I do not know whether it is true or not.

12 Q. Let me refer you to what you said to DC-Cam. Same ERN numbers,
13 Mr. President, as I just mentioned. Question: "What did Ta Prum
14 do?" And then you answer: "Ta Prum was the zone committee in
15 charge of the military. He was in charge of the military for the
16 whole North West Zone." Do you recall giving that answer to the
17 DC-Cam investigator?

18 [15.51.11]

19 A. I can recall it. But that point may have <> nothing to do with
20 Trapeang Thma Dam worksite. Sometimes I may have conversed with
21 other people in the investigation group, and they may have
22 recorded everything.

23 Q. So, summarizing again, you have no knowledge of plans for an
24 armed rebellion in the Northwest Zone, led by Ta Val and Ta
25 Hoeng; is that correct?

1 A. There was no plan to rebel contemplated by Ta Val and Ta Prum.
2 But the one who took note may have misunderstood my point, as I
3 said. Workers were equipped with tools.

4 Q. Have you ever heard the reasons for the arrest of Ta Val, Ta
5 Hoeng, and others, in the period between June '77 and June '78?
6 Let me -- let me be more concise. What was the reason, if you
7 know, that Ta Val and Ta Hoeng were arrested?

8 <A>. I do not know the reason. I do not know why they were
9 arrested. I was not informed about the reasons in advance before
10 they were arrested.

11 [15.53.48]

12 Q. But in your DC-Cam statement, you said that they were arrested
13 because they were traitors. You used the word 'traitors'. Treason
14 of what? Betraying what? Did you know at the time, or maybe did
15 you hear something after '79?

16 MR. PRESIDENT:

17 Please hold on, Mr. Witness. You have the floor now,
18 International Deputy Co-Prosecutor.

19 MR. LYSAK:

20 Just a minor clarification, but an important one. Counsel didn't
21 cite the exact ERN, but my recollection was that they were
22 accused of being traitors. That's different than the witness
23 himself saying that they were traitors. So I think it's an
24 important distinction, which is why Counsel should be reading the
25 words.

1 [15.54.49]

2 BY MR. KOPPE:

3 Q. I -- I agree. The literal excerpt, Mr. President, is indeed in
4 DC-Cam statement, Khmer, 00734089; and English, 00728683; and
5 French, 01123644.

6 Question: "What did they accuse Ta Val of when the Southwest
7 arrested him?"

8 And then you answer, Mr. Witness: "They said he was a traitor."

9 Question: "They said 'traitor'?" Answer: "That's right."

10 Then the question is: "At that time, did you know any traitorous
11 acts?"

12 And then you say, "No, I didn't know."

13 My question is: have you heard afterwards, after '79 maybe, what
14 these traitorous acts that they were accused of consisted of?

15 2-TCW-918:

16 A. I do not know concerning that point. I have no idea about the
17 treason after 1979.

18 Q. Just to be sure, I wasn't asking you about treason after '79,
19 but do you have knowledge which you acquired after '79 that would
20 indicate the reasons for the arrests of Ta Val and Ta Hoeng,
21 people that you worked very closely with?

22 [15.56.49]

23 A. I have never heard of it after 1979. I have no knowledge of
24 it. Nothing was discussed about Ta Val matter after 1979.

25 Q. Well, let me see if I can help you a little bit, Mr. Witness.

1 In the DC-Cam statement, you were asked a question, more
2 particularly on Khmer page, 00734112; French, 01123658; and
3 English, 00728699. Let me read to you what you -- what you said.
4 "As the Vietnamese entered the country, some Cambodians betrayed
5 the country, such as So Phim, Moul Sambath, Heng Samrin and
6 others, by joining the Vietnamese. So Phim was arrested and Heng
7 Samrin was able to escape. He fled with 1500 soldiers. As he
8 escaped for seven days, the Vietnamese fought into Svay Rieng. We
9 realized that we would fall for sure -- fell for sure."

10 [15.58.28]

11 Mr. Witness, you seem to be talking about betrayal of the country
12 here, at least by Moul Sambath, also known as Ros Nhim. Does that
13 somehow refresh your memory?

14 I will rephrase. You earlier brought Ros Nhim in connection with
15 Ta Val, Ta Hoeng and Ta Cheal, his son. What I just read out to
16 you about the betrayal of So Phim and Ros Nhim and Heng Samrin,
17 would that have anything to do with the reasons for the arrests
18 of Ta Val and Ta Hoeng?

19 MR. PRESIDENT:

20 Please hold on, Mr. Witness. You may now proceed, International
21 Deputy Co-Prosecutor.

22 MR. LYSAK:

23 My only objection or observation here is that the quote that
24 Counsel has read, he left out the first part of it, and the
25 witness should be -- in fairness to the witness, he should

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1 understand this is an answer where he is describing a meeting
2 where someone else was talking. So, I'm fine with counsel posing
3 the question, but I think it should be clear that the quote he
4 just read appears to be the witness's description of a meeting.

5 JUDGE FENZ:

6 Can I add a request, because I -- frankly, I found it a bit
7 difficult to follow your line of argument, what this has to do
8 with the original question, and I don't even want to know how
9 this was translated into Khmer. Perhaps it's possible to break it
10 into --

11 MR. KOPPE:

12 Yes, yes.

13 JUDGE FENZ: -- digestible chunks?

14 [16.00.30]

15 BY MR. KOPPE:

16 Q. I will. I will break it up, Mr. Witness. I also see, Mr.
17 President, that it is 4 o'clock. Maybe a good idea to continue
18 tomorrow, but I'm happy to continue if you like.

19 MR. PRESIDENT:

20 Thank you. You may resume your line of questioning tomorrow.
21 The hearing today comes to an adjournment. The Chamber will
22 adjourn now, and it will resume its hearing tomorrow, on
23 Wednesday, the 2nd December 2015. Tomorrow, the Chamber will
24 continue to hear this witness, concerning Trapeang Thma Dam
25 worksite.

1 Thank you, Mr. Witness. The hearing of your testimony as a
2 witness has not come to a conclusion yet. You are therefore
3 invited to be here and testify at 9.00 a.m. Thank you as well,
4 Mr. Mam Rithea. You may be excused. However, you are also invited
5 to be here again as a duty counsel tomorrow.
6 Court officer, please work with WESU to send to -- to send this
7 witness to the place where he is staying, and also please assist
8 the reserve civil party, <2-TCCP-300> and send him or her to the
9 place where he or she is staying, as well. <And, return them to
10 the courtroom tomorrow at 9 a.m.>
11 Security personnel, please send the Accused, Khieu Samphan and
12 Nuon Chea, back to the detention facility of the ECCC, and please
13 return them to the courtroom at 9.00 a.m. tomorrow.
14 The Court is now adjourned.
15 (Court adjourns at 1602H)
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