



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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Case File N° 002/19-09-2007-ECCC/TC

26 January 2016
Trial Day 363

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

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KHIEU Samphan

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I N D E X

Mr. PRUM Sarat (2-TCW-1009)

Questioning by Mr. KOPPE resumes..... page 3

Questioning by Mr. DE WILDE D'ESTMAEL page 41

List of Speakers:

Language used unless specified otherwise in the transcript

Speaker	Language
Mr. DE WILDE D'ESTMAEL	French
Judge FENZ	English
The GREFFIER	Khmer
Ms. GUIRAUD	French
Ms. GUISSE	French
Mr. KONG Sam Onn	Khmer
Mr. KOPPE	English
Judge LAVERGNE	French
The President (NIL Nonn)	Khmer
Mr. PRUM Sarat (2-TCW-1009)	Khmer

1

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

2 (Court opens at 0922H)

3 MR. PRESIDENT:

4 Please be seated.

5 On behalf of the Trial Chamber, I would like to inform the
6 Parties and the public that, this morning, Khieu Samphan has
7 health issues due to hypertension, and the duty doctor examined
8 the Accused and that, in about half an hour or one hour, or so,
9 his blood pressure will become normal. And for that reason, we
10 will have a slight delay for today's proceedings. And we will
11 resume at 10.30 this morning.

12 (Court recesses from 0923H to 1031H)

13 MR. PRESIDENT:

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

15 Today, the Chamber will continue hearing the witness, Prum Sarat.

16 And there is a reserve witness, 2-TCW-889.

17 Mr. Em Hoy, please make a report concerning the attendance of
18 Parties to today's proceeding.

19 [10.32.16]

20 THE GREFFIER:

21 Mr. President, for today's proceeding, all Parties to this case
22 are present.

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

2

1 The witness who is to conclude his testimony today is Mr. Prum
2 Sarat, and he is here together with the duty counsel.

3 Today, there is a reserve witness as well, 2-TCW-849. Witness
4 confirms that, to the best of his knowledge, he has no
5 relationship, by blood or by law, to any of the two accused, Nuon
6 Chea and Khieu Samphan, or to any of the civil parties admitted
7 in this case.

8 The witness will take an oath before the Iron Club Statue this
9 morning.

10 Thank you, Mr. President.

11 [10.33.20]

12 MR. PRESIDENT:

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

15 The Chamber has received a waiver from Nuon Chea dated 26 January
16 2016, which states that, due to his health, headache, back pain,
17 he cannot sit or concentrate for long and in order to effectively
18 participate in future hearings, he requests to waive his right to
19 participate in and be present at the 26 January 2016 hearing.

20 Having seen the medical report of Nuon Chea by the duty doctor
21 for the accused at the ECCC, dated 26 January 2016, which notes
22 that Nuon Chea has back pain -- has chronic back pain he -- when
23 he sits for long and recommends that the Chamber grant him his
24 request so that he can follow the proceedings remotely from the
25 holding cell downstairs.

3

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

5 AV Unit personnel are instructed to link the proceedings to the
6 room downstairs so that he can follow the proceedings. This
7 applies to the whole day.

8 The Chamber now gives the floor to the defence team for Mr. Nuon
9 Chea to resume his questioning.

10 You have the floor now, Counsel.

11 [10.35.01]

12 QUESTIONING BY MR. KOPPE RESUMES:

13 Thank you, Mr. President. Good morning, Your Honours. Good
14 morning, counsel. Good morning, Mr. Witness.

15 Q. Mr. Witness, before I will ask you questions about the
16 territorial waters of Democratic Kampuchea, let me briefly
17 revisit the topic that we discussed yesterday just before we
18 stopped our hearing. Yesterday, you spoke about 700 eastern
19 soldiers in Division 164. In your WRI in question and answer
20 A166, you speak about a colleague of yours who was in Division
21 164. You referred to him as Chhean, Chhean who now lives near
22 your home in Samlout.

23 Do you remember talking about Chhean, a former Division 164
24 colleague living close to Samlout?

25 MR. PRUM SARAT:

4

1 A. Chhean is now living close to my house in Samlout. He was a
2 former soldier within my company. He is now living.

3 [10.36.49]

4 Q. Was he from the east or was he from the Southwest Zone
5 originally?

6 A. He was from the <East Zone.>

7 Q. Do you remember that, at one point in time, Chhean was sent to
8 the construction site at Kampong Chhnang airport?

9 A. Later, I met him. He told me he went to perform his new duties
10 at the new construction site at Kampong Chhnang airport. He
11 reiterated that he regret having no contact with me since he had
12 a close relationship with me in the period. And he told me that
13 he did not know at the time where I was sent to or where he was
14 sent to when he received the new assignment.

15 [10.38.11]

16 Q. Was he just one of the 700 East Zone soldiers who were sent to
17 Kampong Chhnang, or do you know whether there were other East
18 Zone soldiers who had been sent to work at Kampong Chhnang
19 airfield?

20 A. On this issue, Chhean did not clarify that point to me. He did
21 not <tell> me who went together with him. When I met him, he did
22 not tell me who were with him.

23 Q. And he is still alive today; correct?

24 A. He is alive now.

25 Q. Thank you, Mr. Witness. Now let me move on to the territorial

5

1 sea of Democratic Kampuchea between '76 or '75 and '79.

2 Let me start with an open and general question. Do you remember

3 what would happen in those years if boats would enter the

4 territorial waters of Democratic Kampuchea or would come close to

5 one of the island, such as Poulo Wai? What would happen to the

6 people on board of those boats?

7 [10.39.53]

8 A. To my recollection, from 1975 to 1978, <the maritime

9 sovereignty> of Cambodia was based on Cambodia's map and I cannot

10 say now <how far that maritime sovereignty> was <from the island,

11 its latitude and its longitude>. Unless I had the map in hand, I

12 could <not> tell you the territory of the country at that time.

13 I could not tell you how far the <maritime boundary> in Cambodia

14 reached at the time. <But I knew the archipelago of old> Kaoh

15 Poulo Wai <and new Kaoh Poulo Wai>, <Kaoh> Rong Sanloem, <Kaoh>

16 Tang and <Kaoh> Seh <and Kaoh Rong Thum. They were> within the

17 territory of Cambodia. And among them, Poulo Pan Song or Krachak

18 Seh island was the island which was <the furthest>.

19 Q. Thank you, Mr. Witness. Let me be more specific.

20 What would happen if boats would entered a territorial sea of

21 Democratic Kampuchea and in those boats would be people of

22 Vietnamese origin, be it refugees, be it fishermen or be it

23 soldiers?

24 Can you tell us what would happen to these people on board of

25 these boats once having entered the territorial sea of Democratic

6

1 Kampuchea?

2 [10.42.02]

3 A. I would like to tell the Court clearly that. At the beginning
4 of 1975, there was a hot battle <> between the Vietnamese and
5 Cambodian troops <in the maritime territory of Cambodia>.

6 Soldiers of Democratic Kampuchea, <on> old and new Poulo Wai
7 Islands, were arrested and placed on Kaoh Trol, or Trol Island.
8 Later on, the fighting ended. I cannot recall the <exact> date
9 when the fighting ended <but> it ended in late 1975.

10 Q. Thank you for that answer.

11 Let me first focus on Vietnamese refugees -- refugees or
12 Vietnamese fishermen. If they would be on a boat and entered the
13 territorial sea, what were the instructions to do with these
14 people?

15 [10.43.34]

16 A. Regarding the fishing boats or any other kinds of boats which
17 entered <closer to> the territorial sea of the military, I could
18 not tell you about the issue since I was not stationed on the
19 islands <>. I was asked to give <naval> training <at the> port<.
20 My boat was stationed at Ou Chheu Teal>, so it was beyond my
21 responsibility to be stationed on those islands.

22 Q. Let -- let me see if I can assist you a bit in your memory and
23 also in the interests of time, let me turn to your statement to
24 DC-Cam, E3/9113, two -- two different pages. First page in
25 English ERN, 0097206 (sic); in Khmer, 00926384; no French. On

7

1 this particular page of your statement you said -- you were
2 talking about the Vietnamese soldiers first.

3 "We arrested and interrogated them. We released the refugees. If
4 they did not answer our questions and tried to hide their
5 identity, we would send them to our security office."

6 And a bit further on English page ERN, 00974222; Khmer, 00926399;
7 you're talking about the Vietnamese refugees or the Vietnamese
8 fishermen and then you say the following:

9 "We were instructed not to arrest the civilians. We could arrest
10 them for detailed investigation to check whether they were really
11 refugees or not. If they wanted to leave safely, we -- we could
12 let them go and we were sometimes willing to send food supplies
13 to them."

14 Does that somehow refresh your memory, Mr. Witness?

15 [10.46.05]

16 A. On this particular issue, I have told Long Dany when I was
17 interviewed in the rice field. Although this was the case, I want
18 to clarify for the Court that I gave <those> statements to Long
19 Dany <via> audio recording.

20 Q. But are you confirming now in the Court what I just read out
21 to you; is that -- is that what you said and is that, indeed,
22 correct?

23 A. Yes, that is correct.

24 [10.47.04]

25 Q. Let me elaborate a bit further on this very topic and read to

8

1 you something another company commander of Division 164 said. His
2 name is [REDACTED]; he was the acting chairman of Company 4,
3 Battalion 450.

4 In his WRI, Mr. President, that is E319/23.3.12, question and
5 answer 75, he said the following. He's talking about boats --
6 Vietnamese boats with refugees and he said and I quote:

7 "Son Sen said, 'If those Vietnamese were refugees to Thailand, we
8 should not arrest them and we should let them travel on.'" End of
9 quote.

10 Do you remember an instruction from Son Sen to Division 164 that
11 Vietnamese refugees were not to be arrested and that they should
12 be allowed to travel on?

13 [10.48.30]

14 A. It was the instructions <from the top,> issued to the
15 division<.> I was tasked <as a military> technical <trainer>. I
16 received no <> instruction of this particular issue <from the
17 division on> how to deal with this issue. In fact, I <just
18 completed fresh technical> training <provided> by China.

19 Q. I understand, but was it, indeed, Son Sen's explicit
20 instruction that once it was clear that the Vietnamese people in
21 those boats were not military, but refugees or fishermen, they
22 would be allowed to move on to where they were going?

23 MR. PRESIDENT:

24 Please hold on, Witness. You have the floor now, International
25 Deputy Co-Prosecutor.

1 MR. DE WILDE D'ESTMAEL:

2 I have <>checked, Mr. President, document <E319/23.3.12>; it is
3 the record of an interview and we disclosed it to the Parties in
4 June 2015. As a matter of fact, I don't believe the Defence
5 <asked> that this document be placed before the Chamber as
6 evidentiary material, unless the Defence says the contrary<, but
7 in any case, we> haven't done so. I don't believe this document
8 has already been admitted < before this Chamber as > evidentiary
9 material, so may I request the Defence Counsel to clarify the
10 matter, perhaps?

11 [10.50.48]

12 MS. GUISSSE:

13 Mr. President, may I take the floor because, if I remember
14 correctly, < this> is one of the documents we requested to have
15 tendered into evidence at the end of the year and < I think> that
16 the Chamber did allow that document to be admitted <into>
17 evidence< since> nobody <>objected to it. <So I do not know if
18 it was a decision, I no longer remember if it was an oral
19 decision, but in any case, I know that it was the Khieu Samphan
20 Defence team that requested that these documents be entered into
21 evidence and that the request was granted >.

22 (Judges deliberate)

23 [10.52.32]

24 MS. GUISSSE:

25 This might be of some assistance to the Chamber. I have found the

10

1 number of the <request, or rather the date of the decision. It>
2 was the 5th of January 2016, and <> the transcript <of the
3 hearing is E1/370.1 >and it was at 09.12; that was when the
4 <Chamber rendered the decision>. <>

5 MR. PRESIDENT:

6 So it is now clear for everyone and it can be used on the basis
7 for the examination.

8 <Counsel> Koppe, you may resume your questioning.

9 BY MR. KOPPE:

10 Thank you, Mr. President.

11 Q. Again, I'll -- I'll repeat my question, Mr. Witness. Do you
12 know whether there was instruction from Son Sen to Division 164
13 instructing the cadres not to touch refugees -- Vietnamese
14 refugees when they would be crossing the territorial sea; in
15 other words, not to arrest them and to let them travel on?

16 [10.54.05]

17 MR. PRUM SARAT:

18 A. Based on this witness, it is true. I was a cadre in charge of
19 ships; however, I was not responsible for the arrangement of the
20 travelling of foreigners crossing the territorial sea of
21 Kampuchea. I was <only tasked in> training. <Therefore,>
22 regarding <all> instructions and orders, they were under the <>
23 responsibility of those who were stationed on <the> respective
24 islands. That may have been the case. For me, I never received
25 <such> instructions and orders, as you said.

11

1 Q. Thank you, Mr. Witness. Is it correct that once it had been
2 established that the people on board were Vietnamese soldiers
3 that they then would be arrested?

4 [10.55.25]

5 A. Based on my documents or my statements, <> I have provided, on
6 one particular occasion, on that day, which I cannot tell you the
7 exact dates and month and year<.> On that day, while <nautical>
8 training <was being conducted along the range of islands such as>
9 new and old <Poulo Wai> island and <> Tang Island, I <> met one
10 Kleng ethnicity person and one Vietnamese on <the port of> Tang
11 Island.

12 At that time, I did not ask them who they were; <but> the
13 soldiers <who> stationed on <that> Tang Island <told me> where
14 they were from <and who they were?> I was told that they were
15 Vietnamese and <they tried to> cross the Southeastern part of the
16 <maritime boundary, east of that Tang Island.> and they were
17 arrested last night<>.

18 As I said, my responsibility was <only> to <> engage in the
19 training <for my soldiers who were directly under my supervision.
20 I therefore continued my work>. And on that day, I learned, in
21 summary, about the capture of the two people. So I never poked
22 into the business under their responsibility<; also it was not my
23 responsibility to do further observation or investigation>.

24 Q. I understand. Let me move on to something that is very closely
25 related to this. In your WRI, you were asked questions about

12

1 internal and external enemies of Democratic Kampuchea. I will get
2 back to that shortly, but let me read to you another excerpt from
3 the same commander [REDACTED] statement or WRI. It's the same
4 document as before, Mr. President, E319/23.3.12. In question and
5 answer seven - 70, 7-0, he says the following:

6 [10.58.17]

7 Question: "You said there were two kinds of enemies, internal and
8 the external; do you think the Vietnamese fishermen were regarded
9 as the external enemy and were taken to be killed?"

10 Answer: "I do not think so. The external enemy referred to the
11 Vietnamese soldiers along the border. Regarding the seizures of
12 the Vietnamese boats, to my knowledge, the Vietnamese fishermen
13 were not regarded as the external enemy, but they had violated
14 the territorial waters of Democratic Kampuchea."

15 Mr. Witness, is that correct what [REDACTED] is saying that
16 fishermen and most likely refugees were not regarded as the
17 external enemy, but that was only something applicable to
18 Vietnamese military?

19 [10.59.15]

20 A. Regarding [REDACTED] <> statements <as inscribed in this
21 document>, these statements were true. <Along the> borders
22 between Vietnam and Cambodia,< there was fierce fighting> between
23 1975 and 1977<. The account provided by [REDACTED] said that >
24 Vietnamese <refugees had crossed the Kampuchean maritime boundary
25 was correct. But these> refugees <> were not considered the

13

1 enemies of the Democratic Kampuchea. Two targeted groups of
2 people were considered enemies of the Democratic Kampuchea; one
3 was the Vietnamese troops who were trying to attack and capture
4 the territory <> of Cambodia including islands. <This was
5 considered the external enemy. As> for the internal enemies, they
6 were those who instilled the <internal> contradiction <among
7 cadres> within <the Democratic> Kampuchea and they were those who
8 <tried> to initiate an issue within Kampuchea.

9 [11.01.03]

10 Q. Thank you, Mr. Witness. I will -- I will get back to the
11 internal enemies shortly. Let me just read to you one very small
12 excerpt of another witness that is about the chronology, the
13 years.

14 Mr. President, that is the testimony of a Division 1, West Zone
15 deputy commander. He might be coming to testify; that's -- that's
16 why I don't mention his name. It's E319/23.3.21. In question and
17 answer 24, Mr. Witness, this witness is Division 1, the West Zone
18 commander says, and I quote: "During 19--" sorry, "From 1975 to
19 '76, these instructions were the general instructions." And now
20 it comes. "They instructed us not to seek trouble with Vietnam
21 because our country was small and Vietnam was a large country."
22 End of quote.

23 Is it correct what this witness is saying that the instruction
24 was not to seek any trouble with Vietnam in the years 1975 and
25 1976?

14

1 [11.02.40]

2 A. Based on this witness, it is his own statement. I do not know
3 how to react. I agree that usually a small country had no
4 <capability of posing threats or> ambition <or striking a> bigger
5 country. <Thus,> it is <> my own idea that I agree with what he
6 said.

7 Q. Thank you, Mr. Witness. One small question in relation to the
8 Vietnamese military or soldiers who violated the territorial
9 borders and were arrested: You said in your WRI and your DC-Cam
10 statement that they were sent to Phnom Penh to be interrogated;
11 is that correct?

12 A. If that is what I have stated in my previous statement, then
13 that is correct. Whatever I stated in my interview is based on
14 the fact of our communication via radio <communication. There
15 were two types of radio devices. First, it> could be a short-wave
16 radio and another <was a> telephone line in order to receive
17 information. However, I personally did not witness <> how <the
18 information was transmitted>.

19 [11.04.41]

20 Q. But did you know, at the time, it was S-21 or is S-21
21 something that you heard about after '79?

22 A. On the issue of S-21, I simply knew that its purpose was to
23 re-educate those whose living condition was not in line with the
24 standard or you could say <morality>. That's what I knew, that
25 office was <> to re-educate cadres or to solve other matters

15

1 within the concerned units.

2 Q. I have some more questions on this, but I will move on. Mr.

3 Witness, in your testimony before the investigators, as I just

4 mentioned, you refer to two enemies; the external enemy and the

5 internal enemy. Is it correct that you said that the first enemy

6 of Democratic Kampuchea was Vietnam and that the second enemy was

7 the internal enemy?

8 A. That is my <correct> statement.

9 [11.06.46]

10 Q. In that same answer, that is answer 75 of your WRI, you refer

11 to study sessions or education sessions organized by the general

12 staff in Phnom Penh, chaired by Son Sen. What do you remember

13 about those education sessions chaired by Son Sen and what

14 exactly was said by him in relation to the external enemy,

15 Vietnam, and the internal enemies?

16 A. To my recollection, the policy <> at that time, was about the

17 current situation of the sovereignty of Kampuchea; in particular,

18 the situations along the border. And thus, there was no

19 independence or <security> along the border due to the sporadic

20 <> fighting along the <> Kampuchea and Vietnam border. For that

21 reason, the policy, at the time, was that those enemies of

22 Kampuchea were in two categories; <the first category> was <the>

23 Vietnamese and the second category was the internal enemy.

24 [11.08.27]

25 Q. Let me ask you a very concrete question. The second in command

16

1 of Division 164, Dim -- Commander Dim; was he an internal enemy?

2 A. From what I knew about Dim, I personally cannot say whether

3 <or not> he was considered an internal enemy. After the division

4 was organized, <Dim's> role was also in the leadership of that

5 division. I <met> him in late '75, for the full year of '76, and

6 he disappeared in 1977. For that reason, I am not in a position

7 to confirm whether <or not> he was alleged as an internal enemy,

8 but I stated in my previous interview that he <truly> disappeared

9 and I did not see him since.

10 Q. Thank you, Mr. Witness. Let -- let me see if I can jog your

11 memory with some more concrete evidence as to what the internal

12 and external enemies were.

13 I would like to read, again, to you an excerpt from the same

14 company commander of Division 164, [REDACTED], question and answer

15 49 and -- and I would -- I would like to ask your reaction to

16 what he stated to the investigators.

17 [11.10.12]

18 Question: "According to the 'Revolutionary Flags' or

19 'Revolutionary Youths,' the two main intentions of Democratic

20 Kampuchea were to fight internal enemies and to fight external

21 enemies; can you clarify these points?"

22 And then he says the following, and I quote:

23 "Internal enemies refer to those embedded inside the ranks of the

24 Party. They talked about the history of the Communist Party of

25 Kampuchea, the establishment of the Khmer Workers' Party led by

17

1 Son Ngoc Minh and the hundreds of Cambodian children sent to
2 study in Vietnam and sent back. Internal enemies also meant that
3 we had to struggle ideologically to build the proletarian class
4 and smash the rich class based on the poor class.

5 External enemies refer to the Vietnamese. The Vietnamese strategy
6 since the Ho Chi Minh time aimed to create an Indochina
7 Federation incorporating three countries; Vietnam, Laos, and
8 Cambodia under the control of Vietnam." End of quote.

9 Mr. Witness, is this something that you heard, as well, maybe by
10 -- maybe from Son Sen during one of those education sessions or
11 maybe you read it in a "Revolutionary Flags" or maybe you heard a
12 different -- in a different manner? Is this something that sounds
13 familiar to you?

14 [11.12.04]

15 A. From the statement on the account by [REDACTED], which is of
16 course his personal account of what happened, the policy, at the
17 time, was that the Communist Party of Kampuchea was to build the
18 stance of each <individual> to be part of the proletarian class
19 with the ultimate aim to build a country to be -- to install the
20 poor peasants' class in the leading position of the country <at
21 that time>. So his account is in line with the policy and the
22 line at the time.

23 Q. So what he said is something that you heard as well. You
24 remember hearing things about the Khmer Workers' Party or the
25 Khmer Labour Party and about the Indochina -- Indochinese

18

1 Federation; is that correct?

2 [11.13.36]

3 A. That is correct because after the 1954 Geneva Convention, Ho
4 Chi Minh had an idea of encompassing the three countries;
5 Vietnam, Kampuchea, and Laos, into one Indochina Federation led
6 by Ho Chi Minh himself. So that statement is correct.

7 Q. Thank you, Mr --. Mr. Witness. Let me move on to something
8 another division colleague told investigators with DC-Cam. His
9 name is Nam Lan. I refer, Mr. President, to document
10 E319/23.3.17.1. It's translated in all three -- in two languages;
11 ERN 01170833, English; French, 00996698; Khmer, 00955619. Can I--
12 MR. PRESIDENT:

13 Witness, please hold on. And the International Lead Co-Lawyer for
14 civil parties, you have the floor.

15 [11.15.12]

16 MS. GUIRAUD:

17 Thank you, Mr. President. A short observation. We haven't found
18 this document in the list of documents that were admitted by the
19 Chamber <under an 87.4 request. Document E319/23.3.17.1, like>
20 all documents related to this witness<, we believe, has> not been
21 proposed <or> admitted by the Chamber, so <I'm simply asking> you
22 to verify the status of this document because, as far as we're
23 concerned, <this document cannot be used today >unless the
24 Defence requests it <formally and all Parties are able to speak
25 on the use of this document. Thank you.>

19

1 MR. KOPPE:

2 I'm not sure why it's a concern of the civil parties, but it --
3 it might be possible, Mr. President, that because of the -- the
4 changed deadline, we missed this document to put it on the
5 interface. That is possible. I just received a message. So by
6 this request to, nevertheless, read one or two excerpts from that
7 DC-Cam statement.

8 [11.16.29]

9 JUDGE FENZ:

10 Did -- did you go through the 87.4 procedures; that was the
11 issue, not -- is it admitted or requested?

12 MS. GUIRAUD:

13 <The> document is on the interface<. As far as we have
14 understood>, it has not been included in an 87.4 request, so that
15 is what we're asking the Chamber to check today.

16 MR. KOPPE:

17 Can I make an oral request right now to the Chamber to have it
18 admitted?

19 (Judges deliberate)

20 [11.17.36]

21 JUDGE FENZ:

22 Can I just clarify something else, have you before your oral
23 request now, before that already made a -- a request? I want --
24 we want to avoid double decisions.

25 MR. KOPPE:

20

1 No, no, we haven't.

2 (Judges deliberate)

3 [11.18.12]

4 MR. PRESIDENT:

5 What about the other Parties; namely, the Co-Prosecutors, do you
6 want to react to the oral request by Defence Counsel; that is,
7 E319/23.3.17.1, in order to use it as his base for questioning
8 this witness?

9 You may proceed, Co-Prosecutor.

10 [11.18.40]

11 MR. DE WILDE D'ESTMAEL:

12 Thank you, Mr. President. <We believe that there are> rules that
13 we have to respect<. It's a matter of respect for the principle>
14 of adversarial hearings before this Chamber<. If all the parties
15 come> to the hearing without having done their job -- that is to
16 say, going through the procedures such as they exist and
17 <presenting> their arguments <in line with> Rule 87.4 --> if the
18 Parties come and propose documents just right off the bat <during
19 the hearing,> everything is going to <quickly turn into chaos
20 before this Chamber. So we> think that a minimum amount of
21 respect to other Parties and to <your> Chamber is necessary
22 because you have not yet taken this decision and<, in all
23 likelihood, you are not in a position to> take it now, so I think
24 it's <simply> too late.

25 They should have proceeded as required. This is what we're trying

21

1 to do. We are also endeavouring each time to check that <> the
2 documents that we want to use are<, indeed,> documents that we
3 have submitted ahead of time to the Chamber and that have been
4 <duly> ruled upon, so I think all Parties should do the same.
5 <Thank you.>

6 [11.19.46]

7 MR. KOPPE:

8 Mr. President--

9 MR. PRESIDENT:

10 The Chamber now would like to give the floor to the Lead
11 Co-lawyers for civil parties.

12 MS. GUIRAUD:

13 Thank you, Mr. President. I think that<, >in principle, we have
14 never formally objected to the use of a document by the defence
15 teams. We understand perfectly <the> working tempo <everyone is
16 subject to>. Everyone respects the rules, including the Khieu
17 Samphan defence <team>. All that was necessary was an email. <All
18 that was necessary was to say it.> All that was necessary was <to
19 ask beforehand instead of systematically trying to use documents
20 that are not included in an> 87.4 request.

21 <So, once again, it's more> a question of method <> because it
22 takes an enormous amount of time for the Parties<, and it takes
23 us an enormous amount of time> to check these lists, so simply,
24 there should be a minimum amount of courtesy. That's <what it's
25 called>. And <to > ask for the authorization beforehand;

22

1 otherwise, what's the point of the interface? What's the point of
2 <having the principle of> adversarial debate <in a trial> if
3 everyone can use documents without <anyone being aware of it?
4 Having said this>, we will rely on the Chamber's wisdom in that
5 regard.

6 [11.20.55]

7 MR. PRESIDENT:

8 And what about the defence team for Khieu Samphan; do you wish to
9 make any observation regarding the request by Counsel Koppe for
10 that document?

11 MS. GUISSÉ:

12 I have no specific comments to make, Mr. President, given that my
13 colleague wishes to use a document that he considers to be
14 exculpatory and on that basis, I won't make any specific comments
15 <during the time allotted for Parties to speak on this subject>.

16 I'd like to remind you that it is<, indeed,> sometimes an issue
17 when we don't have the time to anticipate enough and prepare for
18 our examinations and <> things are left aside.

19 I heard the observations of the Co-Prosecutor. If I'm not
20 mistaken, we have <seen> several times before this Chamber
21 documents that had not <been submitted for discussion and which,
22 in any case, had not been submitted in a> request and this has
23 happened on the other side of the Bar<, too. Simply to remind you
24 of this. So we in the Khieu Samphan defence team are very
25 sensitive to these requests. It's from my colleague today, in the

1 context of questioning that he feels is exculpatory, so we do not
2 object to this document being used.>

3 [11.22.20]

4 MR. PRESIDENT:

5 Judge Lavergne, you have the floor.

6 JUDGE LAVERGNE:

7 Yes, thank you, Mr. President, a simple request for clarification
8 for the Nuon Chea Defence: I note that the document in question
9 is an interview conducted by DC-Cam<. Are> there other documents
10 related to the same person? Was the same person interviewed by
11 the OCIJ<>?

12 [11.22.54]

13 MR. KOPPE:

14 Yes, I believe two times; respectively, documents E319/23.3.17
15 and E319/23.3.18.

16 JUDGE LAVERGNE:

17 <Was there a request also to admit these WRIs into the debate
18 based on Rule 87.4?>

19 MR. KOPPE:

20 No, Judge Lavergne, the answer is no. The thing is it's all very
21 last moment. It's -- it's -- we're dealing with a -- a whole new
22 segment which wasn't investigated in the Closing Order, at all,
23 or in the investigation, so we were late; agreed, but it is
24 really not any attempt of bad faith. We just discovered it after
25 12-o'clock deadline and we will file, of course, a Rule 87

24

1 request, but for now, because of its obvious relevance, we would
2 like to use it with this particular witness.

3 [11.24.11]

4 JUDGE FENZ:

5 And so you put it on the interface, which is a good thing because
6 people were at least on notice, but you didn't check if it's --
7 if it had gone through an 87.4; is this basically it? Is this the
8 situation?

9 MR. KOPPE:

10 That's the situation.

11 JUDGE FENZ:

12 Yes.

13 (Judges deliberate)

14 [11.26.54]

15 MR. PRESIDENT:

16 The Chamber rejects the <last> request by the defence counsel,
17 Counsel Koppe, in relation to <presenting documents from separate
18 cases --> document E319/23.3.17.1 <--> at this juncture of time,
19 as the Counsel fails to comply with Rule 87.4 <of the ECCC
20 internal rules>. The Chamber would like to remind all the Parties
21 that all Parties must follow <strictly> the Rule 87.4 procedures
22 and you need to make such submissions before you use them to
23 question witnesses.

24 And from what we just have an <initial> look at this document,
25 this document runs into several pages and, of course, for that

25

1 reason, <we cannot solve this issue right now. We will consider
2 it later on.> Counsel Koppe is advised to <> refer to other
3 documents when questioning this witness.

4 MR. KOPPE:

5 I fail to understand your ruling, Mr. President, nevertheless--
6 [11.28.18]

7 JUDGE FENZ:

8 Can -- can I just add something very short? I know you need the
9 time, but one decisive factor in your ruling was also that we
10 basically have to deal with all related documents at the same
11 time and that runs to, from what I hear, 60 pages which makes it
12 difficult to decide on the spur of the moment.

13 MR. KOPPE:

14 Having said that, Mr. President, I would like to request that the
15 Defence has some additional time to question this witness. We're
16 almost 11.30 and technically, we have used two sessions, but we
17 need to have some more time with this witness.

18 [11.29.02]

19 MR. PRESIDENT:

20 And how much time do you anticipate<?> You need <to consider
21 precisely the combined time between your team and> the defence
22 team for Khieu Samphan <in putting questions to this witness> so
23 that we will be able to rule on your request<.>

24 MS. GUISSÉ:

25 <For the Khieu Samphan defence team, Mr. President,> I can say

26

1 that, a priori, we will need a half an hour to <>examine the
2 witness given the fact that a certain number of topics that we
3 were considering were already covered by my colleague from the
4 Nuon Chea team<. If these topics need> to be discussed later on
5 <in the examination>, I don't know how many extra minutes my
6 colleague needs for that<. He can tell you that. But it's obvious
7 that if the topics> he intends to discuss in the minutes given to
8 him <-- if they are given to him -- our examination time will be
9 reduced by the same amount, but as of now, a priori>, we need a
10 half an hour.

11 MR. KOPPE:

12 May I, in the light of these submissions, request that the
13 Defence granted -- is granted one full session -- one additional
14 full session?

15 MR. PRESIDENT:

16 Deputy Co-Prosecutor, you have the floor.

17 [11.30.36]

18 MR. DE WILDE D'ESTMAEL:

19 Thank you, Mr. President. In principle, we do not object to <an>
20 extension of the time given to the Defence given the <rich nature
21 of this witness's> testimony.

22 This said, <we would> request that we be allowed the same
23 extension, because we also have a lot of subjects to cover and <a
24 lot of subjects we would like to revisit>, more specifically,
25 with this <witness>.

27

1 <Of course, , if the Defence had been a bit quicker yesterday> in
2 examining the witness on the capture of Phnom Penh, <etc.,
3 perhaps we would not be here, but that is not the issue now. So
4 we do not really object, but we request that the same time be
5 accorded on this side of the Bar if an extension is given to the
6 Defence. Thank you.>

7 (Judges deliberate)

8 [11.33.16]

9 MR. PRESIDENT:

10 The Bench decides to grant one session for each side of the Bar;
11 that is, one session for the defence teams that is for the first
12 session this afternoon and for the Co-Prosecutors and the Lead
13 Co-Lawyers <for civil parties>, a <three-combined court> sessions
14 is <> granted.

15 However, it is now appropriate for our lunch break. We'll take a
16 break now and resume at 1.30 this afternoon to continue our
17 proceedings.

18 Court Officer, please assist the witness at the waiting room
19 reserved for witnesses and civil parties during the lunch break
20 and invite him, as well as the duty counsel, back into the
21 courtroom at 1.30.

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

25 The Court is now in recess.

1 (Court recesses from 1134H to 1332H)

2 MR. PRESIDENT:

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

4 And the floor is given to Defence Counsel for Nuon Chea to resume
5 questions to the witness. You may now proceed, Counsel.

6 [13.33.13]

7 BY MR. KOPPE:

8 Thank you, Mr. President. Good afternoon, Mr. Witness. I only
9 have 30 more minutes to ask you questions, so please be as brief
10 as you can in answering my questions. Before the lunch break I
11 tried to jog your memory in respect of the things that Son Sen
12 might have said to the cadres of Division 164 at those education
13 sessions. I was trying to use a document of a colleague of yours
14 in Division 164, but I will use another document instead to see
15 if I can somehow refresh your memory as to what might have been
16 said by Son Sen.

17 Mr. President, I would like to refer to document E3/13. These are
18 minutes of the meeting, of a meeting of secretaries and deputy
19 secretaries of the various divisions and independent regiments.
20 It's a document dated 9th of October 1976.

21 [13.34.41]

22 Mr. Witness, it is very clear to me that you have never been
23 present at this meeting because it was only for the commanders
24 and deputy commanders of the divisions. However, both the
25 commander of the Division 164, Meas Muth, and the deputy

1 commander, Dim, were present. That's why maybe you might be able
2 to tell us something about Son Sen's views and positions. Let me
3 start by going to English, page 00940342; Khmer, 0052406 (sic);
4 and French, 00334975. So, Son Sen is addressing the meeting just
5 before your deputy commander Dim has addressed the meeting and in
6 reaction to things that Dim has said, Son Sen says the following.
7 He is distinguishing two forms of enemies or two kinds of
8 enemies. First, he talks about the enemy to the west. He talks
9 about enemies from the west attacking islands, especially Kaoh
10 Tang and Kaoh Wai Island and that these traitorous forces belong
11 to Son Ngoc Thanh, the person that we discussed briefly
12 yesterday.

13 Q. My question, Mr. Witness, is; have you ever heard Son Sen say
14 something similar in those education sessions that there were two
15 enemies, one enemy from the west and obviously one enemy from the
16 east?

17 [13.36.56]

18 MR. PRUM SARAT:

19 A. During the study session with Son Sen at Olympic stadium in
20 Phnom Penh in 1976, at that time <he> talked only about the
21 organization of the army to take charge of specific locations of
22 Kampuchea. In the northeast, that included Mondolkiri,
23 Ratanakiri, <Kratie, Stueng Treng> to the coastal area of
24 Cambodia. That was <a major part of the talk made by
25 commander-in-chief, Son Sen.> And later on, he talked about the

1 enemy who caused trouble to Democratic Kampuchea. The enemy
2 included two types. One was the external enemy and another one
3 was the internal enemy. And he emphasized that if the external
4 enemy caused trouble, < the internal enemy also conducted their
5 strategic intelligence, this would eminently bring enormous
6 troubles for the whole of > Cambodia.

7 [13.38.59]

8 Q. But do you remember him when he was talking about external
9 enemies making it a vision in respect to, on the one hand the
10 enemy to the west and on the other hand the enemy in the east?
11 Was there a distinction in external enemies, enemies from the
12 east and enemies from the west?

13 A. I remembered <> he talked about the <> enemy <from the west>.
14 It <referred to> Thailand. He said that the border with <Thailand
15 had an issue from time to time;> some <Siamese> crossed the
16 border to cut wood. <But this enemy> was not strong <> because
17 they could be defeated by our troops<, who were positioned along
18 those areas.> Those people were not experienced fighters. But he
19 <warned> us to be careful with the enemy from the east because
20 they could penetrate into Cambodia and they could take the land
21 along the border with Cambodia <including the sea and the land>.

22 Q. Thank you, Mr. Witness, for that clarification. Moving one
23 page in that same speech from Son Sen, English ERN, 00940343;
24 French, 00334976; and Khmer, 00652406; he said the following to
25 your two commanders or the Division 164 commanders and the

1 others, I quote:

2 "Second enemy -- second: the enemy to the east. The key plan of
3 the enemy of the east, the Vietnamese with the Soviets behind
4 them, was to attack from the inside through the traitorous forces
5 of Ya, Keo Meas, Chhouk and Chakrey. What they would have liked
6 in terms of an attack from the outside was to attack in the
7 Czechoslovakian and Angolan style, [...]" And then it goes on.

8 Mr. Witness, do you remember Son Sen speaking about the key plan
9 of Vietnam to attack Democratic Kampuchea from the inside?

10 [13.42.22]

11 A. Based on my recollection, he said that in Cambodia there were
12 spy agents <> who belonged to the Vietnamese and Soviets. Their
13 <collaboration reflected> the Soviets' so-called "Warsaw Pact"
14 which was created in East Germany.

15 Q. Thank you. I will move on, Mr. Witness. Six months after this
16 meeting the deputy commander of Division 164, Dim, was arrested.
17 He was arrested, I believe, the 21st of April 1977. I understand
18 that you do not know the reason for Dim's arrest, but have you
19 heard something from other cadres or maybe from Son Sen during
20 those meetings, what could have been possibly the reasons behind
21 Dim's arrest?

22 [13.44.06]

23 A. When Dim was arrested, it was in a situation which the
24 information was limited to me. I was not aware much of it and I
25 think other people were also not aware of this because <it was

1 their internal affairs. At that time> cadres at the lower level
2 could not know much about the affairs of the upper echelon.

3 Q. I understand. Mr. Witness, in your statement to DC-Cam, I
4 believe also in your WRI, you speak about the principle of
5 secrecy. Does that principle mean that lower cadres weren't
6 exactly informed as to reasons of arrest for higher-ranking
7 cadres?

8 A. Based on the principle of secrecy, we were not informed
9 because the principle of secrecy means only those who did it knew
10 about it. <If a task belonged to a person, he/she must be
11 responsible for it.> So it means I was not aware of the
12 activities responsible by other people.

13 [13.46.09]

14 Q. I understand. Thank you for that answer, Mr. Witness. Have you
15 ever heard, maybe much later, maybe even after 1979, whether Dim
16 was somehow connected to a standing committee member called Vorn
17 Vet?

18 A. As far as I know, as I have read the documents of the Court,
19 but the document was given to me on the second night and I saw
20 the names of people listed and I was told to point to which names
21 in the list that I could identify because the investigators would
22 like to know how many names, whose name I could recognize.

23 [13.47.47]

24 Q. I'm not sure if you were shown the name of Vorn Vet. Actually,
25 I don't think you were but let me move on, Mr. Witness, with the

1 last question in relation to the education sessions or meetings
2 that you and other Division 164 members had with Son Sen. Do you
3 recall whether during those meetings Son Sen ever spoke about
4 coup d'états or military coups taking place in Phnom Penh to
5 overthrow Pol Pot?

6 A. Regarding this information, I received during his lecture, but
7 I was not certain about how many people <and what divisions> were
8 involved <in the attempt to overthrow Pol Pot>, because <it was a
9 document used in that> political study session to <instill that
10 information in> military cadres <and private soldiers>.

11 Q. And do you remember whether he spoke about one coup d'état or
12 maybe even four or five coup d'états which were supposed to take
13 place and were all -- and all failed?

14 A. I could not remember how many military coups were planned at
15 that time. <But I knew that there were plans for military coups.>

16 Q. Another question about Son Sen. Do you know which number,
17 which code number Son Sen used in telegrams or if telegrams were
18 sent to him which number was used to address him?

19 A. I could not remember well but at that time I knew one number
20 which my <superior cadres> told me that it was <the decision of>
21 Number 87.

22 Q. That was actually exactly my question. I believe Son Sen was
23 called Brother 89 in telegrams. But there also seems to be a
24 Brother 87. So my question is if you know who Brother 87 was?

25 [13.51.19]

1 A. The telegraph from Number 87, as far as I can remember, <was>
2 from the upper echelon.

3 Q. That I assume as well, but was it maybe the deputy secretary
4 of the general staff or is it something that you don't know?

5 A. I don't know clearly about this because it <was from> my
6 higher supervisor at the level of the regiment would know about
7 this, but he told me that <what 87 decided, it was their
8 decision>.

9 Q. Thank you, Mr. Witness. Ten more minutes for two subjects I
10 would briefly like to discuss with you. Let me go -- let me refer
11 to your DC-Cam statement. Do you recall saying something about
12 difficulties of communication between Chinese radio equipment on
13 the boats and American equipment used on land in Kampong Som?
14 [13.53.14]

15 A. I can still remember because at that time <I was on> the
16 Chinese vessels <that used a different kind of communication
17 system. On the mainland, they used another system. As a result,
18 there was a difficulty in> communication <> from the mainland.

19 Q. So if original Chinese boats or vessels were patrolling the
20 seas around Poulo Wai Island for instance, was it then difficult
21 for the people on that boat to communicate with headquarters in
22 Kampong Som?

23 A. Through my personal experience, the communications system
24 employed by the headquarters in Kampong Som and the one used on
25 the <> vessels was <via> telegrams. <Each> vessel was designated

1 a different code <and from this telegram, a written version would
2 be produced>.

3 Q. But if a patrolling Chinese vessel would stumble upon a
4 situation in the territorial sea and they had to act immediately,
5 how would they communicate with division headquarters in Kampong
6 Som?

7 A. The Chinese vessels that <were given to me,> through my
8 experience, the communication system <> and the navigation were
9 <> simple. We did not have <> much difficulty in our
10 communication because the system provided by the Chinese was
11 compatible with that at the headquarters. The <trained-telegram
12 operating> crew on the vessel <> and the <telegram operating>
13 combatants at headquarters would <find it easy to> communicate.
14 [13.56.10]

15 Q. Thank you. My last subject, Mr. Witness, and that is what was
16 to be done with refugees or, rather, fishermen from Thailand.
17 What was the instruction if a Thai fishing ship would enter
18 territorial waters of Democratic Kampuchea? What was the
19 instruction to do?

20 A. What I am going to say is based on the information that I
21 heard; that is the information that I did not personally
22 experience. At that stage <these vessels> were <not ready to be>
23 deployed <on the entire waters for the patrol. The time was
24 short.>They received a year training for that matter. However,
25 the entire system was not fully operational. <This is the first

1 point.>

2 [13.57.40]

3 <The> second <point was that>, when the Thai fishing boats
4 entered territorial waters of Kampuchea, then the soldiers
5 stationed on the island would take action either to chase them
6 away or to stop them encroaching further into the territorial
7 waters of Kampuchea as they actually violated the sovereignty of
8 Kampuchea <>.

9 One day, I received information through the radio communications
10 that <several> Thai fishing boats encroached on the Kampuchean
11 territorial waters. In fact, that was an old American made ship,
12 <left> from the Lon Nol regime that is the Pae Song On (phonetic)
13 or P110 (phonetic), and with the deterrent of that boat then the
14 Thai fishing boats withdrew from the territorial waters of
15 Kampuchea.

16 Q. Thank you. I understand there were also situations that boats
17 with Thai fishermen were indeed stopped and that Thai fishermen
18 were indeed brought on land to be questioned. In your DC-Cam
19 statement you indicated that once they had been questioned the
20 problem would be solved, "diplomatically". What exactly did you
21 mean when you said that problems with Thai refugees would be
22 solved diplomatically?

23 [13.59.51]

24 MR. PRESIDENT:

25 Witness, please hold on, and the Deputy Co-Prosecutor, you have

1 the floor.

2 MR. DE WILDE D'ESTMAEL:

3 Thank you, Mr. President. <I believe we> have been quite patient
4 <on this side of the Bar> and I understand that Counsel <> is
5 trying to go fast, but here<, all the same,> not mentioning the
6 sources, <somehow summing up the witness's> statements without
7 quoting what he said precisely, and <then asking him to confirm
8 -- I think that he at least needs to quote the relevant passage.
9 It would be more appropriate and fairer for everyone. Thank you.>

10 [14.00.34]

11 MR. KOPPE:

12 No problem, Mr. President.

13 I was referring to E3/9113, English ERN, 00974221. I do not have
14 the Khmer.

15 MR. PRESIDENT:

16 Counsel Koppe, please repeat the ERN numbers and do it slowly
17 this time.

18 BY MR. KOPPE:

19 Of course, E3/9113, English ERN, 00974221. I will give you the
20 Khmer ERN in a minute. What he says, Mr. President, is the
21 following, "I was instructed that when there were boats coming
22 into our territorial waters, we could seize them and had to
23 report upwards to solve the problem diplomatically." A little
24 further he refers to diplomatic discussions.

25 My other source is E3/2314, English ERN, 00165983; French,

38

1 00768209; Khmer, 00722466 and 467. That is a newspaper report
2 talking about an agreement between Thailand and Democratic
3 Kampuchea on the return of Thai fishermen, a diplomatic pact so
4 to speak. So these are my two sources.

5 Q. So my question again, and this will be my last question, Mr.
6 Witness. What do you know about these diplomatic discussions
7 between Thailand and Democratic Kampuchea in relation to those
8 Thai fishermen that had been brought to the shore?

9 [14.02.55]

10 MR. PRUM SARAT:

11 A. The use of the word "diplomatic" is based on the information
12 that I heard. <The upper echelon of my regiment said that>
13 whatever happened in the territorial waters, namely, regarding
14 the seizure of Thai fishing vessels or any other vessels for
15 that matter, we had to deliver them to the international
16 relations section or department so that the matter could be
17 solved at their level, in line with the policies of the Ministry
18 of Foreign Affairs.

19 However, I did not know the details of the <matter and I did not
20 see with my own eyes.> I only heard this information through my
21 upper level at the regimental level <or battalion level>, for
22 instance, who <informed us in> a meeting.

23 [14.04.20]

24 Q. Have you heard whether most, maybe all, Thai fishermen were at
25 one point in time released?

1 A. What I heard is that the matter was <completely> referred to
2 the Ministry of Foreign Affairs. And how the matter was referred
3 to was beyond my knowledge.

4 MR. PRESIDENT:

5 The Deputy Co-Prosecutor, you have the floor.

6 MR. DE WILDE D'ESTMAEL:

7 Unfortunately, I wasn't able to object because <when we get> the
8 French translation <it is> a bit <delayed, so> the witness <has>
9 already <begun> answering. But I think that <all of> these
10 questions are very <general> and they <do not at all identify>
11 the periods, which is <quite> important. <To> say that, "at one
12 point <in> time, they were <all> liberated", that's not specific.
13 I don't believe that the <witness's next> answers <will> be
14 specific<, either>. I think that <there are> periods <that>
15 should be distinguished regarding the <Thais.>

16 [14.05.42]

17 MR. PRESIDENT:

18 And Co-Prosecutor, your time will come. If you need to clarify
19 this matter you can use your time to pursue this issue, and it
20 will come next.

21 Counsel Koppe, you may continue.

22 MR. KOPPE:

23 I will finish my questions, Mr. President. Two small things; I
24 still owed you the Khmer ERN of the particular excerpt from his
25 DC-Cam statement on solving the problem diplomatically. That is

40

1 00926398.

2 And my second point is maybe a matter of clarification, but my
3 request to have the DC-Cam statement that I would -- wanted to
4 refer to this morning that I would still like to have that
5 admitted into evidence. We filed an oral request or made an oral
6 request, but in my recollection this request is still pending. So
7 hopefully before next week's witness you will have an opportunity
8 to rule on that request.

9 Mr. Witness, thank you very much for your answers. Thank you, Mr.
10 President.

11 [14.07.00]

12 JUDGE FENZ:

13 Counsel, the oral request should be reasoned. I mean are you
14 referring to what you said before the break which was basically I
15 want this to be admitted as under 87.4?

16 MR. KOPPE:

17 Well, I don't want to steal time from my colleague, but the
18 relevance of this DC-Cam statement is from the first page
19 immediately obvious. It is a Division 164 commander who talks in
20 detail about what happened at the territorial sea. There are two
21 WRIs from him in the other case. It's very, very precise as to
22 command structures in 164, so there is absolutely zero reason to
23 think that this document is not in any way relevant to this
24 particular segment.

25 [14.08.01]

1 MR. PRESIDENT:

2 I would like to hand the floor now to the <Co-Prosecutors to put
3 questions to the witness. The> defence team for Khieu Samphan<,
4 do> you wish to put the questions now to the witness or do you
5 wish to put the questions last<>?

6 MS. GUISSÉ:

7 I apologize, Mr. President. I have a slight problem with my
8 headset. No, <I confirm that we would like, as usual when the
9 Nuon Chea defence requests a witness to be able to always be
10 given the floor last. A principle of criminal law that we are
11 strongly attached to.>

12 MR. PRESIDENT:

13 Yes, I think that is the practice and virtually determines the
14 time, location and the procedures already. <We know this practice
15 and your request.> And now the floor is given to the
16 Co-Prosecutors.

17 [14.09.29]

18 QUESTIONING BY MR. DE WILDE D'ESTMAEL:

19 Thank you. Good afternoon, Mr. President. Good afternoon, Your
20 Honours. Good afternoon to all Parties. Good afternoon to you,
21 Witness. I am going to put questions to you on behalf of the
22 Co-Prosecutors' Office today and tomorrow and my name is Vincent
23 de Wilde. I am going to ask you to listen to the questions
24 carefully. If you do not understand<,> tell me so. There is no
25 problem<>. And I would also like to remind you <also> that you

42

1 are here only as a witness to say the truth and to assist the
2 Chamber in discovering the truth. In no case <are you> being
3 accused of anything here.

4 So I would like, first of all, Mr. Witness, to revisit a topic
5 that was brought up yesterday by the Defence Counsel, that is to
6 say, what happened to the soldiers and officials of the Lon Nol
7 regime.

8 Q. Yesterday, you said that you left Phnom Penh to travel to
9 Kampong Som the day Phnom Penh fell on 17 April 1975. <You> said
10 that you did not harm the Lon Nol soldiers you had met along the
11 way. However, at around 3.41 in the afternoon you said that later
12 on, after your training in Kampong Som, you heard about the fact
13 that Lon Nol soldiers and officials had been executed in 1975 or
14 1976. So can you tell us what you heard regarding the execution
15 of the <> officials and soldiers of the Lon Nol regime?

16 [14.11.18]

17 MR. PRUM SARAT:

18 A. From what I heard, it was the information from <> combatants
19 or cadres who spoke outside the meetings and not in the meetings,
20 <> or <in> the <convention>.

21 Q. Fine. And what were these cadres <or> combatants saying
22 outside of the meetings regarding the execution of <> Lon Nol
23 officials and soldiers? For example, <> in which locations were
24 these people executed?

25 [14.12.20]

1 A. I heard they said that the Lon Nol soldiers were killed <>.
2 For example, while they were en route they came across a location
3 where they saw two dead bodies to the west of Kampong Seila. Here
4 I refer to those forces who <> walked behind me. And I responded
5 that I did not see those dead bodies when I walked past. <Thus,
6 what> we conversed <was> in a form that we were combatants <or
7 acquaintances>. However I cannot recall as to whom I spoke or
8 <where those people are now>. This is what I can recall of what
9 happened at the time. And as you may know, it happened <a long
10 time> ago.

11 Q. Fine. <Since> you left Phnom Penh the day it fell, 17 April
12 1975, is it fair to say that you did not know what happened to
13 the high-ranking officials or <officers> of the Lon Nol army in
14 Phnom Penh?

15 A. In fact I, myself, never anticipated as to what <would> happen
16 next. While I was en route, I <fully focused on leading> the
17 combatants with me in order to reach our destination, that <was
18 to> Kampong Som, and we were on foot. I never anticipated <how
19 many> high-ranking soldiers or ordinary Lon Nol soldiers who were
20 killed. My <> task <back then was not to> receive such
21 instructions.

22 Q. Thank you. I'm going to ask you to be a little bit shorter in
23 your answers if possible.

24 [14.15.05]

25 MR. PRESIDENT:

1 Deputy Co-Prosecutor, please hold on. Counsel Koppe, you have the
2 floor.

3 MR. KOPPE:

4 Thank you, Mr. President. An observation in a belated form of an
5 objection, but I don't believe the witness yesterday spoke about
6 execution of Lon Nol officials. I am not quite sure what he said.
7 He might have said were kill but obviously that is, in principle,
8 lawful action in a war. So there is a big difference especially
9 when he speaks about the period April '75, and talking about
10 killing as a combat action versus execution, ex-judicial
11 execution.

12 So please, Mr. Prosecutor, if you can clarify this.

13 [14.15.56]

14 BY MR. DE WILDE D'ESTMAEL:

15 <The> question about Phnom Penh <--> I used the word "execution"
16 because Phnom Penh had already been captured then so there was no
17 war any longer. And also, <it was> Counsel Koppe, when he
18 formulated his question <yesterday, who> said the following, "Do
19 you know if after the <the end of the war the soldiers> of Lon
20 Nol were executed <or were there officials who were executed> in
21 the second half of '75 or in '76?" So the word "execution"<,
22 "execution"> was used by <the> Defense Counsel himself. So I am
23 going to therefore continue, Mr. President.

24 Q. Witness, do you know if Meas Muth, your chief of Division 3 at
25 the time, travelled to Koh Kong with a part of his troops in the

45

1 days that followed 17 April 1975? Did you hear about something to
2 that effect?

3 MR. PRUM SARAT:

4 A. Based on my recollection, I did not receive such information.
5 Upon my arrival in Kampong Som, I did not receive information
6 that military commander Meas Muth went to Koh Kong. I, myself,
7 did not know his whereabouts or where he went to for any
8 particular purposes.

9 [14.17.55]

10 Q. Earlier you said that soldiers in your division were speaking
11 about executions outside of the meetings. <During the meetings,>
12 did Meas Muth himself or his deputies ever speak about the
13 <policy> of the Communist Party of Kampuchea or of the army's
14 actions vis-à-vis <senior officers and high-ranking officials of
15 the Khmer Republic>?

16 A. What I can remember is that he did not mention anything about
17 the military officials or <government officials or> civil
18 servants of the Lon Nol regime. In the meeting he spoke about the
19 tasks that we were assigned to do, as in my case and my unit we
20 were tasked to prepare ourselves in order to be equipped with
21 <new> vessels that were to be given to us by the Chinese.

22 [14.19.23]

23 Q. Fine. Now, regarding Koh Kong, I would like to quote what a
24 witness said before the OCIJ, the witness in fact who testified
25 before this Chamber on 7 May 2015, in another segment of this

1 trial. I am going to put questions to you with regard to what he
2 said.

3 This is the testimony of Ek Hoeun or Ul Hoeun and this is
4 document E3/9582. And I am going to quote what he said at answer
5 89.

6 First, the question is the following: "Regarding Meas Muth, after
7 the Khmer Rouge took power in April '75, Ta Muth or Meas Muth
8 went to Koh Kong and ordered the Lon Nol soldiers to <turn in
9 their weapons but> then he killed them all." This is what you
10 stated in your interview with the DC-Cam. Is this true?"

11 Answer from Ul Hoeun: "Yes, that is true."

12 Question 92: "In your interview with DC-Cam it appears that you
13 said Ta Nhan" -- N-H-A-N-N <(sic)> --"one of Meas Muth's
14 lower-ranking officers, <took charge of escorting> Lon Nol
15 soldiers <into> the groves to eliminate them. Is that correct?"

16 Ul Hoeun's answer: "Yes, that is true".

17 [14.21.03]

18 Question 96: "How many vehicles were used to transport these
19 soldiers?"

20 Ul Hoeun's answer: "It was Meas Muth who had to keep their
21 weapons and their equipment. They said that they were going to
22 drive the soldiers back home, but in fact they executed them in a
23 forest next to <coconut palms, and durian and mango trees>."

24 Question 103: "How is it that you are aware of the execution of
25 the Lon Nol soldiers in Koh Kong?" <> Ul Hoeun's answer <>:

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1 "Because they moved the troops several times and the soldiers
2 talked about what happened. This is why I <found out> about this.
3 They started ordering the Lon Nol soldiers to dig pits next to
4 the trees and then executed them and dumped them in the pits so
5 that the bodies could be transformed into fertilizer."

6 [14.22.02]

7 And finally, answer 109: "Meas Muth ordered the execution of all
8 government soldiers who were <>in Koh Kong. In the provinces the
9 governors personally ordered the executions of the Lon Nol
10 soldiers." End of quote.

11 So in light of this testimony I am putting the question to you
12 again. That is to say, did you ever hear about the execution of
13 Lon Nol soldiers in Koh Kong by members of Division <3>, right
14 after April 1975?

15 A. At that time, my unit never received such information<.>
16 Through the account of Ul <Hoeun>, that you just quoted I,
17 myself, am not familiar with that name or which unit he was
18 attached to or how he came to know Meas Muth, or <when> he was a
19 subordinate to Meas Muth. What I can say is that I was
20 responsible for my own tasks and I did not obtain such
21 information. My responsibility was to prepare my team in order to
22 be trained for the operation of the new vessel.

23 Q. And closer to where you were, that is to say, Kampong Som,
24 which was directly under the authority of Division 3 <and 164>,
25 do you know what happened to <military officers> or <high-ranking

1 city> officials after the city was captured by the Khmer Rouge
2 forces?

3 [14.24.20]

4 A. As for the Kampong Som I, myself, was at my own barracks. I
5 did not have any involvement with the administrative work or on
6 how to manage the town. <I can confirm this based on the fact
7 that> I could not even enter the town without a travel permit. So
8 my knowledge was limited to what I experienced or saw and I could
9 not know everything. As I said, my task was separate from theirs.

10 Q. Well, yesterday you said that Division 164 had become a
11 division <of> the Centre in June 1975, whereas before in your
12 WRI, you said June 1976. So can you confirm the date of June
13 1975, as the date when Division 164 became a division of the
14 Centre <and> changed names<, from Division 3 to Division 164>?

15 [14.25.58]

16 A. <I would like to clarify that the> Division 164 was changed to
17 division of the Centre in June 1975.

18 Q. And when you were transferred from the infantry <of Division
19 164> to the navy, that is to say, Regiment 140, did this happen
20 during this period approximately <> around June 1975 or in the
21 middle of 1975?

22 A. I was detached from Division 3 in order to <organise> Regiment
23 140 and that happened, from my recollection, in June '75.

24 Q. Fine. I'd like to clarify a point here, because yesterday and
25 today I heard that you said that you had been in charge of

1 technical training within the navy. So, I'm not sure I understood
2 that very well. Did you yourself attend a technical training
3 session as <> the commander of vessel <1710,> or did you provide
4 training to other people?

5 A. Allow me to clarify that. Initially, I was not part of the
6 crew on vessel 1710. Actually, there were four vessels at the
7 time; 101, 102, 103 and 104 respectively. And I was in charge of
8 training <> 38 <combatant crews and we were on> vessel 102, not
9 the vessel 1710. In fact vessel 1710 was given to us at a later
10 stage. I, myself, was not a trainer. <Back then,> we received
11 training from an instructor from China and he was Chinese.

12 [14.28.56]

13 Q. Fine. <>I would like to quote what you said to DC-Cam,
14 document E3/9113, on pages 26 and 27 in English and <in> Khmer,
15 00926361 to 62. <And, interpreters please take note that> I am
16 going to quote this segment in English because there is no French
17 translation.

18 I quote: "The company chiefs were chosen to be trainees thereon."

19 Question: "Were the company chiefs selected to be trained?"

20 Your answer: "Yes."

21 Then at page 27, I quote: "We were trained about navigating,
22 engine repair and maintenance, weapons, electricity,
23 telecommunications, telegrams, walkie-talkies and flag signals."

24 [14.30.06]

25 And a little further down: "It was conducted at Ou Chheu Teal. It

1 was in 1976 and the training lasted for six months."

2 And in the same DC-Cam interview <a bit> later, on pages 29 and
3 30 in English, and in Khmer 00926364 up to 65, you stated as
4 regards the <end of the> training in 1976, that it ended in 1976,
5 <maybe> in August<,> and thereafter you worked permanently on the
6 boat.

7 Can we therefore say that at the end of your training<, you said>
8 around August 1976, you worked for <more than> two years on your
9 boat, number <1710,> as the captain of the boat or as a
10 navigator, which are the terms you use in your interview with
11 DC-Cam.

12 A. After I was tasked to take charge of <> boat <1710>, I was
13 <the overarching chief. I> was not the navigator<. I was, in
14 French, called the "Captaine">.

15 Q. Very well. Did you also go to China to undergo training or it
16 was other persons who went <>?

17 [14.32.14]

18 A. For the technical aspects, I did not go because <the Chinese
19 came to Cambodia, and> we received training from <them> at Ou
20 Chheu Teal. <Some people> were sent to <study,> the technical
21 aspects of <anti-submarine>. These were the terms that they used
22 while I was <at the navy unit at Ou Chheu Teal>.

23 Q. Very well. And your boat, <1710>, you <gave several
24 descriptions of this boat>. Was <it> a battle ship or a patrol
25 boat? Can you clarify this matter<>?

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1 A. The vessel under my supervision<, the naval term that we
2 used,> was a "defensive vessel <unit">. However, its main task
3 was to patrol the territorial waters<.> From 1976 to 1978, we
4 <received> missions from the upper level to go on patrol in the
5 vicinity of Kaoh Thmei Island, Kaoh Seh Island which was not far
6 from Kaoh Trol Island.

7 [14.34.17]

8 Q. In your DC-Cam interview you also talked of Kaoh Ruessei and
9 Kaoh Ta Keav. Were these also islands that were close to Kaoh
10 Thmei and Kaoh Seh close to the Cambodian coast and the
11 Vietnamese island of Kaoh Trol?

12 A. Allow me to clarify the matter to the Chamber. Regarding Kaoh
13 Ruessei and Kaoh Ta Keav Islands, they were close to Ream coast
14 <or Ream port,> that was Kaoh Ruessei. <It was not Kaoh Ruessei
15 that was close to Kaoh Trol. In fact, in the sea, there were two
16 Kaoh Ruessei. The said Kaoh Ruessei was next to Kaoh Ta Keav and
17 it was also close to Ream port and another different> Kaoh
18 Ruessei which was close to Trol Island.

19 Q. Very well. Apart from those four islands, <> you were also
20 sent to other zones like Kaoh Tang, Kaoh Rong Sanloem and Kaoh
21 Poulo Wai?

22 A. In fact, <at> Kaoh Tang and Poulo Wai Chas and Poulo Wai Thmei
23 Islands, during our vessel training, we actually navigated the
24 vessels through the vicinity of these islands. <To make our
25 skills more efficient, we needed to put > what we learned through

1 our studies <into real practice>. <>

2 Q. Very well. I would like to put some questions to you regarding
3 the structure of Division 164. <You> said that Meas Muth was at
4 the head of the mission, assisted by <Dim, his deputy>. My
5 question is as regards Regiment 140, who was the head of that
6 regiment and who was your battalion commander.

7 [14.36.48]

8 A. In Regiment 140, there were two commanders. One was Saroeun
9 and another one the name Sam from the East Zone. For my
10 battalion, the commander was Horn and, to my knowledge, up to now
11 the three commanders passed away.

12 Q. Did you know Saroeun's full name and, to be more direct, could
13 it be <Nget> Chhim alias Samoeun, which is somewhat different?
14 Can you tell me whether it's the same person or that's another
15 person? Do you know the full name of Saroeun?

16 A. I cannot recall that. However, I knew his father and his
17 father's name is Khorn (phonetic) so I do not know whether he
18 used his father as his family name as Khorn (phonetic) Saouren or
19 maybe he used his grandfather's name as his family name.

20 Q. And as regards Horm (phonetic), do you know his full name?

21 [14.38.20]

22 A. The name is not Horm (phonetic) but it's Horn and I do not
23 know his family name.

24 Q. How many persons were in your <naval> regiment 140?

25 A. In Regiment 140 if you combined the forces from former

1 Division 3 and those forces from the East Zone, the total force
2 was 1,400.

3 Q. I am not sure you said <> yesterday <and> today how many
4 <total divisions -- excuse me -- regiments there were in Division
5 164 and if, in addition to the regiments, there> were other
6 battalions that didn't come under the authority of <a> regiment.
7 <Could> you tell us <that, very quickly>?

8 A. As to the number of soldiers for each battalion, I already
9 testified that there were four battalions<.> Under each
10 <battalion,> there were also <three> companies<>. There were
11 about 100 forces for each company.

12 Q. <What were the duties of Battalion 450, and was it under a
13 regiment or was it independent of the regiments, and was it
14 directly> under Division 164 <headquarters>?

15 A. For Unit 450 it was a special unit for Division <164> and its
16 task was to be stationed around the divisional headquarters.

17 [14.41.01]

18 Q. Was it <this> special unit <450 that,> whenever there were
19 disciplinary problems or cases of people who didn't obey orders<,
20 carried out> the arrests of soldiers of Division 164?

21 A. I did not know about their specific tasks. However, what I can
22 recall is that the unit was known as the special unit for
23 Division 3 and that designation number that is 450 remained
24 unchanged. During the war prior to 17 April 1975, it was a <>
25 combat unit <under the command of the division. Typically, each

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1 unit engaged in> hot battlefields <where it was responsible for>.

2 Q. This will be the last question before the break, Mr.

3 President.

4 What was the regiment that was stationed <-- the infantry
5 regiment of Division> 164<, that was> stationed <on the islands
6 of> Kaoh Seh and Kaoh Thmei; <so the closest to where your boat
7 was> generally <docked>?

8 [14.42.45]

9 A. There were <> two units that I am not that sure about. It
10 could be 62 or 65. However, I can recall that there were three
11 regiments stationed on the islands; namely, Rong <Thom Island>,
12 Tang <Island>, Poulo Wai Chas, Poulo Wai Thmei; Seh Islands <and
13 Kaoh Thmei>.

14 As I stated in my previous interviews, there were Regiments 61,
15 62 and 63. But I am not sure whether Regiment 63 was stationed at
16 Kaoh Thmei Island or Kaoh Seh Island. My apology for that because
17 this matter happened a long time ago.

18 MR. PRESIDENT:

19 Thank you. It is now convenient for our short break. We will take
20 a break now and resume at 3 o'clock this afternoon.

21 Court officer, please assist the witness at the waiting room
22 reserved for witnesses during the break <> and invite him as well
23 as his duty counsel back into the courtroom at 3 o'clock.

24 The Court is now in recess.

25 (Court recesses from 1444H to 1503H)

1 MR. PRESIDENT:

2 Please be seated. The Chamber is back in session.

3 And the floor is given to the Co-Prosecutors to put more
4 questions to the witness. You may now proceed.

5 BY MR. DE WILDE D'ESTMAEL:

6 Thank you, Mr. President.

7 Q. So you said <before> that Meas Muth was the head of Division
8 164 and that Dim was his deputy until he was arrested. Were there
9 other committee members in Division 164 and who were these
10 members?

11 [15.04.35]

12 MR. PRUM SARAT:

13 A. <> Meas Muth was first and the second one was Dim and the
14 third one was Chhan, but I could not recall their surnames. And
15 the fourth one was Nhan.

16 Q. And were all decisions and orders concerning operations of the
17 regiments of Division 164 as well as the assignments <> taken in
18 a centralized way by these four committee members <of> HQ?

19 A. The four persons had the authority to issue orders based on
20 the particular needs and their order went to Regiment 140 and the
21 orders also came from the division level to Units 62, 63 and
22 <61>. So the order came from the four persons I mentioned
23 earlier.

24 Q. So in terms of the chain of command, you just spoke about the
25 division, which would issue orders to the different regiments.

1 Were the orders and instructions then sent to a lower level by
2 the regiment and to which level? And how would you receive the
3 orders and instructions from the division?

4 A. Regarding the chain of command, the division issued orders to
5 the regiment and the regiment issued orders <> down to the
6 battalion and battalion <issued orders> down to the company.

7 [15.07.21]

8 Q. And now regarding the reports that have to be drafted, did
9 these reports follow the same pathway but in the opposite
10 direction, that is to say, from bottom to top? That is to say,
11 would you report to your battalion chief who would report to the
12 regiment chief who would then report to the division chief<? Is
13 that correct?>

14 A. Yes, that was the way things happened. We needed to report
15 according to the level, each level of higher authority<, for
16 instance, a company reported to a battalion>. That was the common
17 practice at that time.

18 Q. In this <strictly> hierarchical structure, <this military
19 structure,> did the lower-ranking cadres, that is to say, cadres
20 of your level, have the right not to obey orders? Did they have
21 the right to ignore orders coming from the higher levels?

22 [15.08.31]

23 A. At that time, in my capacity as the commander of the company,
24 whenever the order came from the upper level, we could not avoid
25 it. We had to carry it. This was what I said from my capacity as

1 the commander of the vessel. So we had to implement according to
2 the orders. For example, as to how many days the training needed
3 to take place and how many days the trainee could take rest. So
4 <instructions and> orders <had to be followed>.

5 Q. Now, regarding field operations, were there any exceptional
6 instances when you were allowed not to obey orders or did you
7 have to obey orders at all times?

8 A. Concerning the operation, we had to implement according to the
9 <schedule>. We did not obey the order <> only in special
10 circumstances, for example, when the individual was sick or very
11 busy. <In case that we stayed at the office,> everyone who
12 received the order needed to obey the order. They could not avoid
13 it.

14 Q. And when people disobeyed, what would happen to those who
15 disobeyed the orders?

16 A. In cases that there were individuals who disobeyed the order,
17 they needed to do the tasks that assigned to them and those tasks
18 were supposed that they could carry out. <For instance, my tasks
19 included first organising naval training, second, conducting
20 study sessions, and third holding meetings within my unit.>

21 Q. I am not sure that I got your full answer. Well, to be more
22 specific, in case of severe disobedience, for example a navy
23 chief who would refuse to stop a Vietnamese boat coming into
24 Cambodian territorial waters, <>in this case, would this chief be
25 <>punished?

1 [15.12.21]

2 MR. PRESIDENT:

3 Mr. Witness, please hold on. The floor is given to Counsel Kong
4 Sam Onn.

5 MR. KONG SAM ONN:

6 Mr. President, I would like to object to this question because
7 this question leads the witness to speculate. Thank you.

8 MR. DE WILDE D'ESTMAEL:

9 Not at all, Mr. President. I am simply <trying to refer> to
10 examples that he might have <perhaps> encountered of <other ship
11 captains> who might have disobeyed orders. So I simply wanted,
12 <Mr.> Witness, to have you tell <us>, what were the sanctions<,
13 according to what you knew at the time,> if people <grossly>
14 disobeyed orders in Division 164?

15 [15.13.16]

16 MR. PRESIDENT:

17 Do you have any facts to establish and to show to the witness
18 that there was the case of disobedience by the military
19 commanders<?> And if no specific facts put to the witness, it is
20 the kind of question to draw speculation from the witness.
21 So, if you have the orders to show the witness and then it is
22 appropriate. You can ask if there were orders or how do -- how
23 did those people respect and disrespect the orders. <These should
24 be the general questions, not speculative questions. Witness, you
25 don't need to answer such a question.>

1 [15.14.16]

2 BY MR. D'ESTMAEL:

3 Thank you, Mr. President.

4 Q. I think I'm going to proceed otherwise. I'm going to read out
5 what the witness said in his WRI, E319/23.3.54. Question 116, the
6 following question was put to you:

7 "You attended a meeting during which you received orders aiming
8 to implement the great policies, including the cleansing of
9 enemies and of the Vietnamese. What happened to the cadres who
10 refused to obey these orders?"

11 And you answered the following at Answer 116 towards the end of
12 that answer: "If we did not obey Angkar, they would send us to
13 training or they would send us to be re-educated."

14 Question 119: "Normally, those were sent to be re-educated by
15 their unit, did they come back to their unit afterwards?"

16 <The answer> that you provided: "Nobody came back. They all
17 disappeared forever." End of quote.

18 The only exception you mentioned<, I believe, is that> of Chhoeun
19 who went to the Kampong Chhnang <airport> work site -- work site.

20 I would like to know what you mean by "re-education" because
21 earlier when we spoke about S-21, you said that it was a
22 re-education centre? <When> people were sent to be re-educated,
23 did that mean that they were sent to a security centre or did
24 that mean something else?

25 [15.16.18]

1 *****MR. PRUM SARAT:

2 A. Based on the practices which I made mention in my documents, I
3 was referring to the offenders, those who committed offences,
4 particularly those who committed wrongs. Sending them to a far
5 location or close location did not happen within my company, but
6 <I witnessed> it did happen in other companies. I am now speaking
7 in the circumstances that some companies sent those people to the
8 places -- the locations you mentioned, and those who had been
9 sent never returned. This is the statement in my document. So I
10 am talking only what happened outside my company. And you can
11 refer to my example earlier. I was in charge of the vessels, I
12 never encountered such events you described, but <> it did happen
13 in other companies or units.

14 [15.18.21]

15 Q. So, if I understood you well, you respected the orders that
16 were sent to you by your hierarchy scrupulously, so there were no
17 <disciplinary incidents> in your case?

18 A. That is the case, it is true. I was a practical person, so
19 what I did -- what I was doing at the time reflected who I was. I
20 never implemented any orders or regulations contrasting with the
21 <the so-called "line">.

22 <Q>. Fine. And, on the contrary, <were> lower-ranking cadres such
23 as you, within the companies or <chiefs or captains of> vessels,
24 were they allowed to take initiatives <> or to take important
25 decisions on board their vessels without speaking to their

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1 superiors, without knowing if their superiors would agree<>?

2 [15.19.54]

3 A. Concerning the implementation of <technical matters>, for
4 instance, when a machine did not work and we needed to repair it,
5 this kind of issue needed to make a request to battalion,
6 regiment and division and, after which, there would be a reply <>
7 from those levels. After that time, we were able to repair the
8 machine.

9 Q. Thank you. Now, I would like to turn to another topic. We will
10 speak more about what happened around the islands tomorrow. <I
11 will surely have the time to address part of> this topic <today>,
12 but before <that>, I'd like to speak about the ceremonies or the
13 meetings that you might have attended in Phnom Penh during the DK
14 regime.

15 <Did> you travel to Phnom Penh on other occasions aside from the
16 meeting you spoke about with Son Sen, in particular during major
17 meetings of Party cadres and army cadres at the Olympic Stadium
18 or at other places for celebrations such as the celebration of
19 the capture of Phnom Penh on 17 April, <the anniversary of the
20 founding> of the Party on 30 September, or the anniversary of the
21 creation of the Revolutionary Army of Kampuchea which was
22 celebrated, I believe, in January?

23 Did you go to Phnom Penh to attend these kinds of ceremonies or
24 to take part in these major meetings?

25 A. Concerning the attendance within the anniversary of the Party

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1 and of the victory on 17 April 1975, my company <and I> did not
2 come to Phnom Penh to attend that ceremony. We would hold a
3 ceremony within Kampong Som location. However, when cadres were
4 invited by the commander-in-chief, for instance, the
5 commissioners of divisions, regiments, battalions were invited,
6 they would come to attend the study sessions <in Phnom Penh>.

7 [15.23.22]

8 Q. Well, it appears to me that in your DC-Cam interview, you said
9 on page 91 in English and on Khmer page 00926419, that you stayed
10 in Phnom Penh in 1976 and 1977, and that you saw Pol Pot give a
11 speech, and that he gave that speech on the 17th of April. So do
12 you remember having said that?

13 A. In that document, I attended one meeting when I saw Pol Pot
14 <delivering a> speech in Phnom Penh. That meeting was held in
15 Olympic Stadium.

16 Q. Do you remember the year when this meeting was held for which
17 you travelled to Phnom Penh?

18 A. It may have happened in 1977.

19 [15.24.54]

20 Q. And during the DK regime, did you have the opportunity to
21 listen to Radio Phnom Penh or to read issues of "Revolutionary
22 Flag" or "Revolutionary Youth"? I think you spoke about this in
23 your interview<>.

24 A. I received the "Revolutionary Flags" or "Red Flags", magazines
25 on a monthly basis, and I could have access to the radio

1 broadcasts, daily.

2 Q. So therefore I must conclude that you were a party member. Is
3 that correct?

4 A. Yes, that is correct.

5 Q. Now, I would like to read out excerpts of a speech given by
6 Pol Pot which, in fact, appeared in an issue of "Revolutionary
7 Flag", < which in all likelihood, you read, > and I'd like to see
8 if you're familiar with <the> issues he brought up or with the
9 words he used in this speech which was given on 17 April 1978.
10 It's document E3/4604, and it's therefore an excerpt of the
11 speech of comrade secretary of the CPK and a first excerpt is on
12 French page 00520344; English, 00519833 and 34, and Khmer -- it's
13 <> approximate -- but I believe it's 00064713 or 714.

14 [15.26.55]

15 And Pol Pot, in this speech, speaks about the Vietnamese enemy
16 and this is what he says.

17 "The party requested that we <smash enemies' vital> forces as
18 much as possible and <asked> that we defend our own forces as
19 much as possible. There are not many of us, but we have to attack
20 the enemies who are more numerous than we are, so therefore we
21 must protect our forces <as much as possible> and <smash> their
22 forces as much as possible. This is our slogan which entirely
23 relies on figures. One of our men must manage to defeat 30
24 Vietnamese at all costs. If we <managed> to follow this slogan,
25 we <would> win. No matter the number of Vietnamese <inhabitants>,"

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1 we will triumph over them in the end. In relation to any
2 <>country that would invade Cambodia, if we put into practice
3 what is said in the slogan, we will win<>. Up until today, we
4 <have> managed to implement the slogan of one against 30." End of
5 quote.

6 [15.28.31]

7 In this excerpt, you, maybe, heard that Pol Pot was speaking
8 about the fact that "no matter the number of Vietnamese
9 inhabitants", therefore he is not making any distinction between
10 Vietnamese inhabitants and Vietnamese soldiers.

11 So did you hear him say that <enemies, or> the enemy, which was
12 Vietnam, also included Vietnamese <inhabitants>?

13 MR. PRESIDENT:

14 Please hold on, Mr. Witness. You have the floor now, Mr. Koppe.

15 [15.29.11]

16 MR. KOPPE:

17 Thank you, Mr. President.

18 I object to this question. The "Revolutionary Flag" clearly
19 indicates that the speech was about Vietnamese troops. It's only
20 troops -- troops, troops and troops that he speaks about.
21 It's the exact same thing that he did in an interview in December
22 '78, with Elizabeth Becker. It's very clear in that interview
23 when he speaks about Vietnamese troops or the Vietnamese military
24 or Vietnam in general as a country. In his policy, he talks about
25 Yuon. When he talks about Vietnamese people, he talks about

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1 people from Vietnam. He makes that distinction very specifically,
2 but here it's very clear he speaks about war with Vietnam and the
3 crushing of Vietnamese troops not about civilians.

4 [15.30.07]

5 MR. D'ESTMAEL:

6 Mr. President, I have read out an <excerpt> and it is very clear
7 he talks of Vietnamese inhabitants. Regardless of the vision of
8 the Defence as regards this speech, I am relying on an <excerpt>
9 of this speech<, which is clear>. There are other <excerpts> that
10 I'll read out and they also refer to Vietnamese <> and not to
11 Vietnamese soldiers.

12 So may I request your leave to put this question to the witness?

13 MR. PRESIDENT:

14 The objection put by Victor Koppe is overruled. There is a
15 <correct> basis on the question put by the International Deputy
16 Co-Prosecutor.

17 Mr. Witness, you are instructed to respond to the question put by
18 the International Co-Prosecutor, and if you do not recall it you
19 can ask the Co-Prosecutor to repeat it.

20 BY MR. D'ESTMAEL:

21 Q. Do you remember having heard Pol Pot say that the <enemy,
22 Vietnam,> -- the Vietnamese <enemies -- >were the Vietnamese
23 inhabitants?

24 MR. PRUM SARAT:

25 A. In accordance with the "Revolutionary Flag", there was a <key>

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1 policy <> for cadres to understand, but I would like to make a
2 clear point that one <> soldier <of our army had> to smash 30
3 Vietnamese soldiers<>. This was the guidelines made mention by
4 Comrade <Secretary> Pol Pot in <that booklet of> the
5 "Revolutionary Flag". <>

6 [15.32.18]

7 <It was true, because> the enemies of the Democratic Kampuchea,
8 during the time, had a very big ambition. I did have the same
9 understanding of <the> comrade secretary <with the reason that>
10 Champa was <already> swallowed by "Yuon", Kampuchea Krom, or
11 lower part of Cambodia, was swallowed by "Yuon". So<, Kampuchea
12 Leu or upper Kampuchea remained intact. I believe that> there
13 <would be> a plan to swallow <the whole> Kampuchea as well.
14 As of now, this is still the case. I am one of <the> Cambodian
15 citizens and I am still having the idea and understanding that
16 there is still an ambition to swallow this country. <They would
17 not give up their ambition.>

18 [15.33.16]

19 MR. PRESIDENT:

20 Mr. Witness, please try your utmost to answer the question put to
21 you and you may only respond to the question to the limit of it.
22 Please avoid stating your personal opinions which are not
23 contributing to the ascertainment of the truth. It is your <>
24 subjective perception, but please give your response within the
25 <scope of> the question<>.

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1 MR. D'ESTMAEL:

2 Q. Thank you. At least<, this way, we know.> In <this> speech<,
3 you say the slogan "1 against 30" refers to Vietnamese> soldiers.
4 In fact, they are referring to the forces<, but> Pol Pot <also
5 refers to the figure of> 2 million Cambodians<, which> would be
6 enough to <eliminate> 60 million Vietnamese.

7 MR. KOPPE:

8 He keeps misleading you, Mr. President. He's talking about 30
9 Vietnamese troops, soldiers, one to 30. That was the amount of
10 soldiers that the Vietnamese army had more.

11 There's no more mention at all about Vietnamese civilians, so
12 he's really misleading you.

13 [15.34.56]

14 MS. GUISSÉ:

15 I would like to make a remark if you would allow me, Mr.
16 President, since in the document that my colleague has just cited
17 -- which I'm also reading in French -- there is a translation of
18 the word "Yuon" and it's translated into French as "<>Vietnamese
19 inhabitants", whereas in the English and Khmer versions, the word
20 used is "Yuon". So we have the same problem in French, but in the
21 English and Khmer the word used is "Yuon" and <not> the <term>
22 "Vietnamese <inhabitants>".

23 MR. PRESIDENT:

24 You have the floor now, Counsel Kong Sam Onn.

25 [15.35.43]

1 MR. KONG SAM ONN:

2 Thank you, Mr. President. I want to have an observation on the
3 document quoted <from> Khmer <language, which> is the original
4 version<.> In Khmer document it states the document makes mention
5 about Vietnamese troops <or> soldiers, not civilians. So <the use
6 of words in> some sentences<, for example, the "Yuon's side got
7 damaged". Though there was no word "Yuon soldiers" written but
8 the number itself referred to> soldiers or forces<. One Khmer
9 soldier attacked 30 "Yuons" or one million Khmer soldiers
10 attacked 30 million "Yuons". This number showed clearly>.

11 BY MR. D'ESTMAEL:

12 Q. Mr. President, can I proceed? I do not have <an> exact
13 reference but I know that <in this> speech, <and I will find the
14 reference and provide it> tomorrow, it is said shortly thereafter
15 -- Pol Pot says> that with 2 million Cambodians you would be able
16 to defeat 60 million Vietnamese, and 6 million would still be
17 left. Witness, did you hear Pol Pot say that?

18 MR. PRUM SARAT:

19 A. <In fact,> this was a comparison <> of military forces, one
20 <against> 30. It is clear in the document, <I still stand by
21 with> the document which quotes the statement of comrade
22 secretary. It was meant to encourage the soldiers to <find> the
23 strategies to smash <enemies>.

24 [15.37.59]

25 Q. Do I understand that you mean that all the Vietnamese

1 inhabitants were soldiers, that is, 60 million? Because in the
2 speech<, Pol Pot refers> to 100,000 Cambodian troops against <1>
3 million Vietnamese? <So, were there> 60 million soldiers in
4 Vietnam, <Witness>?

5 A. In fact, Vietnamese soldiers did not consist of 60 million and
6 Cambodian or <Democratic> Kampuchean soldiers consisted of 2
7 million. The statement was meant to inspire Kampuchean soldiers
8 to utilize and prepare the lines to attack and capture the
9 victory.

10 [15.39.15]

11 Q. Very well. I'll leave it there for that <excerpt>. There's
12 another <excerpt> further down. In French, <00520348> in English,
13 00519836; and in Khmer, 00064717; and Pol Pot says the following
14 and I quote:

15 "Since the very beginning have the Vietnamese <ever defeated us?>
16 They have always wanted to take over Cambodia to make it its
17 vassal, since 1930."

18 And further down.

19 "In 1970, <were they capable of taking it? No, not at all.> In
20 1975, were they able to take <control of Cambodia? No, they
21 failed.> And <up to now, where are they in this regard>? They are
22 no longer present in <Cambodia>. <Formerly>, there were nearly 1
23 million of them, now there is not <even> one."

24 And in English, I believe reference is made to "seed". And let me
25 press on.

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1 "Consequently, from the ideological standpoint we have not
2 failed." End of quote.

3 Witness, did you hear Pol Pot or other <leaders of the Party or>
4 of Division 164 refer to the fact that measures had been taken
5 against the Vietnamese residing in Cambodia before the capture of
6 Phnom Penh on 17 April 1975?

7 [15.41.34]

8 A. From the statement <he> raised, and it is my understanding
9 that that was <> the political line<, used to stir up the
10 fighting> spirits of <cadres and combatants> to be ready in
11 battlefields<, whenever the clash erupted between> Kampuchea <>
12 and Vietnam <>. That was the real statement he made at the time
13 and it was like a road map.

14 Q. Very well. Nevertheless, he referred to 1million Vietnamese
15 living in Cambodia before he came to power, and that there
16 weren't any left.

17 <So, did you hear anything about> measures taken against
18 Vietnamese, including the deportation of Vietnamese to Vietnam by
19 DK <leaders> at the beginning of the regime?

20 [15.43.08]

21 MR. PRESIDENT:

22 Mr Witness, please hold on.

23 And the floor is given to Counsel Victor Koppe.

24 MR. KOPPE:

25 I object to the form of this question, Mr. President. The

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1 Prosecution is leaving only one option as to why there were so
2 few Vietnamese in 1975. One of the experts -- more experts
3 actually described massive deportations of Vietnamese by Lon Nol
4 before 1975. So I think it's fair if that is also included in the
5 question to this witness.

6 [15.43.50]

7 MR. D'ESTMAEL:

8 Mr. President, I am talking of the Democratic Kampuchea regime
9 and not about what happened before. We know that, indeed, the Lon
10 Nol regime <also> took measures against the Vietnamese, but that
11 is not the thrust of my question.

12 <May I ask my> question regarding measures taken by the
13 government, the <authorities> of Democratic Kampuchea vis-à-vis
14 the Vietnamese?

15 MR. PRESIDENT:

16 Objection by Counsel Victor Koppe is overruled. The question is
17 appropriate so, Mr. Witness, please answer to the question put to
18 you by the Co-Prosecutor.

19 MR. PRUM SARAT:

20 A. I could not recall the year. Regarding the deportation of the
21 Vietnamese to Vietnam, I could not remember when it happened, but
22 I knew that there was a deportation of the Vietnamese once in
23 1973 and there was also fighting in that year. And another
24 deportation took place in 1975 or 1976. <My apology,>I <am not so
25 clear on this point.> But there was <the> deportation<, made in

1 the name of the government of Democratic Kampuchea,> at that
2 time.

3 [15.45.38]

4 MR. D'ESTMAEL:

5 Q. The Vietnamese <who> were not deported in 1975 and 1976, were
6 they the subject of repressive measures subsequently in 1977 and
7 1978 in the country? We're talking of <Vietnamese> people who
8 <had remained> in Cambodia<, not those who had come from outside,
9 but who were already living in Cambodia earlier>.

10 A. I cannot answer that question because it was beyond my scope
11 of responsibility. <I was stationed at the high sea.>

12 MR. PRESIDENT:

13 Mr. Witness, <if> you <don't know, just> answer <"I don't know."
14 You cannot say you refuse to answer> the questions because
15 according to the instruction I read earlier that you have the
16 responsibility <and obligation> to give answer to every question.
17 You could say yes or no to the question, but you could not choose
18 not to answer the question like this.

19 [15.47.00]

20 MR. PRUM SARAT:

21 A. My apology. Now I would like to rephrase my answer. I would
22 like to say that I did not know about that matter because I was
23 based at a different location. So that's my answer to your
24 question.

25 MR. D'ESTMAEL:

1 Q. The last <excerpt> of Pol Pot's speech is on page 00520351, in
2 French, <00520351;> in English <it is on 0051983> -- or rather
3 938 up to 39 (sic); and in Khmer, 00064720; and I quote this
4 <excerpt >of that speech.
5 "The Vietnamese again want to deceive people. They say that they
6 recognize the land border, the border of the islands, but they do
7 not recognize the maritime border. They're requesting < >to
8 negotiate again with us on the issue of the maritime border.>
9 However, the Party has decided that we must continue to fight
10 against them. We must fight until they recognize both the
11 maritime border and the air border. We must keep on fighting one
12 against 30 for them to recognize this; <they must> recognize it
13 on paper and on the world <stage>, and <to the point where they>
14 dare not approach our borders again. We must keep on attacking
15 them. <Our duty to defend our borders is, very simply and
16 inevitably, war.>" End of quote. Regarding maritime boundaries at
17 the time, when you were serving in Division 164 in Regiment 140,
18 is it correct<, according to this speech by Pol Pot,> to say that
19 the borders <that had> been recognized by the Cambodians were not
20 the same <as those> recognized by the Vietnamese?
21 I am talking of territorial waters, the distance of territorial
22 waters from the islands, <was it> the subject of a <dispute>
23 between the Vietnamese and the Cambodians<?>
24 [15.49.55]
25 A. In fact, I was not aware of that matter because it was under

1 the authority of the upper echelon, specifically, <they were the
2 affairs between the government of> the Democratic Kampuchea <and>
3 government <of> Vietnam.

4 Q. Did it happen that <Vietnamese sailors> arrested on boats
5 close to Cambodian islands contested the fact that they were in
6 Cambodian Territorial Waters?

7 A. Let me clarify. Based on the information I received through
8 the radio communication, that Vietnamese troops or Vietnamese
9 boats, which entered Cambodian Territorial Waters, <were
10 arrested.> I already gave my answer to question earlier, that one
11 day there was one Vietnam and one Kleng ethnicity on the island<.
12 That was on the quay of Kaoh Tang>.

13 And I asked a soldier<,who stood close to the captive,> about
14 where they came from, and the soldier told me <that> they came
15 from the Southeast Island. <If you look in the map, you would see
16 the distance of the Southeast Island from Tang Island and>
17 Vietnamese maritime boundary.

18 So <what> I <mean to say is that> the soldiers who went out to
19 arrest those people, we were not sure whether they arrested from
20 within Cambodian maritime boundary or inside the Vietnam maritime
21 boundary.

22 Q. So you <were> not sure that the arrests had been carried out
23 in Cambodian Territorial Waters.

24 <Have you heard> other similar examples in which boats were
25 <seized when> it wasn't clear in which territorial waters those

1 boats were <located>?

2 [15.53.04]

3 A. Based on the information I received, and this information was
4 received through radio communication between the regiment level
5 <when I was based on the ship>, and the decision came from the
6 regiment to my vessel that I needed to be careful because based
7 on the information sent to the regiment that <"Yuon"> boats
8 entered our maritime waters <in the vicinity of Southeast Island,
9 Tang Isand, and Poulo Wai Isand>.

10 <So,> the information was communicated <nightly and daily from
11 the command centre of the regiment> to the vessels, reminding
12 the <crew> in charge of each vessel <positioned on the high sea>
13 to be on alert about this.

14 Q. <Just to> clarify, <in French we are hearing each time that>
15 someone of Kleng ethnic group<, I'm not sure that I heard
16 correctly; was this an Indian? In any case, that's something
17 that is noted in your> DC-Cam <interview>. Are we talking of
18 someone of Indian nationality or Indian appearance?

19 [15.54.48]

20 A. I am not sure about this, but I would like to clarify that I
21 asked the soldier who stood next to the two persons. <I did not
22 talk with that Vietnamese<> and Kleng,> and then I walked past to
23 do my tasks, so I'm not sure whether the person of Kleng
24 ethnicity was, in fact, of Indian ethnicity or not.

25 Q. Thank you. May I request you to be more brief in answering my

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1 questions<, if possible,> because we're running out of time. When
2 you <saw> Pol Pot deliver <a speech> on 17 April, you said you
3 thought it was 1977<, did> you also see Khieu Samphan?

4 A. Khieu Samphan did not attend it.

5 Q. Did you see Khieu Samphan deliver another speech on another
6 occasion?

7 A. Based on my recollection, Khieu Samphan delivered speech
8 through the radio<>. I never listen to his speech personally at
9 any location, I only heard his speech through the radio <during
10 annual national ceremony. The radio station located in Steung
11 Meanchey.> .

12 Q. In any case, before DC-Cam you did say that you saw him
13 delivering a speech, and at the <same> time you referred to the
14 speech delivered by Pol Pot, as well. Do you confirm that you
15 never saw him in Phnom Penh? Let me point out this page is 91, in
16 English; and in Khmer, 00926419. "I saw him on stage delivering a
17 speech."

18 [15.57.56]

19 A. Regarding the meeting and what I gave in my statement in 2007,
20 if we consider, you know, moving back across time from 2007 to
21 1975, it was a long, long time between the two periods. So I did
22 not have enough time to think about how to give the answer when I
23 was interviewed <with DC-Cam back then>. So I could not give a
24 clear answer at that time about who was who when I was
25 interviewed.

1 Q. When you heard Khieu Samphan speak over the radio, <making
2 speeches,> in 1978 in particular, after the Vietnamese had
3 attacked Cambodia <at the end of> 1977, so in 1978, did he speak
4 about <the> war with Vietnam?

5 [15.59.35]

6 A. As far as I can remember, he made an announcement to soldiers
7 to be on alert and be ready to fight against the enemy who was
8 <to> invade our territory. So there was an announcement. There
9 was an announcement to make <fellow countrymen> aware of this. So
10 it was a <public> speech from him who was <the State Presidium>
11 of that regime.

12 Q. Fine. You also spoke about a speech he made during the
13 incident <with the American vessel, the Mayaguez>, during the
14 capture of <this boat>. Did Khieu Samphan speak about the fact
15 that the Americans had said that they got lost in the
16 <>Territorial Waters. What did Khieu Samphan say about that?

17 A. I can recall at that time he did not say that the American
18 ship got lost into our waters, but it was from a media that
19 reported that the ship got lost into Cambodian Territorial
20 Waters.

21 So Khieu Samphan at that time said that the American had a lot of
22 modern technologies, so how come that the American <said their
23 Mayaguez ship> got lost into Cambodian waters <>.

24 MR. PRESIDENT:

25 Thank you. It is now a convenient time for the adjournment.

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1 The Chamber will resume its hearing tomorrow, <Wednesday, 27
2 January 2016, starting> at 9 a.m. to hear this witness, Prum
3 Sarat <and another reserved witness 2-TWC-849.> Please be
4 informed.

5 Thank you, Mr. Sarat. The hearing of your testimony has not come
6 to an end yet. You are therefore invited to come and testify once
7 again tomorrow at nine.

8 And also the Chamber would like to thank Mr. Moeurn Sovann, the
9 duty counsel, and would like to invite you to come back tomorrow
10 at 9 o'clock.

11 [16.02.57]

12 Court Officer with the WESU unit, please send Mr. Sarat to the
13 place where he is staying at the moment and invite him back into
14 the courtroom tomorrow at 9 a.m.

15 Security personnel are instructed to bring Mr. Khieu Samphan and
16 Nuon Chea back to the detention facility and have them returned
17 tomorrow morning before 9 a.m.

18 The Court is now adjourned.

19 (Court adjourns at 1603H)

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